# SUPREME COURT OF LOUISIANA

#### No. 01-KP-2055

### STATE OF LOUISIANA

V.

#### ANTOINETTE FRANK

# On Writ of Certiorari to the Criminal District Court, Parish of Orleans

# PER CURIAM:

Writ granted. Given the preliminary nature of the psychiatrist's evaluation based on a single interview with relator, the expert's notes on her discussion with relator cannot fairly be considered a "report," and the state may not discover them. La.C.Cr.P. art. 728; <u>see also United States v. Dennison</u>, 937 F.2d 559, 565-66 (10<sup>th</sup> Cir. 1991); <u>United States v. Layton</u>, 90 F.R.D. 520, 523-24 (N.D. Cal. 1981). The district court's order directing relator to disclose the notes is therefore reversed. However, the district court may reconsider disclosure in the event relator summons the psychiatrist to testify at a subsequent proceeding with regard to her conclusions based on a more extensive evaluation. If the witness has not made a report, if such notes as may exist are more fairly described as "extensive memoranda [which] record not only observations and hypotheses, but also evaluations," and if such memoranda constitute the psychiatrist's "most complete written psychological evaluation" of relator, the court may order disclosure. <u>State v. Nichols</u>, 877 S.W.2d 722, 730 (Tenn. 1994).