

SUPREME COURT OF LOUISIANA

No. 15-KH-0382

STATE EX REL. KUNTA KENTA GREEN

v.

STATE OF LOUISIANA

**ON SUPERVISORY WRITS TO THE FIRST
JUDICIAL DISTRICT COURT, PARISH OF CADDO**

PER CURIAM:

Denied. The District Court correctly dismissed each of relator's claims for post-conviction relief. We attach hereto and make a part hereof the District Court's well-considered reasons denying relator post-conviction relief. Furthermore, the application was not timely filed in the district court, and relator has failed to carry his burden to show that an exception applies. La.C.Cr.P. art. 930.8; State ex rel. Glover v. State, 93-2330 (La. 9/5/95), 660 So.2d 1189.

Relator has now fully litigated his application for post-conviction relief in state court. Similar to federal habeas relief, see 28 U.S.C. § 2244, Louisiana post-conviction procedure envisions the filing of a second or successive application only under the narrow circumstances provided in La.C.Cr.P. art. 930.4 and within the limitations period as set out in La.C.Cr.P. art. 930.8. Notably, the Legislature in 2013 La. Acts 251 amended that article to make the procedural bars against successive filings mandatory. Relator's claims have now been fully litigated in accord with La.C.Cr.P. art. 930.6, and this denial is final. Hereafter, unless he can show that one of the narrow exceptions authorizing the filing of a successive

application applies, relator has exhausted his right to state collateral review. The District Court is ordered to record a minute entry consistent with this per curiam.

FILED
NOV 11 2014

STATE OF LOUISIANA CADDO PARISH DEPT. CLERK
MARILYN HARVEY NUMBER: 279,416; SECTION 4

VERSUS : FIRST JUDICIAL DISTRICT COURT

KUNTA KENTA GREEN : CADDO PARISH, LOUISIANA

RULING

On June 20, 2011, Petitioner pled guilty to Manslaughter. The Court informed Petitioner of his constitutional rights as per *Boykin vs. Alabama*. Whereupon, Petitioner was sentenced to pay court costs, to be paid through the inmate banking, and in addition, to be confined at hard labor for a period of seventeen (17) years and committed to the Louisiana Department of Corrections, subject to the conditions provided by law. The Court informed the Petitioner of his right to post conviction relief proceedings and with credit for time served.

The subject of this ruling is Petitioner's "Application For Post-Conviction Relief, With Request For Evidentiary Hearing, Request For Production of Defense Witnesses and Appointment of Counsel" filed September 15, 2014. In said application, Petitioner argues that his guilty plea and sentence are unconstitutional based on three claims: 1) In violation of *Brady v. Maryland*, the District Attorney knowingly and intentionally suppressed evidence of a surveillance video that was favorable to Petitioner; 2) His guilty plea was not knowing, intelligent and voluntary because the District Attorney did suppress such evidence; and 3) His trial counsel rendered ineffective assistance by failing to discover this surveillance tape during pre-trial investigation and trial counsel's tactics of threatening Petitioner with a larger sentence in order to make a lesser sentence look better to Petitioner.

The District Attorney filed its "Procedural Objection and Memorandum to Application For post-Conviction Relief" on October 21, 2014.

Petitioner's current application is untimely. To be considered, an application for post-conviction relief must be filed within two years of the conviction. *La. C. Cr. P. Art. 930.8*. The conviction in this case has been final since 2011 and Petitioner has not satisfied an exception to the two-year time limitation for seeking post-conviction relief.

However, assuming Petitioner's application was not untimely, Petitioner has failed to prove that the contents of the videotape or the videotape itself were previously unknown to Petitioner or his attorney. Therefore, Petitioner's *Brady* violation claim has no merit. Furthermore, Petitioner has failed to make a showing that trial counsel did indeed neglect to conduct a thorough pretrial investigation, thereby failing to discover the surveillance video and rendering ineffective assistance of counsel.

For the foregoing reasons, Petitioner's "Uniform Application for Post-Conviction Relief" filed September 15, 2014 is **DENIED**. The Clerk of Court is directed to provide a copy of this Ruling to the Petitioner, his custodian and the District Attorney.

RENDERED, READ AND SIGNED this 13th day of November, 2014, in Shreveport, Caddo Parish, Louisiana.


RAMONA L. EMANUEL
DISTRICT JUDGE

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