

**SUPREME COURT OF LOUISIANA**

**No. 15-KH-1380**

**STATE EX REL. GREGORY DON SEARLS**

**v.**

**STATE OF LOUISIANA**

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

**PER CURIAM:**

Denied. Relator's sentencing claim is 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. 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 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.

TWENTY FOURTH JUDICIAL DISTRICT COURT  
PARISH OF JEFFERSON  
STATE OF LOUISIANA

NO. 02-4329

DIVISION "H"

STATE OF LOUISIANA

VERSUS

GREGORY SEARLS

FILED: May 21, 2015

JMG  
DEPUTY CLERK

ORDER

This matter comes before the court on petitioner's MOTION TO REVIEW INVALID SENTENCE, STAMPED AS FILED MAY 18, 2015.

On February 27, 2003, the defendant was found guilty of LSA-R.S. 14:62, simple burglary. The defendant stipulated to being a third-time multiple felony offender and the court sentenced him under the multiple bill to 12 years imprisonment at hard labor. The Fifth Circuit Court of Appeal affirmed the conviction and sentence. *State v. Searls*, 04-790 (La. App. 5 Cir. 1/25/5), 895 So.2d 40, writs denied, 05-1343 (La. 1/9/06), 918 So.2d 1041. The Fifth Circuit Court of Appeal granted writ for the limited purpose of re-opening defendant's appeal to consider his late filed brief, and dismissed the matter. *Searls v. State*, 04-790 consolidated with 12-210, (La. App. 5 Cir. 12/11/12), 106 So.3d 1146.

The defendant files this motion pursuant to LSA-C.Cr.P. art. 872 and 831. As far as the court can determine, he asserts he was sentenced in a nunc pro tunc proceeding and thus not present as required by LSA-C.Cr.P. art. 831.

The minute entry of July 1, 2008 states that it is reconstructed from transcripts of proceedings held on February 27, 2003. A transcript in the record establishes that the defendant was present for sentencing on February 27, 2003.

The record establishes that the defendant was in fact present for sentencing. Relief will be denied.

Accordingly,

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

Gretna, Louisiana this 21<sup>st</sup> day of May, 2015.

[Signature]  
JUDGE

PLEASE SERVE: **IMAGED** MAY 27 2015

DEFENDANT: Gregory Don Searls, DOC # 119196, Dixon Correctional Center, P.O. Box 788, Hwy. 68, Jackson, LA 70748

5-27-15 Issued (29)