

# STATE OF LOUISIANA

## COURT OF APPEAL, FIRST CIRCUIT

STATE OF LOUISIANA

NO. 2015 KW 1500

VERSUS

DEC 11 2015

JAMES BURT

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In Re: James Burt, applying for supervisory writs, 22nd  
Judicial District Court, Parish of Washington, No. 12-  
CR8-119845.

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**BEFORE: McDONALD, McCLENDON, AND THERIOT, JJ.**

**WRIT DENIED.** The trial court did not err in denying relator's motion for production of documents, as at the time relator filed the motion his appeal was pending before the Louisiana Supreme Court. Additionally, relator's allegations were insufficient to establish a particularized need, as he had not filed an application for postconviction relief. The jurisprudence requires lower courts to provide indigent inmates with copies of certain types of documents as of right. **State ex rel. Simmons v. State**, 93-0275 (La. 12/16/94), 647 So.2d 1094 (per curiam). As to all other documents, an indigent inmate has the constitutional right to free copies only in those instances in which he shows that denial of the request will deprive him of an adequate opportunity to present his claims fairly. Meeting that constitutional threshold requires a showing of a particularized need. An inmate therefore cannot make a showing of particularized need absent a properly filed 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).

If relator is requesting the trial transcripts under the Public Records Law, a writ application arising in a criminal proceeding is not the proper procedural vehicle to establish a right to records under the Public Records Law, La. R.S. 44:1, et seq. A person who wants to examine public records must make the request to the custodian of records. See La. R.S. 44:31 & 44:32. An individual in custody after sentence following a 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. 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. After the trial court rules in the civil proceeding, the person may seek an appeal of the trial court's

**STATE OF LOUISIANA**  
**COURT OF APPEAL, FIRST CIRCUIT**

NO. 2015 KW 1500  
PAGE 2 OF 2

action, if he desires. See La. R.S. 44:35(C). See also **State ex rel. McKnight v. State**, 98-2258 (La. App. 1st Cir. 12/3/98), 742 So.2d 894, 895 (per curiam).

**PMc**  
**MRT**  
**JMM**

COURT OF APPEAL, FIRST CIRCUIT



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DEPUTY CLERK OF COURT  
FOR THE COURT