

STATE EX REL. IRVIN HARRIS

NO. 19-KH-358

VERSUS

FIFTH CIRCUIT

DARREL VANNOY, WARDEN

COURT OF APPEAL

STATE OF LOUISIANA

August 14, 2019

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Susan Buchholz  
First Deputy Clerk

IN RE IRVIN HARRIS

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**APPLYING FOR SUPERVISORY WRIT FROM THE TWENTY-FOURTH JUDICIAL DISTRICT COURT, PARISH OF JEFFERSON, STATE OF LOUISIANA, DIRECTED TO THE HONORABLE CORNELIUS E. REGAN, DIVISION "B", NUMBER 13-4308**

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Panel composed of Judges Fredericka Homberg Wicker,  
Marc E. Johnson, and John J. Molaison, Jr.

### **WRIT GRANTED FOR LIMITED PURPOSES**

Relator, Irvin Harris, was convicted in Jefferson Parish for two counts of second degree murder, in violation of La. R.S. 14:30.1 (counts one and two); one count of illegal possession of a stolen firearm, in violation of La. R.S. 14:69.1 (count three); and one count of conspiracy to commit obstruction of justice, in violation of La. R.S. 14:26 and 14:130.1 (count five). On January 16, 2015, the trial court sentenced defendant to the following: life imprisonment without benefit of probation, parole, or suspension of sentence on counts one and two; five years at hard labor on count three; and twenty years at hard labor on count five, to be served concurrently. On appeal, this court affirmed relator's convictions and sentences for second degree murder and illegal possession of a stolen firearm; however, upon finding that the State failed to produce sufficient evidence at trial to sustain relator's conviction for conspiracy to commit obstruction of justice, we reversed his conviction and vacated his sentence on that count. *State v. Harris*, 15-485 (La. App. 5 Cir. 4/13/16), 190 So.3d 466, 469, *writ denied*, 16-0902 (La. 5/12/17), 220 So.3d 746

According to the official record in this matter, relator made several filings on June 20, 2019, captioned as "Appendix Of Exhibits Attached In Support Application For Post Conviction Relief With Attached Memorandum," which consisted of exhibits "A" through "I". On June 26, 2019, the trial court issued an Order that acknowledged the filing of relator's exhibits, but denied relief on the basis that relator did not include an application for post-conviction relief ("APCR") or memorandum in support for the court's review. In the instant application, relator contends that the Clerk of Court misplaced his APCR. Relator also includes

what appears to be a copy of the memorandum in support of the APCR filed in the district court in which he asserts his claims.

Based upon our review of the application and information provided by relator, we find relator has demonstrated that he initially gave his APCR to be mailed by authorities at Angola on May 10, 2019, and that it was delivered to Gretna on May 13, 2019.<sup>1</sup> At that time, relator's APCR would have been timely. However, for reasons unknown, relator's filing was not made an official part of the record by the Jefferson Parish Clerk of Court.

Accordingly, in the interest of justice, we grant relator's instant application for the limited purpose of transferring the ACPR contained therein to the district court for consideration along with the exhibits previously filed and acknowledged by the district court.

Gretna, Louisiana, this 14th day of August, 2019.

**JJM**  
**FHW**  
**MEJ**

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<sup>1</sup> As evidence of this, relator provides a USPS tracking number for the transmission of his original APCR from Angola to Gretna: 9114902307224337604508.

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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MARY E. LEGNON  
INTERIM CLERK OF COURT

CHIEF DEPUTY CLERK

SUSAN BUCHHOLZ  
FIRST DEPUTY CLERK


MELISSA C. LEDET  
DIRECTOR OF CENTRAL STAFF

(504) 376-1400  
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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 **08/14/2019** 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

**19-KH-358**

  
\_\_\_\_\_  
MARY E. LEGNON  
INTERIM CLERK OF COURT

**E-NOTIFIED**

Terry M. Boudreaux (Respondent)

**MAILED**

Irvin Harris #632408 (Relator)  
Louisiana State Penitentiary  
Angola, LA 70712