

The Supreme Court of the State of Louisiana

STATE OF LOUISIANA

No. 2025-KD-01181

VS.

DARRELL DRAUGHN

IN RE: State of Louisiana - Applicant Plaintiff; Applying For Supervisory Writ,
Parish of Caddo, 1st Judicial District Court Number(s) 21217;

November 14, 2025

Writ application granted. See per curiam.

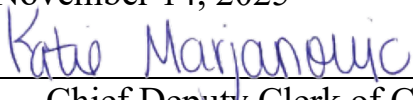
JDH

JBM

CRC

Weimer, C.J., dissents and would grant and docket.
Crain, J., concurs.
Griffin, J., dissents and assigns reasons.
Guidry, J., dissents and assigns reasons.

Supreme Court of Louisiana
November 14, 2025



Chief Deputy Clerk of Court
For the Court

SUPREME COURT OF LOUISIANA

No. 2025-KD-01181

STATE OF LOUISIANA

VS.

DARRELL DRAUGHN

On Supervisory Writ to the 1st Judicial District Court, Parish of Caddo

PER CURIAM

Writ granted; relief granted in part. In this capital case, the district court granted defendant’s motions for under-seal ex parte subpoenas duces tecum for the purpose of investigating issues that may be raised in his counseled supplemental post-conviction relief application.¹ In granting the motions on an ex parte basis, the district explained that “any further disclosures about or justifications for granting the ex parte, sealed subpoenas applied for [] by Petitioner cannot be provided to the State without potentially revealing the legal strategy of Petitioner.”

Certain *pre-trial* confidential ex parte discovery may be allowed to ensure fairness to indigent defendants who, unlike those without financial resources, are reliant on public resources to support their defense. This Court has allowed ex parte hearings in those circumstances because it “feared that opening the hearings would ‘potentially expos[e] defendant’s defense to prosecutorial review when a monied defendant’s defense would remain inviolate.’” *State v. Touchet*, 1993-2839, p. 8 (La. 9/6/94), 642 So.2d 1213, 1218 (quoting *People v. Loyer*, 425 N.W.2d 714, 722 (1988)). This “is illustrative of the Fifth Amendment-based principle that the defendant has a right to compel the State to investigate its own case, find its own

¹ This Court has recognized subpoenas duces tecum as a legitimate means to supplement the trial record for consideration of post-conviction relief claims. *See Hayden v. Boutte*, 2019-0968 (La. 4/13/21), 313 So.3d 971.

witnesses, prove its own facts, and convince the jury through its own resources.” *Id.*, 1993-2839, p. 9, 642 So.2d at 1218.

Conversely, prisoners seeking post-conviction relief are no longer presumed innocent and no longer have a Fifth Amendment right to insist the state fulfill its burden to prove his guilt. *See e.g.* La. C.Cr.P. art. 920.2 (The state has no burden of proof in a post-conviction relief proceeding). Thus, the rationale of preventing the “premature disclosure of the defendant’s case and a corresponding unfair advantage for the state in its prosecution” does not apply in the post-conviction context. *Touchet*, 1993-2839 at p. 10, 642 So.2d at 1219. Accordingly, there is no attendant concern that these rights may be unfairly balanced concerning applicants for post-conviction relief even if *ex parte* proceedings are warranted in a similar *pre-trial* context.

We recognize that there may be other legitimate reasons why, pursuant to its inherent authority, a district court may “issue such writs and orders as may be necessary or proper in aid of its jurisdiction” in an *ex parte* manner. La.C.Cr.P. art. 17. For example, the justification required to request a subpoena under *State v. Marcelin*, 2010-2036, p. 2 (La. 10/15/10), 46 So.3d 191, 193, may expose other privileged information, such as attorney-client communications. Additionally, the social history materials that the defendant seeks here may include private and sensitive information about his family members. Such materials may appropriately be held confidential and protected from public view. In those instances, the district court may reasonably determine it would be wrong to place the materials in the public record even if there is no reason to keep them from the State, or for good cause shown might find it “fundamentally unfair” to require disclosure to the state. *State v. Brown*, 2016-0274, p. 3 (La. 4/22/16), 192 So.3d 720, 722.

For these reasons, we remand the matter to determine whether there are legitimate reasons justifying completely sealed proceedings relating to these

subpoenas, or alternatively if there is good reason to seal from the public record at the current stage even if disclosure to the state is not shown to be fundamentally unfair. The order sealing the subpoenas shall remain in effect until the trial court has ruled on remand. In all other respects, relief is denied.

REVERSED IN PART AND REMANDED