

10/23/2015 "See News Release 052 for any Concurrences and/or Dissents."

SUPREME COURT OF LOUISIANA

NO. 15-KK-1556

STATE OF LOUISIANA

VERSUS

WILLIAM HEBERT, JR.

**ON WRIT OF CERTIORARI TO THE COURT OF APPEAL,
FIRST CIRCUIT, PARISH OF EAST BATON ROUGE**

CRICHTON, J., additionally concurs and assigns reasons:

I concur in the denial of this writ application. While it is true a defendant has the right, upon motion, to inspect and copy reports of scientific tests made in connection with the case that are in the possession of the district attorney and intended for use at trial, it is equally true the state has no obligation to disclose information it does not possess. *See State v. Bobo* (La. App. 2 Cir. 6/8/11), 77 So. 3d. 1, *writ denied*, 2011-1524 (La. 12/16/11) 76 So. 3d 1202. In this case, the defense subpoena is to Matters of the Mind, LLC, seeking treatment records of the alleged incest victim. The State is not in possession of any such records. La. R.S. 15:241 requires a hearing and a ruling by the court that the requested records are not sought for ill purposes. Apparently no defense motion was filed, no hearing was held, and the trial court therefore did not have the opportunity to conduct an in camera record review for Brady purposes and make a determination on the issue.