

09/13/2016 "See News Release 046 for any Concurrences and/or Dissents."

SUPREME COURT OF LOUISIANA

NO. 2016-KK-1685

STATE OF LOUISIANA

VERSUS

DAVID BROWN

CRICHTON, J., additionally concurs and assigns reasons:

I agree with the Court's decision to deny this writ application. For the reasons I stated previously, *State v. Brown*, 16-0274 (La. 4/22/16); 192 So.3d 720, 722 (Crichton, J., concurring), ex parte proceedings should be invoked in good faith only in very limited circumstances. In response to this Court's September 10, 2016 Order, the district court recognized its previous rulings were an "incorrect application of *Touchet*." Written Reasons for Maintaining Certain Documents Under Seal at 3, *State v. Brown*, (No. 0000-C-520401) (emphasis removed); *see also State v. Touchet*, 93-2839 (La. 9/6/94); 642 So.2d 1213. But one error should not beget another error. Thus, I agree with the district court's belief that further disclosure to the State of documents maintained under seal would be fundamentally unfair to the defendant. Nonetheless, I write separately to emphasize that a broad interpretation of *Touchet* is at odds with our system of criminal justice, which should be adversarial and open to the public.