

**SUPREME COURT OF LOUISIANA**

**No. 16-KH-0538**

**STATE EX REL. DAVID B. TARVER**

**v.**

**STATE OF LOUISIANA**

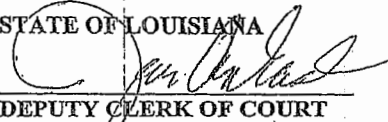
**ON SUPERVISORY WRITS TO THE FOURTEENTH  
JUDICIAL DISTRICT COURT, PARISH OF CALCASIEU**

**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). Relator, who pled guilty, otherwise fails to satisfy his post-conviction burden of proof that he is entitled to an out-of-time appeal. La.C.Cr.P. art. 930.2. We attach hereto and make a part hereof the district court's written reasons denying 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 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 : 14<sup>TH</sup> JUDICIAL DISTRICT COURT  
 VS. NO. 22239-SO-12 : PARISH OF CALCASIEU  
 DAVID TARVER : STATE OF LOUISIANA  
 FILED: 9-14-15 :   
 DEPUTY CLERK OF COURT

**ORDER DENYING POST-CONVICTION RELIEF**

Petitioner, DAVID TARVER, has filed a Motion for Post Conviction Relief. The claims listed in his application form include (1) ineffective assistance of counsel; (2) inadequate factual basis for Alford Plea; and (3) actual innocence. The only claims raised in his memorandum of law and support, however, is the claim for ineffective assistance of counsel.


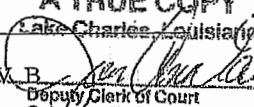
Petitioner claims he was denied effective assistance of counsel due to counsel's failure to give Notice of Intent to Appeal or to perfect an appeal on behalf of the Petitioner, or advise Petitioner of his right to appeal. Petitioner's unsubstantiated claim that counsel failed to render effective assistance prior to and during the plea process does not set forth a valid basis for deficient performance. *Strickland v. Washington*, 466 U.S. 668, 104 S.Ct. 2052 (1984). *See Hines v. Louisiana*, 102 F.Supp.2d 690 (E.D.La. 2000).

The Court has reviewed the minutes of Petitioner's guilty plea proceedings. The minutes reflect Mr. Tarver entered a guilty plea on August 27, 2013. During the proceedings the Court advised petitioner of his constitutional rights which would be waived by pleading guilty, including the right to appeal. Furthermore, Petitioner signed and submitted to the Court a form entitled "Felony Plea Guilty and Waiver of Constitutional Rights." As a result, Petitioner has failed to state a claim for which post conviction relief may be granted.


The Court finds no basis to order an evidentiary hearing in this matter since Petitioner has not met his burden of proof of ineffective assistance of counsel.

**THEREFORE, IT IS HEREBY ORDERED** that defendant's Motion for Post-Conviction Relief is **DENIED**.

Thus done and signed this 3 day of sept. 2015, Lake Charles, Louisiana.

  
 CLAYTON DAVIS  
 DISTRICT JUDGE, DIV. B  
 A TRUE COPY  
 Lake Charles, Louisiana  
  
 Deputy Clerk of Court  
 Calcasieu Parish, Louisiana  
 SEP 24 2015

PLEASE SERVE:  
Calcasieu Parish District Attorney's Office

  
 Doc ID: 035947720001 Case#: 22239-SO-2012  
 Docket Date: 09/14/2015 Pages: 1  
 FROM JUDGE: ORDER DENIED PRO SE MOT/PCR

Calcasieu Parish Public Defender's Office

Warden, Allen Correctional Center

**PLEASE NOTIFY:**

David Tarver #615258  
Allen Correctional Center  
3751 Lauderdale Woodyard Road  
Kinder, Louisiana, 70648

**A CERTIFIED COPY OF THIS DOCUMENT  
HAS BEEN PROVIDED TO:**

Out of Parish Sheriff  
Marden, Calcasieu Correctional Center

Office of Public Defender

Office of District Attorney  
Defendant \_\_\_\_\_ SEP 24 2015

  
Deputy Clerk of Court