

No. 14-KP-1282

STATE OF LOUISIANA

VERSUS

ALPHONSE MOORE

**ON WRIT OF CERTIORARI TO THE
FOURTH CIRCUIT COURT OF APPEAL,
PARISH OF ORLEANS**

Writ granted. The ruling of the court of appeal is reversed and the matter is remanded to the court of appeal for consideration of the merits. Notwithstanding that sentencing errors, including allegations of counsel error at a habitual offender proceeding, are ordinarily not cognizable collateral review, La.C.Cr.P. art. 930.3; State v. Cotton, 09-2397 (La. 10/15/10), 45 So.3d 1030; State v. Thomas, 08-2912 (La. 10/16/09), 19 So.3d 466; State ex rel. Melinie v. State, 93-1380 (La. 1/12/96), 665 So.2d 1172, the unique circumstances of this case, in which relator raised the issue on appeal, and in which the court of appeal expressly provided on direct review that the issue was “preserved and may be raised in an application for post-conviction relief,” State v. Moore, 10-0314, p. 4 (La. App. 4 Cir. 10/13/10), 57 So.3d 1033, 1042 (on reh’g), writ denied 11-0404 (La. 9/2/11), 68 So.3d 525, compel that relator have the opportunity to pursue his claim on the merits, and the state to seek review of any grant of relief by the district court on the merits, that counsel rendered ineffective assistance by failing to challenge the state’s proof of his recidivist status on the grounds that the cleansing period had elapsed.