

BARLON CAMMON

NO. 18-KH-656

VERSUS

FIFTH CIRCUIT

STATE OF LOUISIANA

COURT OF APPEAL

STATE OF LOUISIANA

December 05, 2018

Susan Buchholz

First Deputy Clerk

IN RE BARLON CAMMON

APPLYING FOR SUPERVISORY WRIT FROM THE TWENTY-THIRD JUDICIAL DISTRICT COURT, PARISH OF ST JAMES, STATE OF LOUISIANA, DIRECTED TO THE HONORABLE KATHERINE TESS STROMBERG, DIVISION "C", NUMBER 15,7266

Panel composed of Judges Susan M. Chehardy,
Marc E. Johnson, and John J. Molaison, Jr.

WRIT GRANTED IN PART; DENIED IN PART

Relator, Barlon Cammon, filed the instant application for a writ of mandamus, which seeks to compel the Clerk of Court for the Twenty-Third Judicial District Court to provide him with a copy of his *Boykin*¹ transcript in criminal case number 15,7266.

In his writ application, relator has enclosed an uncertified copy of a motion to obtain a transcript of the *Boykin* colloquy and sentencing proceeding in his case. Also enclosed in the writ application is an unsigned order to allow relator to proceed *in forma pauperis* (“IFP”). Relator has further attached correspondence dated September 10, 2018, from himself to the St. James Parish Clerk of Court, requesting information on the status of his motion. Based upon our review of the application, however, it does not appear that relator’s request for the transcripts has, to date, been denied.

Assuming that relator’s motion for the transcript is properly filed and pending before the district court, we note that relator must first be found indigent before he can receive a copy of the requested documents free of charge.² Accordingly, we grant relator’s application, in part, with an order that the issue of relator’s indigency status be reviewed and decided within 15 days of the date of this disposition, in accordance with the established procedures of the St. James Parish Clerk of Court’s Office. If relator has not properly filed an application to

¹ *Boykin v. Alabama*, 395 U.S. 238, 89 S.Ct. 1709, 23 L.Ed.2d 274 (1969).

² *See*, for example, the Fourth Circuit’s analysis in *State v. Brown*, 03-0568 (La. App. 4 Cir. 5/21/03), 848 So.2d 670, 671, wherein the Court acknowledged that the precedent set forth by the Louisiana Supreme Court in *State ex rel. Simmons v. State*, 93-0275, 94-2630, 94-2879 (La.12/16/94), 647 So.2d 1094, applied specifically to inmates who were both “indigent” and “incarcerated for the crime to which the documents pertain.”

proceed *in forma pauperis*, the Clerk of Court is ordered to provide relator, in writing, and within 15 days of this disposition, information regarding the necessary steps to submit an IFP application.

In all other respects, at this time, relator's writ is denied on the showing made.

Gretna, Louisiana, this 5th day of December, 2018.

JJM
SMC

JOHNSON, J., DISSENTS WITH REASONS

I respectfully disagree with the majority in granting this writ solely to order the district court to determine the indigent status of Defendant and denying all other relief. Defendant filed this writ of mandamus seeking his *Boykin* and sentencing transcript. Based on the writ application, we are unable to determine whether Defendant properly filed his motion for a copy of his transcripts in the district court and whether, if properly filed, the district court has ruled on the motion. Accordingly, I would grant mandamus relief for the limited purpose of transferring it to the district court with instructions to rule on the motion within 20 days, if it has not already done so, and to provide Defendant and this Court with a copy of its ruling. *See State v. Williams*, 11-445 (La. App. 5 Cir. 5/20/11) (unpublished writ disposition); *State v. Dufrene*, 11-168 (La. App. 5 Cir. 3/16/11) (unpublished writ disposition);

I further note that based on Defendant's representation in his writ application that he pled guilty in March 2017, his two-year prescriptive period for filing an application for post-conviction relief is set to expire in March 2019.

MEJ

SUSAN M. CHEHARDY
CHIEF JUDGE

FREDERICKA H. WICKER
JUDE G. GRAVOIS
MARC E. JOHNSON
ROBERT A. CHAISSON
STEPHEN J. WINDHORST
HANS J. LILJEBERG
JOHN J. MOLAISSON, JR.

JUDGES



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CLERK OF COURT

MARY E. LEGNON
CHIEF DEPUTY CLERK

SUSAN BUCHHOLZ
FIRST DEPUTY CLERK

MELISSA C. LEDET
DIRECTOR OF CENTRAL STAFF

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NOTICE OF DISPOSITION CERTIFICATE OF DELIVERY

I CERTIFY THAT A COPY OF THE DISPOSITION IN THE FOREGOING MATTER HAS BEEN TRANSMITTED IN ACCORDANCE WITH **UNIFORM RULES - COURT OF APPEAL, RULE 4-6** THIS DAY **12/05/2018** TO THE TRIAL JUDGE, THE TRIAL COURT CLERK OF COURT, AND AT LEAST ONE OF THE COUNSEL OF RECORD FOR EACH PARTY, AND TO EACH PARTY NOT REPRESENTED BY

CHERYL Q. LANDRIEU
CLERK OF COURT

18-KH-656

E-NOTIFIED

No Attorneys were ENOTIFIED

MAILED

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