

**NOT DESIGNATED FOR PUBLICATION**

STATE OF LOUISIANA

COURT OF APPEAL

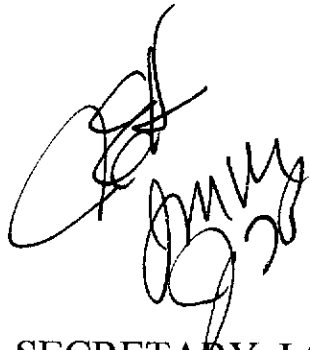
FIRST CIRCUIT

2012 CA 1890

FREDDIE LEWIS

VERSUS

SECRETARY, LOUISIANA STATE DEPARTMENT OF PUBLIC  
SAFETY AND CORRECTIONS, ET AL.



**DATE OF JUDGMENT:** JUN 07 2013

ON APPEAL FROM THE NINETEENTH JUDICIAL DISTRICT COURT  
NUMBER 605,604, SECTION 27, PARISH OF EAST BATON ROUGE  
STATE OF LOUISIANA

HONORABLE TODD W. HERNANDEZ, JUDGE

\*\*\*\*\*

Freddie Lewis  
Winnfield, Louisiana

Petitioner-Appellant  
In Proper Person

Jonathan R. Vining  
Baton Rouge, Louisiana

Counsel for Defendant-Appellee  
James M. LeBlanc, Secretary,  
Louisiana Department of Public Safety  
and Corrections

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BEFORE: KUHN, PETTIGREW, AND McDONALD, JJ.

**Disposition: AFFIRMED.**

KUHN, J.,

Petitioner-appellant, Freddie Lewis, an inmate serving four concurrent sentences for distribution of cocaine, appeals from the district court's dismissal with prejudice of his request for a writ of habeas corpus. We affirm.

### **FACTUAL AND PROCEDURAL BACKGROUND**

Following his convictions on four counts of distribution of cocaine, appellant was sentenced on November 27, 2007, to twenty years at hard labor in the Louisiana Department of Corrections (the Department) on each count, to be served concurrently. On September 30, 2011, he filed a petition requesting a writ of habeas corpus ordering his immediate release, as well as monetary compensation for his illegal detention. He alleged that his continued detention was illegal because, although the trial court sentenced him to the custody of the Department, his "delivery" has never been accepted by the Department. He claimed that the Sheriff's Office of Bossier Parish, which is where he was housed pending conviction, never transmitted to the Department the proper commitment papers required by La. C.Cr.P. art. 892. Specifically, he complained that his commitment documents only included a bill of information, rather than an indictment as required by Article 892(B)(1)(a). According to appellant, this deficiency resulted in the "rejection" of his delivery to the Department pursuant to La. R.S. 15:566(C), which provides that when the documents required by Article 892 are not tendered with the prisoner, the Department should refuse the prisoner's delivery. Due to the alleged noncompliance with Article 892, appellant argued there was no legal authority for his custody. Additionally, appellant alleged that several Department records, including his master records, were falsified to erroneously indicate that he actually was transferred into the Department's custody.

After hearing oral arguments, the commissioner issued a written report recommending that appellant's request be dismissed as lacking merit. In reaching this conclusion, the commissioner noted that any failure of the sheriff's office to provide proper documentation did not affect the validity of appellant's sentences to the custody of the Department under Article 892(D).<sup>1</sup> The commissioner further concluded that appellant failed to establish the falsification of any records. Subsequently, the district court rendered judgment dismissing appellant's request for habeas relief with prejudice in accordance with the commissioner's report, which it adopted as its reasons. Appellant has now appealed.

### ANALYSIS

Article 892 requires that the sheriff transmit certain documents to the Department upon delivery of a prisoner, including a "copy of the indictment under which the defendant was convicted." Appellant alleged that his commitment papers were deficient because they included only a bill of information, rather than an indictment. This argument lacks merit because, under La. C.Cr.P. art. 934(6), the term "indictment" by definition includes a bill of information, unless there is a clear intent to restrict the term to the finding of a grand jury, which is clearly not the case in Article 892. Moreover, even if proper documentation had not been prepared and delivered to the Department in accordance with Article 892, such failure would not affect the validity of appellant's convictions or sentences, which constitute the legal authority for the Department's custody. See La. C.Cr.P. art. 892(D); *Roland v. Stalder*, 10-0957, p. 3 (La. App. 1st Cir. 3/25/11) (unpublished). Additionally, the record supports the district court's finding that appellant failed to prove his

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<sup>1</sup> Article 892(D) provides that "[f]ailure to comply with the provisions of this Article shall not affect the validity of a prosecution, conviction, or sentence."

allegation that the documents in the record that indicate he is an inmate in the custody of the Department were falsified. Appellant failed to establish his claim that he has never been accepted into the Department's custody.

For these reasons, the judgment of the district court dismissing appellant's demands is affirmed. All costs of this appeal are assessed to appellant, Freddie Lewis.

**AFFIRMED.**