

SUPREME COURT OF LOUISIANA

No. 15-KH-1293

STATE EX REL. ULYSSES THOMAS

v.

STATE OF LOUISIANA

**ON SUPERVISORY WRITS TO THE TWENTY-FOURTH
JUDICIAL DISTRICT COURT, PARISH OF JEFFERSON**

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. 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 District Court's written reasons denying relator's application.

Relator has now fully litigated three 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 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.

Exhibit 5
SERVICE

TWENTY FOURTH JUDICIAL DISTRICT COURT
PARISH OF JEFFERSON
STATE OF LOUISIANA

NO. 00-6195

DIVISION "H"

STATE OF LOUISIANA

VERSUS

ULYSSES THOMAS

FILED: Feb 25, 2015

JRQ
DEPUTY CLERK

ORDER

This matter comes before the court on petitioner's MOTION TO CORRECT ILLEGAL AND/OR SET ASIDE INVALID SENTENCES, STAMPED AS FILED FEBRUARY 18, 2015.

Regardless of how phrased, the defendant again challenges his multiple offender adjudication. On December 16, 2009, the petitioner entered a negotiated plea to two counts of LSA-R.S. 40:966A, distribution of marijuana, and ten counts of LSA-R.S.40:967A, distribution of cocaine. The court sentenced him to 15 years imprisonment on each count. He pled guilty on count #3 to the multiple offender bill, and the court re-sentenced him on that count to 15 years imprisonment at hard labor as a multiple offender. All sentences were ordered to run concurrently with all other sentences. The Fifth Circuit Court of Appeal affirmed the convictions and sentences, finding no non-frivolous issues existed, and remanded for a correction on the commitment. *State v. Thomas*, 11-136 (La. App. 5 Cir. 12/13/11), 81 So.3d 848.

The court denied the defendant's recent "Motion to Correct Illegal Sentence," on January 5, 2015. As before, the defendant states, correctly, that an illegal sentence may be raised at any time. LSA-C.Cr.P. art. 882. However, as before, the defendant does not point to a claimed illegal term in his sentence. Instead, he contests the habitual offender adjudication. This claim has been previously denied by this court. There is no illegality in petitioner's sentence, as the term of sentence is within the statutory parameters and was the negotiated sentence. His motion will be denied.

Accordingly,

IT IS ORDERED BY THE COURT that the petitioner's motion be and is hereby **DENIED.**

Gretna, Louisiana, this 25th day of February, 2015.

[Handwritten Signature]

JUDGE

PLEASE SERVE:

DEFENDANT: Ulysses Thomas, DOC # 196706, Dixon Correctional Center, P.O. Box 788, Hwy 68, Jackson, LA 70748.

A TRUE COPY OF THE ORIGINAL
ON FILE IN THIS OFFICE.

JRQ
DEPUTY CLERK
24TH JUDICIAL DISTRICT COURT
PARISH OF JEFFERSON