

STATE OF LOUISIANA
COURT OF APPEAL, FIRST CIRCUIT

STATE OF LOUISIANA

NO. 2014 CW 1523

VERSUS

JOSEPH LEMOINE

JAN 12 2015

In Re: Joseph Lemoine, applying for supervisory writs, 22nd Judicial District Court, Parish of Washington, No. 09-CR5-106083.

BEFORE: GUIDRY, THERIOT AND DRAKE, JJ.

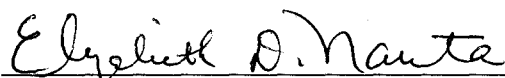
WRIT DENIED. Relator argues that the district court erred in denying his request for records under the Louisiana Public Records Law, La. R.S. 44:1 et seq. A writ application in a criminal proceeding is not the proper procedural vehicle to establish a right to records under the Public Records Act. A "person" who wants to examine public records must make the request to the custodian of the records. See La. R.S. 44:31 & 44:32. An individual in custody after sentence following felony conviction who has exhausted his appellate remedies is permitted access to public records if the request is limited to grounds upon which the individual could file for postconviction relief under La. Code Crim. P. art. 930.3. See La. R.S. 44:31.1. If a request for public records is denied by the custodian, before seeking relief from this court, the person must first institute civil proceedings for a writ of mandamus at the trial court level. See La. R.S. 44:35(A). Should the person prevail, he should be prepared to pay the regular service fees for copies of the documents. See **State ex rel. Nash v. State**, 604 So.2d 1054 (La. App. 1st Cir. 1992). After the trial court issues a ruling in the civil proceeding, the person may seek a civil appeal of the trial court's action, if he desires. See La. R.S. 44:35(C).

Additionally, insofar as relator is seeking free documents, he has not followed the proper procedure. Incarcerated indigents are entitled to a free copy of certain documents without showing a particularized need: **Boykin** transcript, bill of information, commitment papers, court minutes for various portions of the trial, and minutes of the sentencing. See **State ex rel. Simmons v. State**, 93-0275 (La. 12/16/94), 647 So.2d 1094 (per curiam). For all other free documents (such as the trial and sentencing transcript) the inmate is required to establish a "particularized need" by properly filing an application for postconviction relief which sets out specific claims of constitutional errors requiring the requested documentation for support. See **State ex rel. Bernard v. Criminal District Court Section "J"**, 94-2247 (La. 4/28/95), 653 So.2d 1174 (per curiam); **State ex rel. McKnight v. State**, 98-2258 (La. App. 1st Cir. 12/3/98), 742 So.2d 894 (per curiam).

EGD
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Theriot, J., concurs.

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