

SUPREME COURT OF LOUISIANA

No. 16-KH-1671

STATE EX REL. ERROL FARRAR

v.

STATE OF LOUISIANA

**ON SUPERVISORY WRITS TO THE TWENTY-SECOND
JUDICIAL DISTRICT COURT, PARISH OF ST. TAMMANY**

PER CURIAM:

Denied. Relator fails to show he received ineffective assistance of counsel under the standard of *Strickland v. Washington*, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984). Relator also fails to show the state withheld material exculpatory evidence in violation of *Brady v. Maryland*, 373 U.S. 83, 83 S.Ct. 1194, 10 L.Ed.2d 215 (1963). As to the remaining claims, relator fails to satisfy his post-conviction burden of proof. La.C.Cr.P. art. 930.2. 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 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.

STATE OF LOUISIANA

NUMBER: 474320

VERSUS

22ND JUDICIAL DISTRICT COURT

PARISH OF ST. TAMMANY

ERROL FARRAR

STATE OF LOUISIANA

FILED:

March 28, 2016

Mandy D.
DEPUTY CLERK

ORDER

Petitioner filed an application for Post Conviction Relief on November 19, 2015. The District Attorney filed a response to the application on February 3, 2016. Petitioner thereafter filed an Objection to State's Response on February 18, 2016.

On June 16, 2011, petitioner was found guilty of armed robbery. His conviction was affirmed by the Louisiana First Circuit Court of Appeal on March 24, 2014.

In this pending application, petitioner asserted the following claims:

1. Ineffective assistance counsel; and
2. Suppression of favorable evidence in violation of *Brady v. Maryland*.

Petitioner's claims of ineffective assistance of counsel must be determined in light of the two-pronged test set out by the United States Supreme Court in *Strickland v. Washington*, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984), which requires that a convicted defendant show both that (1) counsel's representation fell below an objective standard of reasonableness, and (2) that there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different.

With regard to this claim, the Court finds that petitioner failed to carry his burden of proof pursuant to Louisiana Code of Criminal Procedure Article 930.2.

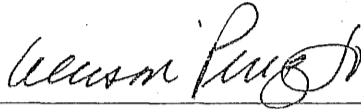
Petitioner's second claim involves video surveillance footage. The State provided the affidavit of Sean McLain of the Slidell Police Department, wherein he testified that his agency did not collect a video depicting Errol Farrar committing a robbery. In his Objection, petitioner attached a copy of a property sheet from the St. Tammany Parish Sheriff's Office describing a VHS cassette tape. That tape was collected by the STPSO from a Chevron gas station that was not the subject of the robbery for which petitioner was convicted. The Court finds that petitioner's claim of suppression of evidence is without merit.

Accordingly, under Louisiana Code of Criminal Procedure Article 929, the relief sought must be denied.

IT IS HEREBY ORDERED that the *Application for Post-Conviction Relief* filed by Errol Farrar be denied.

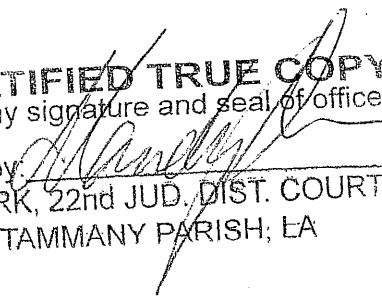
IT IS FURTHER ORDERED that the Clerk of Court of the Parish of St. Tammany give notice of this dismissal to petitioner, the District Attorney for the Parish of St. Tammany, and the petitioner's custodian.

Covington, Louisiana, this 28 day of March, 2016.



HONORABLE ALLISON H. PENZATO

A CERTIFIED TRUE COPY
Witness my signature and seal of office.

Attested by: 
CLERK, 22nd JUD. DIST. COURT
ST. TAMMANY PARISH; LA