

SUPREME COURT OF LOUISIANA

No. 15-KH-1150

STATE EX REL. RUFUS HENRY

v.

STATE OF LOUISIANA

**ON SUPERVISORY WRITS TO THE TWENTY-SEVENTH
JUDICIAL DISTRICT COURT, PARISH OF ST. LANDRY**

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. 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 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.

STATE OF LOUISIANA
VERSUS
RUFUS HENRY

CRIMINAL DOCKET NO. 91-K-0046-D
27TH JUDICIAL DISTRICT COURT
ST. LANDRY PARISH, LOUISIANA

PER CURIAM

Before the Court is an Application for Post Conviction Relief filed by the defendant, Rufus Henry. Petitioner sets forth a claim of relief by which he asserts his conviction and sentence should be vacated and set aside.

This Court takes note of the procedural history of this case. A jury convicted the defendant on September 24, 1991 of second-degree murder. Petitioner unsuccessfully appealed the jury verdict to the Third Circuit Court of Appeal on December 9, 1992. Defendant filed an application for Post-Conviction Relief on August 29, 2000 that was denied on October 23, 2000. On November 17, 2000 defendant filed a "Writ of Reconsideration of Sentence" which was denied on October 19, 2001. A "Motion to Vacate and Correct an Illegal Sentence" was denied on May 29, 2002. On February 13, 2003, the defendant filed a "Motion for a New Trial" which was denied on May 6, 2003. A third "Motion for a New Trial" was filed on February 2, 2004 which was denied on February 4, 2004. Defendant then filed a Writ of Habeas Corpus on August 25, 2005 which was denied on September 5, 2005. Defendant then filed an additional Writ of Habeas Corpus on July 5, 2006 which was denied on July 18, 2006. Defendant filed a "Motion to Correct an Illegal Sentence" on October 27, 2008 which was denied on December 9, 2008. On October 5, 2009, a "Complaint of Malicious Prosecution" was submitted by Leona H. Johnson on behalf of Rufus Henry which was denied on October 28, 2009. On September, 15, 2011, defendant filed a "Motion Requesting an Evidentiary Hearing" which was denied September 23, 2011.

Defendant has filed thirteen (13) previous applications for post conviction relief. A successive application may be dismissed if it fails to raise a new or different claim or

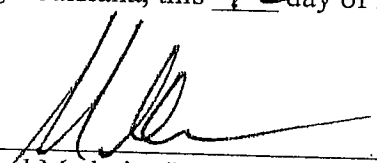
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raises a new or different claim that was inexcusably omitted from a prior application. (La. Code Crim. P. art. 930.4(D) and (E).


Pursuant to La. Code of Crim. P. art. 930.8, an application for post-conviction relief, must be filed within two years of the finality of the judgment of conviction and sentence, unless an exception applies. The Court finds that no exceptions to the time limitation for post-conviction relief apply in this case. The instant matter became final on December 9, 1992 when the Louisiana Third Circuit Court of Appeals affirmed the defendant's conviction. As such, the application is hereby **DENIED**.

Thus done and signed at Opelousas, Louisiana, this 12 day of November, 2014.


Mildred Methvin, Judge Pro Tempore
27th Judicial District Court
Division "D"

St Landry Parish Clerk of Court's Office

Filed November 12, 2014


Dy. Clerk

OPELOUSAS, LOUISIANA 11/12/2014

This is to certify that the above is a true and correct copy of the original on file in the office of the Clerk of Court of St. Landry Parish.


Deputy Clerk of Court