

EMILY WASHINGTON

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NO. 2018-CA-0125

VERSUS

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COURT OF APPEAL

LEON CANNIZZARO

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FOURTH CIRCUIT

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STATE OF LOUISIANA

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MCKAY, C.J., DISSENTS WITH REASONS

Ms. Washington’s amended petition for writ of mandamus requests records that she has yet to submit a public records request for. The issue which the Orleans Parish District Attorney’s Office put forth before the district court and successfully argued was that the records contained in the May 7, 2015 records request and the records sought in the amended writ of mandamus are two separate and distinct species of documents. The May 7, 2015 records request specifically requested La. Code of Crim. Proc. Art. 66 subpoenas. In Ms. Washington’s amended petition for writ of mandamus, she even includes a copy of the documents she was requesting.

Ms. Washington refers to “DA Notifications” as the documents that she is seeking in her amended writ of mandamus. The “DA Notifications” are not La. Code of Crim. Proc. Art. 66 subpoenas as requested in her May 7, 2015 records request. La. Crim. Proc. Art. 66 subpoenas have a very specific definition as defined by the Louisiana Code of Criminal Procedure.¹

Ms. Washington is attempting to mold her initial public request of May 7, 2015 to include the “DA Notifications” that were attached to her amended petition for writ of mandamus. The district court saw and agreed that the public records

¹ I also note that in her brief, Ms. Washington stipulated that she is not challenging the constitutionality of La. Code of Crim. Proc. Art. 66.

request and the amended writ of mandamus requested two separate and distinct items and therefore granted the peremptory exception of no cause of action.

The facts and law of this case are simple. The records contained in the May 7, 2015 records request and the records sought in the amended writ of mandamus are two separate and distinct species of documents. Accordingly, I respectfully dissent from the majority opinion and would affirm the judgment of the district court.