01/09/2017 "See News Release 001 for any Concurrences and/or Dissents."

SUPREME COURT OF LOUISIANA

No. 14-KH-1554

STATE EX REL. FRANK CRAVANAS

v.

STATE OF LOUISIANA

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

PER CURIAM:

Writ granted in part; otherwise denied. Because the terms of the statutes under which relator was sentenced do not include a prohibition on parole, *see* R.S. 14:60, R.S. 14:69.1, and R.S. 15:529.1, relator's sentence is amended to delete the parole prohibitions imposed at sentencing. His parole eligibility is to be determined by the Department of Corrections, pursuant to R.S. 15:574.4. *See, e.g., State ex rel. Calvin v. State*, 03-0870 (La. 4/2/04), 869 So.2d 866. The District Court is directed to make an entry in the minutes reflecting this correction. *See* La.C.Cr.P. art. 882(A) ("An illegal sentence may be corrected at any time by the court that imposed the sentence or by an appellate court on review.").

In all other respects, the application is denied. Relator does not show that he pled guilty involuntarily or that 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). His remaining habitual offender claims are 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; see also State v. Cotton, 09-2397 (La. 10/15/10), 45 So.3d 1030; *State v. Thomas*, 08-2912, (La. 10/16/09), 19 So.3d 466. We attach

hereto and make a part hereof the District Court's written ruling denying post-conviction relief.

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.

EXHIBIT B

STATE OF LOUISIANA — CRIMINAL DISTRICT COURT

VERSUS — PARISH OF ORLEANS

FRANK CRAVANAS — NO. 506-746 SECTION "I"

JUDGMENT

This matter comes before the Court on n Application for Post-Conviction Relief filed *pro se* by the defendant. In this application, the defendant contends that the Court used coercive measures to extract the guilty plea, that his sentence is illegal because his *Boykinization* was improper, and that his attorney was ineffective. The Court will address each of these claims below.

Frank Cravanas was charged by bill of information with three counts: Count One charged a violation of 16:60, aggravated burglary; Count Two charged a violation of 14:69.1, possession of a stolen firearm; and, in Count Three, a violation of 14:92, contributing to the delinquency of a juvenile. It also appears that Mr. Cravanas had a prior conviction for theft in a felony amount that was available to the State for multiple bill purposes.

During the pendency of these proceedings, the State and defense counsel conducted plea negotiations. The State offered to dismiss Count Three in exchange for guilty pleas to Counts One and Two if Mr. Cravanas would also plead to a double bill. Such a plea would expose the defendant to a sentencing range of 15-60 years on Count One and 30 months to 10 years on Count Two. The State also agreed to not object or seek any appellate remedies should the Court sentence Mr. Cravanas to the minimum sentences discussed above. Initially, it was reported to the Court that the defendant was resistant to pleading guilty to such an offer.

In the wake of *Missouri v Frye*, 566 U. S. ____ (2012), U.S. Supreme Court - Docket Number: 10-444 - March 29, 2012, wherein the United States Supreme Court explained that it is critically important that defendants are informed of and understand all plea bargains offered to them, this Court undertook a practice of explaining offers on the record prior to the beginning of a trial. This Court has done so as a means of avoiding claims down the road that defense counsel did not take a certain plea offer to his or her client. This Court has also explained that if the defendant elects to exercise his right to trial, the terms discussed in the pre-trial *Frye* conference may or may not be available, depending on the facts educed during the trial. Obviously, a

defendant is entitled to know that a certain element of risk is inherent in exercising his right to trial.

In this case such a conference was had on the record. As reflected in the transcript of that hearing, the Court explained to Mr. Cravanas the terms of the plea bargain and that the Court was willing to give him the minimum sentence should he accept responsibility and show contrition. The Court did not use any coercive measures, it simply explained to the defendant his options on the record. Mr. Cravanas elected to discuss the matter further with his lawyer and family, following which he elected to plead guilty as discussed above. Given the text and tenor of the Court's colloquy, this Court rejects the assertion that the guilty plea was the result of coercion by the Court.

As to Mr. Cravanas's claim that his guilty plea colloquy was deficient because the Court had him pronounce his guilt before explaining that he had a right to remain silent, the Court concludes that it is likewise meritless. Mr. Cravanas was free to withdraw from his plea bargain at any time during his colloquy with the Court; it is of no consequence the order in which the various requirements of Article 556.1 are explained to the defendant.

Finally, the defendant maintains that his attorney was ineffective, that he coerced Cravanas into pleading guilty and never wanted to try the case. This is refuted by Cravanas's sworn testimony in his guilty plea transcript, where he indicated that he was satisfied with counsel and did not feel forced into pleading guilty. (See pg. 16, lines 7-13.)

For all these reasons, the defendant's application is DENIED.

New Orleans, La., this 17th day of April 2014.

Karen K Herman

JUDGE