

STATE OF LOUISIANA
COURT OF APPEAL, FIRST CIRCUIT

WILLIAM BURNETT

NO. 2018 CW 0319

VERSUS

SERGEANT RICKY LEE AND STATE
OF LOUISIANA THROUGH
LOUISIANA DEPARTMENT OF
PUBLIC SAFETY AND
CORRECTIONS, DIXON
CORRECTIONAL INSTITUTE

JUL 17 2018

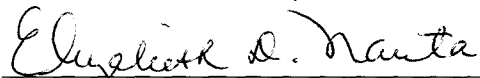
In Re: William Burnett, applying for supervisory writs, 20th
Judicial District Court, Parish of East Feliciana, No.
44476.

BEFORE: McDONALD, WELCH AND HOLDRIDGE, JJ.

WRIT GRANTED IN PART AND DENIED IN PART WITH ORDER. The trial court's January 26, 2018 judgment granting the Declinatory Exception of Insufficiency of Service of Process filed on behalf of defendants, Sergeant Ricky Lee and the State of Louisiana through the Louisiana Department of Public Safety and Corrections, Dixon Correctional Institute, is vacated. The record does not reflect that a trial of the Declinatory Exception of Insufficiency of Service of Process was conducted. This matter is remanded to the trial court for a trial of the Declinatory Exception of Insufficiency of Service of Process. See e.g., La. Code Civ. P. art. 930; **Kirby v. Field**, 2004-1898 (La. App. 1st Cir. 9/23/05), 923 So.2d 131, 137, writ denied, 2005-2467 (La. 3/24/06), 925 So.2d 1230, n.8 ("[a] hearing or trial of an exception (other than the exception of no cause of action) is just that: a trial at which competent, relevant evidence should be presented for the trier of fact's consideration."). In all other respects, the writ is denied.

GH
JMM
JEW

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FOR THE COURT