

SUPREME COURT OF LOUISIANA

No. 15-KP-2057

STATE OF LOUISIANA

v.

DENNIS RAY CARUSO, JR.

**ON SUPERVISORY WRITS TO THE TWENTY-FIRST
JUDICIAL DISTRICT COURT, PARISH OF LIVINGSTON**

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) or that the district court erred when it denied his claims summarily without conducting an evidentiary hearing. La.C.Cr.P. art. 929(A). 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 : NUMBER 26463, DIVISION "C"
 :
 : 21ST JUDICIAL DISTRICT COURT
 VERSUS :
 : PARISH OF LIVINGSTON
 DENNIS CARUSO, JR. : STATE OF LOUISIANA
 FILED: _____ : DY. CLERK: _____

ORDER

REASONS FOR JUDGMENT

This matter is before the Court on application for post conviction relief. The Court has denied this application, and hereby assigns written reasons.

Defendant contends that his retained attorney was ineffective. His contentions center on two aspects: first, that his attorney failed to file a notice of alibi, and secondly, that he failed to subpoena one Joshua White, whom he contends had been another suspect in the case, such that White could be questioned as to any involvement.

As to the first contention, Mover contends that his father, Dennis Caruso, Sr., was also his employer, and would have established that he was out of town working when the crime occurred. While no notice of alibi had been filed, the Court did allow Dennis Caruso, Sr., to testify, and the jury obviously did not find his testimony sufficient to raise any reasonable doubt.

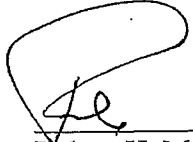
As to the lack of testimony from Joshua White, the evidence showed that White had been in the victim's home prior to the crime, but had left. The victim testified that the Defendant entered at a later time, and that she did not recognize him, but that he was not Joshua White. She later identified the Defendant from a photo lineup. The investigating officer testified that he never considered White a suspect, as he was personally known to the victim.

Under these circumstances, this Court cannot conclude that it is likely that the outcome in this case would have been different, even if counsel had done the things Mover claims he did not, and will therefore deny the application.

Livingston, Louisiana, this 13th day of June, 2015.

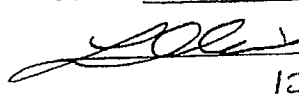
21st JUDICIAL DISTRICT
PARISH OF LIVINGSTON, LA
A true copy of the original

his _____ 7.16.2015
Deputy Clerk of Court



Robert H. Morrison, III
Judge, Division "C"

FILED 7.13.15 AT 9A.M.

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