

SUPREME COURT OF LOUISIANA

No. 16-KH-0477

STATE EX REL. JOE MILLER

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. *See* 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. We attach hereto and make a part hereof the court of appeal's written reasons denying writs.

Relator has now fully litigated four 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 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.

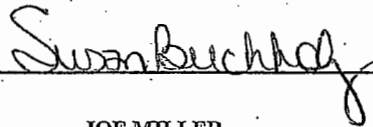
Application For Writs

No. 16-KH-56

COURT OF APPEAL, FIFTH CIRCUIT

STATE OF LOUISIANA

FEBRUARY 01, 2016



Deputy Clerk

JOE MILLER
VERSUS
STATE OF LOUISIANA

IN RE JOE MILLER

APPLYING FOR SUPERVISORY WRIT FROM THE TWENTY-FOURTH JUDICIAL DISTRICT COURT, PARISH OF JEFFERSON, STATE OF LOUISIANA, DIRECTED TO THE HONORABLE ELLEN SHIRER KOVACH, DIVISION "K", NUMBER 01-4570

Attorneys for Relator:

Joe Miller #293174
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WRIT DENIED

Attorneys for Respondent:

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Relator, Joe Miller, does not meet any of the exceptions for filing an untimely application for post-conviction relief set forth in La. C.Cr.P. art. 930.8(A). Therefore, we deny relator's writ application.

Gretna, Louisiana, this 17th day of February, 2016.



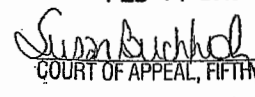
JUDGE HANS J. LILJEBERG

JUDGE ROBERT M. MURPHY

JUDGE STEPHEN J. WINDHORST

A TRUE COPY
GRETNA

FEB 17 2016


DEPUTY
CLERK
COURT OF APPEAL, FIFTH CIRCUIT