

The Supreme Court of the State of Louisiana

KEITH KENNEDY

NO. 2018-KH-1489

VS.

LOUISIANA DEPARTMENT OF PUBLIC SAFETY AND
CORRECTIONS

IN RE: Keith Kennedy; - Plaintiff; Applying For Supervisory and/or
Remedial Writs, Parish of E. Baton Rouge, 19th Judicial District
Court Div. O, No. 662252; to the Court of Appeal, First Circuit, No.
2017 CW 1627;

December 17, 2018

Denied. Untimely Filed pursuant to La.S.Ct.R. X § 5.

JDH

JLW

GGG

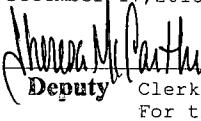
MRC

SJC

JTG

Appendix A
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Supreme Court of Louisiana
December 17, 2018


Deputy Clerk of Court
For the Court

STATE OF LOUISIANA
COURT OF APPEAL, FIRST CIRCUIT

KEITH KENNEDY

NO. 2017 CW 1627

VERSUS

LOUISIANA DEPARTMENT OF
PUBLIC SAFETY AND
CORRECTIONS

MAY 14 2018

In Re: Keith Kennedy, applying for supervisory writs, 19th
Judicial District Court, Parish of East Baton Rouge,
No. 662252.

BEFORE: HIGGINBOTHAM, HOLDRIDGE AND PENZATO, JJ.

WRIT DENIED. On January 11, 2018, the district court rendered judgment dismissing relator, Keith Kennedy's, petition with prejudice. The January 11, 2018 judgment is a final, appealable judgment. LA. R.S. 15:1177 (A)(10). An appeal of a final judgment can be taken by filing a motion for appeal in the district court, along with an order for the judge's signature showing the return date of the appeal, within the time delays set out in La. Code Civ. P. art. 2087. Filing documents directly with this court does not suspend the running of the appeal delays. See La. Code Civ. P. art. 2121; *Strickland v. Layrisson*, 96-1280 (La. App. 1st Cir. 6/20/97), 696 So.2d 621, writ denied, 97-1940 (La. 11/14/97), 704 So.2d 228. However, the request appears to be in the nature of post-conviction relief, which should be filed in Ouachita parish, the parish of conviction.

GH
AHP
TMH

APPENDIX
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COURT OF APPEAL, FIRST CIRCUIT

Elizabeth D. Manta
DEPUTY CLERK OF COURT
FOR THE COURT

KEITH KENNEDY
DOC #489062
VS. 489062

LOUISIANA DEPARTMENT OF
PUBLIC SAFETY & CORRECTIONS

NUMBER: C662,252 SECTION: 25
19TH JUDICIAL DISTRICT COURT
PARISH OF EAST BATON ROUGE
STATE OF LOUISIANA

JUDGMENT

This matter came on for final adjudication by this Court. After a careful de novo consideration of the administrative record herein, together with any traversal timely filed, the Court adopts as reasons herefore, those stated in the Commissioner's Report filed herein,

IT IS ORDERED, ADJUDGED AND DECREED, that the Department's decision be affirmed and that this appeal be dismissed with prejudice at the Petitioner's costs.

READ, RENDERED AND SIGNED, this 11 day of January 2018 at Baton
Rouge, Louisiana.


WILSON FIELDS
JUDGE, SECTION 25
NINETEENTH JUDICIAL DISTRICT COURT

FILED


JAN 11 2018
Iren Brown
DEPUTY CLERK OF COURT

I HEREBY CERTIFY THAT ON THIS DAY A COPY OF
THE WRITTEN REASONS JUDGMENT
ORDER /COMMISSIONER'S RECOMMENDATION /WAS
MAILED BY ME WITH SUFFICIENT POSTAGE AFFIXED TO:
ALL PARTIES NOTIFIED
DONE AND SIGNED ON 24 Jan 2018

DEPUTY CLERK OF COURT

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RECEIVED

JAN 09 2018

page 1 of one

DIVISION O
JUDGE FIELDS

KEITH KENNEDY
DOC #480962

VS.

LOUISIANA DEPARTMENT OF
PUBLIC SAFETY & CORRECTIONS

NUMBER: C662,252 SECTION: 25

19TH JUDICIAL DISTRICT COURT
PARISH OF EAST BATON ROUGE
STATE OF LOUISIANA

COMMISSIONER'S REPORT

The Petitioner, an inmate in the custody of the Department of Public Safety and Corrections, filed this suit as an application for writ of habeas, but actually attacking his present conviction by raising a post conviction claim. He asserts that he was convicted under an indictment issued in Ouachita Parish,¹ where he later pled and was sentenced. The Petitioner alleges the ineffective assistance of counsel claims that were previously denied, are now to be given weight pursuant to recent court rulings.

Clearly, this Court has no jurisdiction to hear this complaint, as Art. 925 requires that any complaint seeking to overturn one's conviction must be filed in the parish of conviction, and that is not East Baton Rouge, by the Petitioner's own assertions.

Since this is not an actual application for writ of habeas corpus, but is a collateral attack on the Petitioner's criminal conviction, R.S. 15:571.15 does not confer jurisdiction or venue on this Court. This suit does not challenge any authority of the Department, but rather the validity of the conviction in this case. Suit must be filed in Ouachita Parish in such circumstance.

This report is issued for the Court's de novo consideration and determination as to whether or not this Court has subject matter jurisdiction and whether the suit states a claim for which relief is available from this Court, assuming all facts to be true.

COMMISSIONER'S SCREENING RECOMMENDATION

Therefore, after a careful review of the Petition and attachments thereto, together with having reviewed the statutory law and jurisprudence appertaining, and for the reasons hereinabove stated, I find that this suit fails to raise a valid "habeas" claim and is, in fact, a collateral attack on the underlying criminal conviction of the Petitioner. As such,

C.R. *Appendix D*
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¹ See Application, paragraph 3.

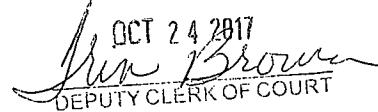
this Court has no subject matter jurisdiction over this claim, and therefore, this suit must be dismissed without prejudice at the Plaintiff's costs.

Respectfully submitted this 24th day of October, 2017 in Baton Rouge, Louisiana.



QUINTILLIS K. LAWRENCE
COMMISSIONER SECTION B
19TH JUDICIAL DISTRICT COURT

FILED

OCT 24 2017


DEPUTY CLERK OF COURT

I HEREBY CERTIFY THAT ON THIS DAY A COPY OF
THE WRITTEN REASONABLE DILIGENCE
ORDER (COMMISSIONER'S RECOMMENDATION) WAS
MAILED BY ME WITH SUFFICIENT POSTAGE AFFEDED TO:
ALL PARTIES NAMED
DONE AND SIGNED ON 24 Oct 2017
Jim Brown
DEPUTY CLERK OF COURT

c.R and p^{age} 8^e
APPENDIX D
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PAGE IV.

**Additional material
from this filing is
available in the
Clerk's Office.**