

**SUPREME COURT OF LOUISIANA**

**No. 15-KH-1585**

**STATE EX REL. ALGIE SPEARS**

**v.**

**STATE OF LOUISIANA**

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

**PER CURIAM:**

Denied. Relator fails to show he received ineffective assistance of counsel under the standard of Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984). Relator's remaining claims are repetitive and/or unsupported. We attach hereto and make a part hereof the District Court's written reasons denying relator's application.

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.

ALGIE SPEARS

DKT. NO. 512686 DIVISION D

V.

22ND JUDICIAL DISTRICT COURT

N. BURL CAIN, WARDEN

PARISH OF ST. TAMMANY

FILED: 4-22-15

STATE OF LOUISIANA

  
MINUTE CLERK

**ORDER DISMISSING APPLICATION FOR POST-CONVICTION RELIEF**

Petitioner, Algie Spears, was found guilty of Unauthorized Entry of an Inhabited Dwelling on December 14, 2011. After a multiple offender bill of information was filed, petitioner was adjudicated a third felony offender on November 8, 2012, and sentenced to 10 years at hard labor consecutive with time owed on parole. Petitioner appealed his conviction to the First Circuit Court of Appeal, which affirmed his conviction by its decision rendered September 13, 2013. Petitioner thereafter filed a Motion to Correct an Illegally Invalid Sentence on May 24, 2013, addressing the cleansing period relative to his adjudication as a multiple felony offender. After denial of that motion by this court, as well as the subsequent writ denials by the First Circuit Court of Appeal and the Louisiana Supreme Court, petitioner filed an application for post-conviction relief with the Clerk of Court's office on March 23, 2015. The petitioner's first two claims assert this court's ruling on his Motion to Suppress Statement and Identification was erroneous, as was trial counsel's failure to take a writ or to appeal the rulings. He bases his contention on his own argument regarding probable cause for an investigatory stop and his identification by the victim. The court finds these claims without merit. In his third claim, petitioner objects to his representation during his sentencing as a third felony offender. The issue of whether he was properly adjudicated a third felony offender was raised in the Motion to Correct an Illegally Invalid Sentence and previously ruled upon as stated above. Furthermore, this is not an issue for post-conviction relief. Finally, petitioner contends he was denied effective assistance of counsel based on the issues he raised pertaining to his identification by the victim and the lack of an appeal of that specific issue. Again, the court finds this claim without merit.

Therefore, after considering the application and memorandum in support thereof, the law and jurisprudence, as well as the entire record in this matter,

IT IS ORDERED that the application for post-conviction relief filed by Algie Spears be dismissed. Louisiana Code of Criminal Procedure Article 928.

IT IS FURTHER ORDERED that the Clerk of Court of the Parish of St. Tammany give notice of this dismissal to petitioner, the District Attorney for the Parish of St. Tammany, and the petitioner's custodian.

Covington, Louisiana, this 22nd day of April, 2015.

  
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PETER J. GARCIA, JUDGE