

**SUPREME COURT OF LOUISIANA**

**No. 15-KH-1498**

**STATE EX REL. LEROY JACKSON, JR.**

**v.**

**STATE OF LOUISIANA**

**ON SUPERVISORY WRITS TO THE TWENTY-NINTH  
JUDICIAL DISTRICT COURT, PARISH OF ST. CHARLES**

**PER CURIAM:**

Denied. Relator fails to show he pled guilty involuntarily or any basis for disturbing the sentences imposed pursuant to a negotiated plea bargain. See La.C.Cr.P. art. 930.2; La.C.Cr.P. art. 881.2(A)(2). We attach hereto and make a part hereof the Court of Appeal's written reasons denying writs.

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 La.C.Cr.P. art. 930.4 to make the procedural bars against successive filings mandatory. Relator's claims have now been fully litigated in state collateral proceedings in accord with La.C.Cr.P. art. 930.6, and this denial is final. Hereafter, unless relator 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.

STATE OF LOUISIANA

NO. 15-KH-378

VERSUS

FIFTH CIRCUIT

LEROY JACKSON, JR.

COURT OF APPEAL

STATE OF LOUISIANA

**WRIT DENIED**

In this writ application, relator, Leroy Jackson, Jr., seeks review of the trial court's denial of his Motion to Correct Illegal Sentence and his Motion for Leniency and Suspension of Remainder of Sentence. For the reasons that follow, we find that the trial court correctly denied Mr. Jackson's Motions. Accordingly, Mr. Jackson's writ application is denied.

On August 15, 2014, Mr. Jackson pled guilty to the amended charge of molestation of a juvenile, in violation of La. R.S. 14:81.2 (count one) and two counts of obstruction of justice in violation of La. R.S. 14:130.1 (counts three and four). Specifically, Mr. Jackson pled guilty to obstruction of justice relative to forcible rape, the crime for which he was initially charged. Following his guilty plea, Mr. Jackson was sentenced to five years at hard labor with three years suspended on count one, and six years imprisonment at hard labor on counts three and four. The trial court ordered that all of Mr. Jackson's sentences run concurrently with one another. Mr. Jackson did not appeal his convictions or sentences.

On January 7, 2015, Mr. Jackson filed his Motion to Correct Illegal Sentence. On March 16, 2015, Mr. Jackson filed his Motion for Leniency and Suspension of Remainder of Sentence with the 29<sup>th</sup> Judicial District Court. On April 29, 2015 the trial court denied Mr. Jackson's Motions. In its ruling, the trial court found that Mr. Jackson's sentence was not illegal, pursuant to La. R.S. 14:130.1<sup>1</sup> and La. R.S. 14:42.1.<sup>2</sup> In his writ application, Mr. Jackson argues that the sentences imposed by the trial court for obstruction of justice are illegal since the obstruction of justice charges involved the underlying offense of forcible rape and not molestation of a juvenile.

Louisiana jurisprudence supports the trial court's determination that Mr. Jackson's convictions and sentences were legal under Louisiana law. In *State v. McKnight*, 98-1790 (La. App. 1 Cir. 6/25/99, 12-15), 739 So.2d 343, 352-53, writ denied, 99-2226 (La. 2/25/00), 755 So.2d 247, the First Circuit found that:

[U]nder the language of the statute, it is unnecessary that an underlying criminal proceeding be resolved before the appropriate penalty provision for

<sup>1</sup>La. R.S. 14:130.1 provides, in pertinent part:

Whoever commits the crime of obstruction of justice shall be subject to the following penalties:  
(2) When the obstruction of justice involves a criminal proceeding in which a sentence of imprisonment necessarily at hard labor for any period less than a life sentence may be imposed, the offender may be fined not more than fifty thousand dollars, or imprisoned for not more than twenty years at hard labor, or both.

<sup>2</sup> La. R.S. 14:42.1 provides, in pertinent part, that "[w]hoever commits the crime of forcible rape shall be imprisoned at hard labor for not less than five nor more than forty years."

obstruction of justice can be determined. The nature of the underlying criminal proceeding, for purposes of determining the appropriate section of the obstruction of justice statute, should be determined by the date(s) on which the acts of obstruction occurred.

At the time that the obstruction of justice occurred, Mr. Jackson was awaiting prosecution on Count 1, originally listed on the bill of information as a Forcible Rape which occurred on or about September 26, 2010. According to the amended bill of information, the second instance of obstruction of justice occurred on or about between September and November 2013. Mr. Jackson committed the acts constituting obstruction of justice well after the alleged forcible rape occurred but before Count 1 on the bill of information was amended. Therefore, the underlying criminal charge of forcible rape was still pending at the time on which the acts of obstruction occurred, and thus the obstruction of justice was relative to the prosecution of the forcible rape.

With regard to the Motion for Leniency and Suspension of remainder of sentence, we find that Mr. Jackson has failed to demonstrate any error in the trial court's ruling that it did not have the authority to reconsider relator's sentence since he was procedurally barred from raising an untimely request for a reconsideration of sentence under La. C.Cr.P. art. 881.1(A)(1).<sup>3</sup> Further, as reflected in both the sentencing transcript and guilty plea form, Mr. Jackson pled guilty and was sentenced to six years on counts three and four for obstruction of justice. La. C.Cr.P. art. 881.2(A)(2) states: "The defendant cannot appeal or seek review of a sentence imposed in conformity with a plea agreement which was set forth in the record at the time of the plea." In this case, Mr. Jackson has failed to demonstrate that his sentences were not in conformity with his plea agreement.

Accordingly, we find that the trial court did not err in its analysis of Mr. Jackson's convictions and sentences. Mr. Jackson's writ application is hereby denied.

Gretna, Louisiana, this 2<sup>nd</sup> day of July, 2015.

*FHW*

JUDGE FREDERICKA HOMBERG WICKER

*JG*

JUDGE JUDE G. GRAVOIS

*MJ*

JUDGE MARC E. JOHNSON

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*Susan Buchholz* DEPUTY CLERK  
COURT OF APPEAL, FIFTH CIRCUIT

<sup>3</sup> La. C.Cr.P. art. 881.1 states, in pertinent part: "A. (1) In felony cases, within thirty days following the imposition of sentence or within such longer period as the trial court may set at sentence, the state or the defendant may make or file a motion to reconsider sentence."