

SUPREME COURT OF LOUISIANA

No. 2024-KD-00595

MAY 30 2024

STATE OF LOUISIANA

VS.

DONALD RAY LINK

On Supervisory Writ to the 19th Judicial District Court,
Parish of East Baton Rouge

STC

CRICHTON, J., additionally concurring.

I agree that the district court judge clearly erred in resorting to error patent review. As noted in the per curiam opinion, error patent review is performed by a *court of appeal* when reviewing a conviction on direct appeal. *See* La.C.Cr.P. art. 920(2) (“The following matters and no others shall be considered on appeal: . . . (2) An error that is discoverable by a mere inspection of the pleadings and proceedings and without inspection of the evidence.”). It is certainly not a means by which a district court can vacate a decades-long, final conviction in response to a motion to clarify sentence.¹ I write separately to express my concern about a district court judge engaging in such a patent abuse of discretion in response to an order from this Court.

“A judge shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.” Code of Jud. Conduct, Canon 2(A). In this case, the district court judge had delayed ruling on defendant’s motion to clarify sentence for an inordinate time despite repeated instructions to act. This Court’s remand order was clear. It simply directed the district court judge to rule in a timely manner or show cause why she

¹ The grounds for post-conviction relief are provided at La. C.Cr.P. art. 930.3 and do not apply here. As explained in the per curiam opinion, contrary to the district court judge’s *sua sponte* conclusion, the jury was correctly instructed according to the law at the time of the trial.

should not be held in contempt. The district court judge's ill-conceived response to the order was to issue a grossly erroneous ruling that had a retaliatory if not contemptuous tone and, incredibly, resulted in the fashioning of an illegal remedy that even defendant had not requested. At a *minimum*, the action by the district court judge achieved the opposite of what is required by Canon 2.