

SUPREME COURT OF LOUISIANA

No. 15-KH-2019

STATE EX REL. PATRICK LEVIER

v.

STATE OF LOUISIANA

**ON SUPERVISORY WRITS TO THE FIFTEENTH
JUDICIAL DISTRICT COURT, PARISH OF LAFAYETTE**

PER CURIAM:

Denied. 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. We attach hereto and make a part hereof the District Court's written reasons denying relator's application.

Relator has now fully litigated at least three 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 La.C.Cr.P. art. 930.4 to make the procedural bars against successive filings mandatory. Relator's claims have now been fully litigated in state collateral proceedings 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.

V

FIFTEENTH JUDICIAL DISTRICT COURT

PARISH OF LAFAYETTE

STATE OF LOUISIANA

STATE ex rel PATRICK LEVIER

VERSUS

BURL CAIN, WARDEN, LOUISIANA
STATE PENITENTIARY, ET AL.

CR. NO. 112212

2015 MAY 27 AM 10:20
CLERK OF COURT
LAFAYETTE PARISH, LA

RULING

Patrick Levier filed a "Petition for Writ of Habeus Corpus Ad Subjiciendum" in the 20th Judicial District Court, West Feliciana Parish, Louisiana. Finding that the pleadings were actually an application for post-conviction relief, the 20th Judicial District Court transferred the matter to the 15th Judicial District Court, Parish of Lafayette, where Levier was convicted of Second Degree Murder on November 29, 2007.

Levier alleges that he should be released from prison because the record "shows no return of the indictment into open court in violation of L.S.A. C. Cr. P. Art. 383" and the record shows no warrant of arrest required by L.S.A. C. Cr. P. Art 496 "when an indictment has been found ...against a defendant who is not in custody." Contrary to his allegations, the record clearly shows that the Grand Jury indictment was returned in open court on August 17, 2006 at which time his bond was increased to \$250,000.

The court finds that the petition fails to state a claim upon which relief may be granted and that it is totally without merit and frivolous.

Accordingly, the application is dismissed.

THUS DONE AND SIGNED this 22ND day of May, 2015