

03/13/2017 "See News Release 015 for any Concurrences and/or Dissents."

SUPREME COURT OF LOUISIANA

No. 15-KH-2074

STATE EX REL. FREDRICK J. WEBB

v.

STATE OF LOUISIANA

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

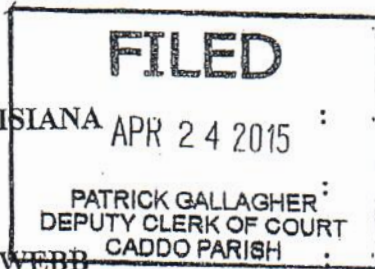
PER CURIAM:

Denied. Relator does not identify an illegal term in his sentence and therefore his filing was properly construed by the district court as an application for post-conviction relief. *See State v. Parker*, 98-0256 (La. 5/8/98), 711 So.2d 694. Relator previously exhausted his right to state collateral review and does not carry his burden of showing any exception applies here. *See State ex rel. Webb v. State*, 15-0962 (La. 9/25/15), 175 So.3d 954. We attach hereto and make a part hereof the District Court's written reasons denying relief.

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.

STATE OF LOUISIANA
VERSUS
FREDERICK J. WEBB



NUM(S) 301351; 299976; SECTION 5
FIRST JUDICIAL DISTRICT COURT
CADDO PARISH, LOUISIANA

RULING

Currently before the Court is Petitioner's "Motion to Reconsider Sentence..." ("Motion") filed March 24, 2015 by Frederick Webb ("Petitioner"). For the reasons that follow, Petitioner's Motion is **DENIED**.

On March 12, 2012, Petitioner pled guilty to Possession with Intent to Distribute Schedule I Controlled Dangerous Substances. In exchange for his plea, a *second* Possession with Intent to Distribute Schedule I Controlled Dangerous Substances was dismissed. Petitioner now asserts that his plea was not voluntary because he was Boykanized as to the identical dismissal charge by accident, but not the identical, but *differently numbered*, charge.

However, the Petitioner's Motion is untimely. "No application for post-conviction relief, including applications which seek an out-of-time appeal, shall be considered if it is filed more than two years after the judgment of conviction and sentence has become final..." La. Code. Crim. Proc. Ann. art. 930.8(A). The Petitioner's Motion neither alleges nor proves any exceptions apply that would exclude his application for post-conviction relief from the time limitation.

Significantly, Petitioner was fully Boykanized such that he understood his rights and knowingly waived them when he pled guilty. The only substantive difference between the charges was a different number. Even the record reflects that the crime, the plea and the penalty would be the same regardless of which charge was made the basis of the plea.

Accordingly, this Motion is **DENIED**. **The Clerk of Court is directed to provide a copy of this Ruling to the District Attorney and Petitioner.**

Signed this 23rd day of April, 2015, in Shreveport, Caddo Parish, Louisiana.

A handwritten signature in black ink, appearing to be a stylized name or set of initials.