

SUPREME COURT OF LOUISIANA

No. 2017-KP-0101

WILBERT JONES

VERSUS

DARREL VANNOY, WARDEN

**ON APPLICATION FOR WRIT OF CERTIORARI TO THE 19TH
JUDICIAL DISTRICT COURT, PARISH OF EAST BATON ROUGE**

JOHNSON, C.J., concurring

I agree that relator's *Brady* claim regarding the October 29, 1971 rape requires further evidentiary development and a ruling on the merits from the district court. I am also gravely concerned about the apparently premature destruction of evidence that might have otherwise been tested for DNA and the potential that some evidence remains and could be tested but has been misplaced.

Through the pioneering work of the Innocence Project, DNA testing has led to numerous exonerations of the wrongly convicted. In this rape case from over 40 years ago, in which relator has steadfastly maintained his innocence, DNA testing could very likely determine if relator was in fact wrongly convicted. It is not apparent to me from the materials presently before the court what evidence was destroyed, why it was destroyed, what evidence has been lost, and whether any might remain to be found and tested. Given the pivotal role such evidence could play in determining whether relator was wrongfully convicted, and in light of relator's declining health, I urge the district court to expeditiously take all necessary steps to account for the evidence and determine whether any can be found and tested.