

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

THOMAS COLE, INDIVIDUALLY  
AND ON BEHALF OF HIS  
DECEASED WIFE, CHARLOTTE  
RUSSELL COLE

NO. 2019 CW 0049

VERSUS

THE STATE OF LOUISIANA,  
THROUGH THE LOUISIANA  
DEPARTMENT OF TRANSPORTATION  
AND DEVELOPMENT

**MAY 31 2019**

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In Re: State of Louisiana through the Department of  
Transportation and Development, applying for  
supervisory writs, 21st Judicial District Court,  
Parish of Livingston, No. 145958.

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**BEFORE: WHIPPLE, C.J., HIGGINBOTHAM AND CRAIN, JJ.**

**WRIT DENIED.**

**VGW**  
**WJC**

**Higginbotham, J.**, concurs and would deny the writ on the basis that the criteria set forth in **Herlitz Construction Co., Inc. v. Hotel Investors of New Iberia, Inc.**, 396 So.2d 878 (La. 1981) (*per curiam*), are not met.

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DEPUTY CLERK OF COURT  
FOR THE COURT