STATE OF LOUISIANA

COURT OF APPEAL, FIRST CIRCUIT

STATE OF LOUISIANA NO. 2020 KW 1098

VERSUS

JAMES J. SPIKES, SR. **DECEMBER 21, 2020**

In Re: James J. Spikes, Sr., applying for supervisory writs, 22nd Judicial District Court, Parish of Washington, No. 130-CR4-123350.

BEFORE: WHIPPLE, C.J., WELCH AND CHUTZ, JJ.

WRIT GRANTED. The record of the Clerk of Court of Washington Parish shows that on November 17, 2018, relator timely filed an application for postconviction relief wherein he claimed the evidence was insufficient to support the conviction, ineffective assistance of counsel, and the prosecutor knowingly used perjured testimony to obtain the conviction. Relator supplemented the postconviction application with an additional non-unanimous jury claim in April 2019. There is no record of a ruling on relator's original claims for postconviction relief, and the June 27, 2019 ruling does not address those claims. Therefore, the ruling denying the motion to reopen collateral review is vacated, and this matter is remanded to the district court for further proceedings. The district court should order the district attorney to file any procedural objections he may have or an answer on the merits if there are no procedural objections. See La. Code Crim. P. art. 927. If the district court determines that the factual and legal issues can be resolved based upon the application and answer, and supporting documents submitted by either party or available to the court, the court may grant or deny relief without further proceedings. See La. Code Crim. P. art. 929(A).

VGW
JEW
WRC

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FOR THE COURT