

**SUPREME COURT OF LOUISIANA**

**No. 16-KH-1310**

**STATE EX REL. HERBERT A. PIERRE, JR.**

**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. We attach hereto and make a part hereof the district court's written reasons denying relief.

Relator has now fully litigated six 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 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.

TWENTY FOURTH JUDICIAL DISTRICT COURT  
PARISH OF JEFFERSON  
STATE OF LOUISIANA

NO. 00-4859

DIVISION " E "

STATE OF LOUISIANA

VERSUS

HERBERT A. PIERRE, JR.

FILED: \_\_\_\_\_

DEPUTY CLERK

**ORDER**

This matter comes before the court as a APPLICATION FOR POST-CONVICTION RELIEF, MEMORANDUM IN SUPPORT, AND REQUEST FOR EVIDENTIARY HEARING, MOTION TO COMPEL ANSWER, AND PETITION AND ORDER FOR WRIT OF HABEAS CORPUS AS TESTIFICANDUM, STAMPED AS FILED FEBRUARY 25, 2016.

On September 26, 2001, petitioner was convicted of count #1, LSA-R.S. 14:62.2, burglary of a residence, and count #2, LSA-R.S. 14:64, armed robbery. On October 24, 2001, the court sentenced him on count #1 to 12 years, and count #2 to 80 years, to run concurrently. On April 11, 2002, the court re-sentenced petitioner on count #2 to 80 years at hard labor under the multiple bill. His conviction and sentence were upheld on direct appeal. *State v. Pierre*, 02-838 (La.App. 5 Cir. 12/30/02), 834 So.2d 1229.

Five prior applications for post-conviction relief have been denied by this court. Federal habeas corpus has recently been denied as well. *Pierre v. Cain*, Slip Copy, 2007 WL 2071614 (E.D.La. 7/12/07).

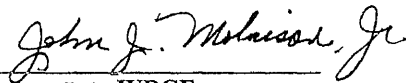
Petitioner now files an application for post-conviction relief claiming newly discovered evidence. The petitioner now claims that his conviction and sentence was obtained in violation of the Louisiana Constitution when the trial court exceeded its jurisdiction violating Louisiana Constitution Article 1, 17(B) Mode of Trial, Louisiana Constitution Article 1 § 2 Due Process, and Fifth and Fourteenth Amendments Due Process Clauses on the United States Constitution.

The court finds that petitioner fails to provide adequate proof to properly establish any enumerated exceptions for delayed filing in this case. All of the information that petitioner claims as newly discovered has been readily available for review in the court records.

The petitioner's application for post-conviction relief is time-barred, pursuant to LSA-C.Cr.P. art. 930.8. The court will not address the merits of his claim because this application for post-conviction relief is untimely. Under the clear language of LSA-C.Cr.P. art. 930.8, the petitioner had two years from the date his conviction and sentence became final to file an application for post-conviction relief, unless he proved an exception to the time limitations of LSA-C.Cr.P. art. 930.8 (A). Petitioner's convictions and sentences have long been final.

Accordingly,  
**IT IS ORDERED BY THE COURT** that petitioner's Application for Post-Conviction Relief and accompanying pleadings are hereby **DENIED**.

Gretna, Louisiana this 03 day of March, 2016.

  
\_\_\_\_\_  
John J. Molaison, Jr.  
JUDGE

**PLEASE SERVE:**

PRISONER: Herbert Pierre, Jr., DOC # 321310, La. State Prison, Angola, LA 70712

ISSUED: 03/04/2016 09:11:28