

SUPREME COURT OF LOUISIANA

No. 16-KH-1030

STATE EX REL. ELMER RAMOS

v.

STATE OF LOUISIANA

**ON SUPERVISORY WRITS TO THE TWENTY-THIRD
JUDICIAL DISTRICT COURT, PARISH OF ASCENSION**

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). 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 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.

NOT RECEIVED AND FILED
BRUNST N. N. N. N.
CLERK OF COURT

TWENTY-THIRD JUDICIAL DISTRICT COURT

FOR THE PARISH OF ASCENSION

2016 FEB -4 AM 10: 26

STATE OF LOUISIANA

BY *J. McCray*
CLERK & RECORDER
ASCENSION PARISH, LA.

NO. 30,567

DIVISION "B"

STATE OF LOUISIANA

VERSUS

ELMER RAMOS

FILED:

CLERK OF COURT

J U D G M E N T

The Court having reviewed the defendant's application for post-conviction relief filed on January 4, 2016, in the captioned matter, along with supporting documents in the record, including the ruling by the First Circuit Court of Appeal affirming the conviction and sentence in the captioned matter;

In **Claim One** the defendant argues that he has been denied his constitutional rights to appellate review and to any free copies of the records to have adequate opportunity to fairly present his constitutional claims on post-conviction. The Court's review of the record does not contain any request of Court records of his proceedings prior to the filing of this post-conviction relief application and therefore the Court finds that the defendant failed to show that his constitutional rights were violated to appellate review and free copies of the records.

The defendant also raises issues in his claim of being denied effective assistance of counsel when being denied a Motion to Continue his trial and when the Court failed to appoint a Spanish Interpreter. The Court notes that this issue was raised by the defendant in his appeal of this matter to the First Circuit Court of Appeal. Defendant's sentence and conviction in the captioned matter was affirmed. The First Circuit Court of Appeal noting that the defendant did have a court-appointed interpreter during his entire trial as well as pre-trial hearings and that the defendant could speak some English and additionally noting that the defendant's motion to continue was untimely, however the defendant made no showing of specific prejudice.

The defendant raised that his counsel's failure to subject the prosecution's case to any meaningful adversarial testing. The defendant in his assertion of facts failed to articulate any

that he was not functioning as the "counsel" guaranteed by the Sixth Amendment and that he was prejudiced by counsel's inadequate performance, in addition to failing to meet the two-prong test for evaluating claims of ineffective assistance of counsel as cited in *Strickland*, 466 U.S at 697.

The Court finds no merit in defendant's Claim One.

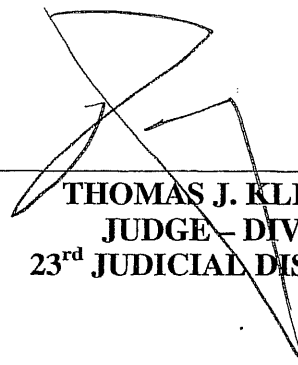
IT IS ORDERED that **Claim One** of the defendant's Application for Post-Conviction Relief in the captioned matter is hereby **DENIED** in accordance with La. C.Cr.P. Art. 929 and 930.4 A.

The Court notes that the defendant in his application for post-conviction relief cites under Claim II to "see memorandum", however he does not address or list any Claim II allegations and/or supporting facts and case law.

The Court takes judicial notice of the defendant's first request for Court records in his application for post-conviction relief;

IT IS ORDERED that the Clerk of Court provide the defendant with copies of the bill or indictment, court minutes of proceedings in this matter, a copy of the document(s) committing the defendant into custody, and evidentiary, trial, and sentencing transcripts in the captioned matter.

JUDGMENT READ, RENDERED and SIGNED in Convent, Louisiana, on this 3rd day of February 2016.



THOMAS J. KLIEBERT, JR.
JUDGE - DIVISION "B"
23rd JUDICIAL DISTRICT COURT

PLEASE SERVE:

Elmer Ramos, Defendant

All Counsel of Record

**23rd Judicial District Attorney
for the Parish of Ascension**