

SUPREME COURT OF LOUISIANA

No. 15-KH-0031

STATE EX REL. JOSEPH AUSTIN

v.

STATE OF LOUISIANA

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

PER CURIAM:

Stay denied. Writ 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). Additionally, relator fails to show the state withheld material exculpatory evidence in violation of Brady v. Maryland, 373 U.S. 83, 83 S.Ct. 1194, 10 L.Ed.2d 215 (1963). As to the remaining claims, relator fails to satisfy his post-conviction burden of proof. La.C.Cr.P. art. 930.2. 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.

TWENTY-NINTH JUDICIAL DISTRICT COURT

PARISH OF ST. CHARLES

STATE OF LOUISIANA

DOCKET NO.: 10-0025

DIVISION "E"

STATE OF LOUISIANA

VERSUS

JOSEPH AUSTIN

FILE FOR RECORD
CLERK OF COURT
ST. CHARLES PARISH, LA.
2014 MAY 12 AM 8:35
DEPUTY *James Buckley*

FILED: _____ DEPUTY CLERK

ORDER AND REASONS

Mr. Joseph Austin was convicted on July 27, 2011, of four counts of simple burglary. Following a multiple offender hearing, he was sentenced on September 14, 2011, to six years on each count to run consecutively, for a total of twenty-four years. He has now filed an application for post-conviction relief.

The court has read the entire five volumes of this record, including all transcripts and a letter which was previously filed into the record but not presented to the undersigned judge. The application for post-conviction relief mentions the name "Errol Falcon, Jr." more than fifty times, and references Mr. Falcon's own conviction in a case in which this court has previously recused itself.¹ Certain news articles have alleged a connection between Errol Falcon, Jr., and the undersigned judge's father. Mr. Falcon is a primary source of complaint in Mr. Austin's application for post-conviction relief, alleging various misconducts and untruths by Mr. Falcon, who was a witness in Mr. Austin's trial.

Additionally, the letter sent by Mr. Austin, was accompanied by a "Request for an Investigation," both of which were filed on February 6, 2014, names Errol Falcon, Jr., seventy times, Eric Gros fifteen times, and Ricky Bruce six times. As Mr. Falcon was a witness against both Mr. Gros and Mr. Bruce, this court recused itself in both of those matters upon motion of the Attorney General's Office.² Mr. Austin again contends several instances of deceptions by Mr. Falcon, and the request for an investigation purports to be filed on behalf of not only Mr. Austin but also Mr. Eric Gros and Mr. Daniel Rush.

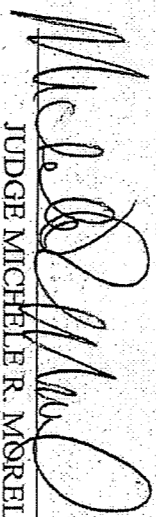
¹ State of Louisiana vs. Errol Falcon, Jr., #09-0722, 29th JDC.

² State of Louisiana vs. Eric Gros, #10-0196, 29th JDC, and State of Louisiana vs. Ricky Bruce, #11-0349, 29th JDC.

In light of the claims contained in the application, pursuant to Canon 3(C) of the Code of Judicial Conduct ("A judge should disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned") the Honorable Michele R. Morel recuses herself.

IT IS ORDERED that Michele R. Morel, Judge of Division "E" be recused in this matter and that the Clerk of Court randomly re-allot the case in accordance with the law

Thus done and signed in Chambers, in Hahnville, Louisiana on this 8th day of May, 2014.


JUDGE MICHELE R. MOREL

PLEASE COPY:
All Parties

1:55 PM
5/12/14 Re-Alotted to Div D *Jane Morris*

CERTIFICATE OF THE CLERK
I hereby certify that a copy of the foregoing motion and / or other papers filed to all parties of record the day of *May* *2014*
By *Jane Morris*
Clerk of Court

