

LOUISIANA DISTRICT ATTORNEYS ASSOCIATION

EXECUTIVE DIRECTOR
LOREN M. LAMPERT

July 22, 2019

The Honorable Bernette J. Johnson
Chief Justice, Louisiana Supreme Court
400 Royal Street
New Orleans, Louisiana 70130

Dear Chief Justice Johnson:

I am writing on behalf of the membership of the Louisiana District Attorneys Association (LDAA) in an effort to address a matter of serious concern to the over 750 Louisiana Prosecutors. As you are certainly aware, this Court recently held, in express terms, that the Rules of Professional Conduct governing a prosecutor's disclosure obligation were coextensive with the Constitutional/Brady standard for disclosure of exculpatory evidence. In re Ronald Seastrunk, 2017-B-178 (10/18/2017), 236 So.3d 509 (citing of Brady v. Maryland, 373 U.S. 83 (1963)). In short, Rule 3.8(d) of the Louisiana Code of Professional Conduct - like the majority of other states - includes the "materiality" requirement of Brady, id.

Upon information and belief, the Rules and Professional Conduct Committee of the Louisiana State Bar Association voted to reject a proposed amendment to Rule 3.8(d) which would have included the aforementioned "materiality" requirement. Of note, Louisiana District Attorneys were unaware that the issue was set for consideration and vote.

On July 11, 2019, the membership of the Louisiana District Attorneys Association, at the LDAA General Business Meeting, passed a resolution relative to this issue. The membership resolved to request and urge this Honorable Court to amend Rule 3.8(d) to include the aforementioned "materiality" requirement. The resolution is attached hereto and made a part hereof. Accordingly, the membership of the Louisiana District Attorneys Association requests and urges that this Honorable Court amend Rule 3.8(d), in accordance with the rule making authority bestowed by Article V, Section 5 of the Louisiana Constitution of 1974.

Thank you in advance for your attention to this matter. I stand ready to answer any questions on this issue.

Sincerely,

Loren M. Lampert
Executive Director

LML:rbj

Enclosure

cc: Louisiana Supreme Court Justices
All Elected District Attorneys

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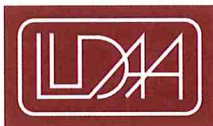
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RESOLUTION

BE IT HEREBY RESOLVED that the membership of the Louisiana District Attorneys Association (LDAA), upon recommendation of the LDAA Board of Directors, does hereby urge and request that the Supreme Court of the State of Louisiana amend Rule 3.8(d) of the Louisiana Code of Professional Conduct in the following particulars:

Insert the term "material" after the term "all" and before the term "evidence" and also, insert the term "material" after the term "unprivileged" and before the term "mitigating" as provided below:

The prosecutor in a criminal case shall:

. . .


(d) make timely disclosure to the defense of all material evidence or information known to the prosecutor that the prosecutor knows, or reasonably should know, either tends to negate the guilt of the accused or mitigates the offense, and, in connection with sentencing, disclose to the defense and to the tribunal all unprivileged material mitigating information known to the prosecutor, except when the prosecutor is relieved of this responsibility by a protective order of the tribunal; . . .

(underline emphasis added).

CERTIFICATION

THIS RESOLUTION PASSED, unanimously, by the membership of the Louisiana District Attorneys Association, upon the recommendation of the LDAA Board of Directors, at the LDAA General Business meeting on the 11th day of July 2019.


CHARLES J. BALLAY
LDAA President


JOHN F. BELTON
LDAA President Elect


LOREN M. LAMPERT
LDAA Executive Director