

SUPREME COURT OF LOUISIANA

No. 15-KH-2020

STATE EX REL. SHANNON HURD

v.

STATE OF LOUISIANA

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

PER CURIAM:

Denied. The application was not timely filed in the district court, and relator 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 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. We attach hereto and make a part hereof the Court of Appeal's written reasons denying writs.

Relator has now fully litigated at least seven 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.

SHANNON HURD

NO. 15-KH-548

VERSUS

FIFTH CIRCUIT

N. BURL CAIN, WARDEN

COURT OF APPEAL

STATE OF LOUISIANA

WRIT DENIED

Relator was convicted of first degree robbery and was sentenced as a fourth felony offender to life imprisonment at hard labor without benefit of probation, parole or suspension of sentence. His conviction and sentence were affirmed on appeal. State v. Hurd, 05-258 (La. App. 5 Cir. 11/29/05), 917 So.2d 567, writ denied, 06-1128 (La. 11/17/06), 942 So.2d 530. Relator now applies to this Court for review of the trial court's ruling denying his eighth Application for Post-Conviction Relief, entitled "Claim of Actual Innocence in Support of Post-Conviction Relief." In addition, relator directs to this Court a Motion to Correct Illegal Sentence, in which he also requests that he be appointed counsel.

In his eighth application, relator raised claims of actual innocence, prosecutorial misconduct, and ineffective assistance of trial and appellate counsel. We find that relator's claims are repetitive and untimely. La. C.Cr.P. art. 930.4; La. C.Cr.P. art. 930.8. In addition, relator has failed to meet the "extraordinarily high standard" of raising a claim of actual innocence because he "lacks new reliable scientific evidence, eyewitness evidence, or critical physical evidence of such persuasiveness that no reasonable juror would have convicted in light of the new evidence." State v. Pierre, 13-0873 (La. 10/15/13), 125 So.3d 403, 409. Accordingly, we find no error in the trial court's ruling denying relator's application.

Relator, in his Motion to Correct Illegal Sentence, does not point to an illegal term in his enhanced sentence. La. C.Cr.P. art. 882. Thus, this motion is also without merit. Furthermore, relator is not entitled to appointment of counsel in raising these meritless claims. La. C.Cr.P. art. 930.7; State v. Smith, 06-722 (La. App. 3 Cir. 08/02/06), 936 So.2d 314.

This writ is denied.

Gretna, Louisiana, this 8th day of October, 2015.
n.