

SUPREME COURT OF LOUISIANA

No. 15-KH-1377

STATE EX REL. CHARLES ALLEN

v.

STATE OF LOUISIANA

**ON SUPERVISORY WRITS TO THE TWENTY-FOURTH
JUDICIAL DISTRICT COURT, PARISH OF JEFFERSON**

PER CURIAM:

Denied. Relator does not identify an illegal term in his sentence, and therefore, his filing is properly construed as an application for post-conviction relief. See State v. Parker, 98-0256 (La. 5/8/98), 711 So.2d 694. As such, it is subject to the time limitation set forth in La.C.Cr.P. art. 930.8. Relator's application was not timely filed in the district court, and he fails 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. In addition, relator's sentencing claim is not cognizable on collateral review. La.C.Cr.P. art. 930.3; State ex rel. Melinie v. State, 93-1380 (La. 1/12/96), 665 So.2d 1172. We attach hereto and make a part hereof the District Court's written reasons denying relator's application.

Relator has now fully litigated two applications 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.

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Legal Programs Department

TWENTY FOURTH JUDICIAL DISTRICT COURT
PARISH OF JEFFERSON
STATE OF LOUISIANA

W.F.P.S.O.

NO. 03-6803

DIVISION "A"

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STATE OF LOUISIANA

APR 27 2015

VERSUS

Legal Programs Department

CHARLES ALLEN

FILED: 4-21-15

M. Victoriano
DEPUTY CLERK

ORDER

This matter comes before the court on the defendant's MOTION TO CORRECT AN ILLEGAL SENTENCE, STAMPED AS FILED APRIL 15, 2015.

The defendant contends in his motion that his sentence to life imprisonment is illegal. It appears that he argues that his sentence is illegal because it is constitutionally excessive. He does not argue that a term in his sentence is illegal.

The defendant was convicted by jury of second degree murder and was sentenced on July 21, 2004 to life in prison. Numerous legal challenges and reviews of the sentence have followed, all upholding the conviction and sentence. *State v. Allen*, 955 So.2d 742 (La.App. 5 Cir. App. 4/24/2007), writ denied, *State ex rel. Allen v. State*, 999 So.2d 754 (La. 1/30/2009). Federal habeas corpus relief was denied as well.

The defendant challenges the life sentence imposed for second degree murder. The sentence imposed in this case is within statutory limits and does not exceed the maximum sentence. The sentence is not cruel and unusual under the Constitution's Eight Amendment. Furthermore, this sentence has been reviewed and found valid.

The defendant files a number of accompanying motions, all of which the court will deny, with the exception that, based on his allegation that his pleading contains information which could endanger members of his family, the court will grant, to the extent allowed by law.

Accordingly,

IT IS ORDERED BY THE COURT that defendant's motion to correct illegal sentence be and the same is hereby DENIED.

IT IS FURTHER ORDERED BY THE COURT that the defendant's Motion to Have the Record Sealed, to the extent allowed by law, be GRANTED.

IT IS FURTHER ORDERED BY THE COURT that in all other respects, the defendant's motions are DENIED.

Gretna, Louisiana this 21st day of April, 2015

[Signature]
JUDGE

PLEASE SERVE:

DEFENDANT: Charles Allen, #484859, La. State Penitentiary, Angola, LA 70712

Received April 28, 2015

A TRUE COPY OF THE ORIGINAL
ON FILE IN THIS OFFICE.

[Signature]
DEPUTY CLERK
24TH JUDICIAL DISTRICT COURT
PARISH OF JEFFERSON

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