

STATE OF LOUISIANA
COURT OF APPEAL, FIRST CIRCUIT

STATE OF LOUISIANA

NO. 2014 KW 1440

VERSUS

CHRISTOPHER FINISTER, NATHANIEL
TURNER, DEVONTAY RICKS,
DAMARCUS SMITH, ERIC ROBERTSON,
JOHN GOZA, AND LACHOY SLAN

DEC 30 2014

In Re: State of Louisiana, applying for supervisory writs,
19th Judicial District Court, Parish of East Baton
Rouge, No. 04-14-0382.

BEFORE: KUHN, PETTIGREW AND WELCH, JJ.

WRIT GRANTED. When the trial court determines that adequate funding is not available, the defendant may then file, at his option, a motion to halt the prosecution of the case until adequate funding becomes available. The trial court may thereafter prohibit the State from going forward with the prosecution until the court determines that appropriate funding is likely to become available. **State v. Citizen**, 2004-1841 (La. 4/1/05), 898 So.2d 325, 338-39. Although at the hearing on the motion to determine funding, Jean Faria, the Capital Case Coordinator for the Louisiana Public Defender Board, and Michael A. Mitchell, Chief District Defender for the Nineteenth Judicial District, testified that their organizations did not have funding to provide to the defendants for their defenses, there is nothing in the writ application that establishes that the defendants followed the guidelines set forth in **Citizen**, *supra*. **Citizen**, *supra* instructed that a defendant file a motion to halt the prosecution of the case until funding becomes available and there is no documentation in the writ application that establishes that the defendants in the instant case did so. Therefore, the trial court did err in staying prosecution of this case until funding is made available to the defendants. Furthermore, the State's obligation in providing effective assistance of counsel to an indigent defendant is to provide the indigent defendant's attorney with the "basic tools of an adequate defense," at no cost to the indigent defendant. **State v. Lee**, 2004-0129 (La. App. 1st Cir. 4/6/04), 879 So.2d 173, 176 (per curiam). This obligation does not require the State "to duplicate the legal arsenal that may be privately retained by a criminal defendant ..., but only to assure the indigent defendant an adequate opportunity to present his claims fairly." **Ross v. Moffitt**, 417 U.S. 600, 616, 94 S.Ct. 2437, 2447, 41 L.Ed.2d 341 (1974). Therefore, Judge White's order staying prosecution of this case until the Legislature provides the defendants with three million dollars is erroneous. This Court finds that three million dollars is an exorbitant amount of money to provide to the defendants in this case. Accordingly, this matter is remanded to the district court with orders that the stay be lifted until such time as the defendants comply with the guidelines set forth in **Citizen**, *supra* and to reconsider the

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amount of funding to be provided to the defendants in this case. In making these funding determinations, to the extent that *ex parte* hearings may be required, the district court should follow the guidelines set forth in **State v. Touchet**, 93-2839 (La. 9/6/94), 642 So.2d 1213.

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Pettigrew, J., dissents and would not consider the writ application.

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DEPUTY CLERK OF COURT

FOR THE COURT