

**SUPREME COURT OF LOUISIANA**

**No. 15-KH-1103**

**STATE EX REL. KENNETH MOSLEY**

**v.**

**STATE OF LOUISIANA**

**ON SUPERVISORY WRITS TO THE CRIMINAL  
DISTRICT COURT, PARISH OF ORLEANS**

**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). In addition, relator's claim that the state suborned perjury is repetitive. La.C.Cr.P. art. 930.4. 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.

STATE OF LOUISIANA

CRIMINAL DISTRICT COURT

VERSUS

PARISH OF ORLEANS

KENNETH MOSLEY

NO. 475-292 SECTION "T"

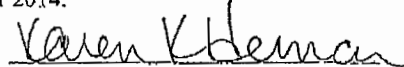
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JUDGMENT

This matter is before the Court on Kenneth Mosley's Application for Post-Conviction Relief, which was filed *pro se* on October 14, 2014. In the application, Mr. Mosley alleges that trial counsel prohibited him from testifying, that trial counsel was ineffective in not objection to certain portions of the jury charge and that the conviction was obtained through the use of perjured testimony. The State of Louisiana has filed a response to the application. Finding no merit in any of these allegations and that this application is ripe for summary disposition as permitted by Louisiana Code of Criminal Procedure Article 929, this application is DENIED.

Art. 929 provides for summary disposition in cases where the Court believes that "the factual and legal issues can be resolved based upon the application and answer, and supporting documents, including relevant transcripts, depositions, and other reliable documents submitted by either party or available to the court." The Court summarily rejects the applicant's contentions that the jury charge was improper in any respect and that the State of Louisiana suborned perjury in its presentation of witnesses. The undersigned presided over Mr. Mosley's trial and has as much faith in its jury instructions as it did on the day it read them to the jury. Had counsel objected to them, this objection would have been properly overruled. As to the veracity of the witnesses, the jurors found the testimony credible, as did the Court, and their credibility has not been undermined by any allegation in this application.

As to the allegation that Mr. Mosley wished to testify at his trial but defense counsel would not permit it, there is nothing in the record or the application to support this. Again, the undersigned presided over this trial and recalls the proceedings very clearly, and at no time was such a dispute about Mosley's desire to testify evident. This contention is rejected as well.

New Orleans, La., this 15<sup>th</sup> day of December 2014.

  
JUDGE