

**SUPREME COURT OF LOUISIANA**

**No. 15-KH-1226**

**STATE EX REL. TERRY R. WALKER**

**v.**

**STATE OF LOUISIANA**

**ON SUPERVISORY WRITS TO THE FIRST  
JUDICIAL DISTRICT COURT, PARISH OF CADDO**

**PER CURIAM:**

Denied. Relator fails to show he was denied the effective assistance of counsel during plea negotiations under the standard of Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984). In addition, relator's sentencing-related claims are not cognizable on collateral review. 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. Thomas, 08-2912 (La. 10/16/09), 19 So.3d 466. We attach hereto and make a part hereof the District Court's written reasons denying relator's application.

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 La.C.Cr.P. art. 930.4 to make the procedural bars against successive filings mandatory. Relator's claims have now been fully litigated in state collateral proceedings in accord with La.C.Cr.P. art. 930.6, and

this denial is final. Hereafter, unless relator 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.

FEB 03 2015

CADDO PARISH DEPUTY CLERK

STATE OF LOUISIANA : NUMBER: 301,480; SECTION 4  
VERSUS : FIRST JUDICIAL DISTRICT COURT  
TERRY R. WALKER : CADDO PARISH, LOUISIANA

RULING

On December 4, 2012, Petitioner, TERRY R. WALKER, pled guilty to Indecent Behavior with Juvenile Under the Age of 13. The Court informed the Petitioner of his constitutional rights as per Boykin vs. Alabama. Whereupon, Petitioner was sentenced to pay court costs, to be paid through inmate banking, and in addition, to be confined at hard labor for a period of twenty-five (25) years and committed to the Louisiana Department of Corrections, subject to the conditions provided by law. The Court ordered fifteen (15) years of said sentence to be served without benefit of probation, parole or suspension of sentence. The Court informed the Petitioner of his right to post-conviction relief proceedings.

The subject of this Ruling is Petitioner's "Uniform Application For Post-Conviction Relief" filed December 5, 2014. In said Application, Petitioner first claims that the sentence imposed after his guilty plea was excessive. Secondly, Petitioner argues that his trial counsel was ineffective because trial counsel failed to explain the consequences of a guilty plea to Petitioner nor did trial counsel file a motion for reconsideration of sentence on Petitioner's behalf.

As to Petitioner's first claim that the sentence imposed was excessive, the transcript attached to Petitioner's application evidences that Petitioner in fact was aware that the range of penalties for the charge was imprisonment at hard labor for not less than two but no more than twenty-five years, with at least two years served without benefit of probation, parole or suspension of sentence. Furthermore, the transcript shows that Petitioner willingly entered into the agreed-upon sentence and waived or gave up his right to appeal the sentence. Petitioner's claim that his sentence is excessive bears no merit, nor has

Petitioner shown that he did not knowingly, voluntarily, and intelligently enter into the agreed upon sentence.

As to Petitioner's second claim of ineffective assistance of counsel, when a petitioner alleges counsel was ineffective, he must prove actual prejudice before relief can be granted. To prevail under this claim, Petitioner must demonstrate "that there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would be different." *State v. Thompson*, 39,454 (La. App. 2 Cir. 3/2/05); 894 So.2d 1268, 1282. In order to assess a Petitioner's claim for ineffective assistance of counsel, courts must satisfy the two-part test set forth by the United States Supreme Court in *Strickland v. Washington*, 466 U.S. 668 (1984). Petitioner must show that counsel's performance was deficient, that the deficiency prejudiced him, and that counsel's error was so serious that it violated Petitioner's right to effective assistance of counsel as guaranteed by the Sixth Amendment of the U.S. Constitution. *Strickland*, 466 U.S. at 686.

To establish that his counsel was deficient, the Petitioner must show that his counsel's representation fell below the standard of reasonableness and competency as required by prevailing professional standards demanded for attorneys in criminal cases. *Strickland*, 466 U.S. at 687-691. A reviewing court must give great deference to trial counsel's judgment, tactical decisions, and trial strategy, strongly presuming he has exercised reasonable professional judgment. *State v. Moore*, 575 So.2d 928 (La. App. 2 Cir. 1991). The Petitioner has the burden of proving that relief should be granted. *La. C.Cr.P.* art. 930.2.

Petitioner has not met this burden of proof. First, the transcript attached reflect that trial counsel did in fact state on the record that the terms of a guilty plea had been discussed with Petitioner. Furthermore, assuming that trial counsel did not fully explain the consequences of the guilty plea with Petitioner, the transcript clearly shows that the Court fully and adequately advised Petitioner of his rights and consequences as it pertained to a

guilty plea. The record further shows that Petitioner stated in open court the nature and elements of the charge and that he freely and voluntarily entered a guilty plea. Finally, as previously stated, the Court also explained to Petitioner, to which Petitioner understood, that because he was entering into an agreed upon sentence, his right to appeal the actual sentence was barred. Therefore, Petitioner's claim that trial counsel rendered ineffective assistance because he did not file a motion to reconsideration sentence, is meritless.

For the foregoing reasons, Petitioner's "Application For Post-Conviction Relief" filed December 5, 2014 is DENIED.

The Clerk of Court is directed to provide a copy of this Ruling to the Petitioner, his custodian, and the District Attorney.

RENDERED, READ AND SIGNED this 30<sup>th</sup> day of January, 2015, in Shreveport, Caddo Parish, Louisiana.

*Ramona L. Emanuel*  
RAMONA L. EMANUEL  
DISTRICT JUDGE

SERVICE INFORMATION:

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Caddo Parish District Attorney's Office

ENDORSED FILED  
MARILYN M. HARRIS, Deputy Clerk  
FEB 05 2015  
A TRUE COPY - ATTEST  
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