

Fifth Circuit Court of Appeal State of Louisiana

No. 25-KH-502

STATE OF LOUISIANA EX REL. JACOB ROBINSON
VERSUS
DARREL VANNOY, WARDEN LOUISIANA STATE
PENITENTIARY

IN RE JACOB ROBINSON

APPLYING FOR SUPERVISORY WRIT FROM THE TWENTY-FOURTH JUDICIAL DISTRICT COURT, PARISH OF JEFFERSON, STATE OF LOUISIANA, DIRECTED TO THE HONORABLE DONALD A. ROWAN, JR., DIVISION "L", NUMBER 20-2251

December 01, 2025



Panel composed of Judges Jude G. Gravois,
Marc E. Johnson, and Timothy S. Marcel

WRIT DENIED

Relator, Jacob Robinson, seeks review of the district court's September 8, 2025, ruling denying his application for post-conviction relief (APCR). For the following reasons, we deny Relator's writ application.

Procedural Deficiencies

As an initial matter, we find Relator's *pro se* application deficient in that he failed to file a notice of intent or provide documentation of a return date as required by Uniform Rules – Courts of Appeal, Rules 4-2 and 4-3. We also find the writ application is untimely, having been postmarked on October 9, 2025, one day more than of the thirty-day period for seeking review of the district court's September 8, 2025, ruling.¹ Nonetheless, in the interest of justice and judicial economy, we consider the application.

Procedural History

On February 16, 2022, a jury found Relator guilty of armed robbery (counts one and two) and aggravated battery (count three). On March 22, 2022, the trial court sentenced Relator to ninety-nine years imprisonment at hard labor without benefit of parole, probation, or suspension of sentence for each armed robbery

¹ See Uniform Rules – Courts of Appeal, Rule 4-3, which provides in criminal cases that "the return date shall not exceed 30 days from the date of the ruling at issue."

count, with the sentences to run concurrently. The trial court also sentenced Relator to ten years imprisonment at hard labor on count three, to run consecutively with count one. Relator's convictions and sentences were affirmed on direct appeal in *State v. Robinson*, 22-310 (La. App. 5 Cir. 4/12/23), 361 So.3d 1107. He did not seek review from the Louisiana Supreme Court.

On March 18, 2025, Relator filed a *pro se* APCR with the district court raising claims of prosecutorial misconduct and ineffective assistance of counsel. On September 8, 2025, the district court denied relief, finding that Relator's claims were procedurally barred pursuant to La. C.Cr.P. art. 930.4(A) and (H) having been fully litigated on direct appeal.²

Claims Presented

Prosecutorial Misconduct

In this writ application, Relator re-urges his claim of prosecutorial misconduct asserting that his defense "suffered prejudice after the State amended the bill of information to reflect the actual names of the putative victims and his trial counsel failed to request a continuance." Specifically, he contends the State engaged in prosecutorial misconduct by amending the bill of information shortly before trial, to reflect the correct names of the alleged victims. Relator argues this constituted vindictive prosecution and violated his constitutional right to "be advised fully of the reason for his arrest" and to "be informed of the nature and cause of the accusation against him," citing La. Const. Art. I, § 13; cf. U.S. Const. Amend VI; U.S. Const. Amend. XIV.

By way of background, the following summary is provided from our opinion in *Robinson*, 361 So.3d at 1118 (internal footnote omitted).

The original bill of information, which was filed on April 27, 2020, charged defendant with attempted armed robbery of Checas Melbam (count one), armed robbery of Amaga Belator (count two), and aggravated second degree battery of Checas Melbam (count three). On February 11, 2022, the State amended the bill of information as to count one to charge defendant with armed robbery of Melbin Joel Chicas Galeas; as to count two to change the name of the victim to Darbin Joel Amaya Villatoro; and as to count three to change the second degree battery charge to aggravated battery of Melbin Joel Galeas. Before the commencement of trial, on February 15, 2022, defendant was arraigned on the amended bill and pled not guilty.

² Relator filed his APCR in the district court on March 18, 2025, before the amendments to La. C.Cr.P. art. 930.4 went into effect on August 1, 2025, with no express pronouncement with regard to their retroactive application. The State filed its response on September 3, 2025, and the district court denied Relator's APCR on September 8, 2025. The current version of La. C.Cr.P. art. 930.4(A) provides: "Any claim for relief which was fully litigated in an appeal from the proceedings leading to the judgment of conviction and sentence shall not be considered." Before its amendment, La. C.Cr.P. art. 930.4(A) stated: "Unless required in the interest of justice, any claim for relief which was fully litigated in an appeal from the proceedings leading to the judgment of conviction and sentence shall not be considered."

The current version of La. C.Cr.P. art. 930.4(H), which also went into effect on August 1, 2025, states: "All of the limitations set forth in this Article shall be jurisdictional and shall not be waived or excused by the court or the district attorney." The current version of La. C.Cr.P. art. 930.4(H) replaces the former provision under La. C.Cr.P. art. 930.4(E).

To begin, La. C.Cr.P. art. 464 provides, in pertinent part, “The indictment shall be a plain, concise, and definite written statement of the essential facts constituting the offense charged.” Any error in citation of the statute which the defendant is alleged to have violated, or its omission, is not ground for dismissal of the indictment or for reversal of a conviction if the error or omission did not mislead the defendant to his prejudice. Louisiana law permits amendment of a bill of information as to its substance any time before the commencement of trial. La. C.Cr.P. art. 487; *State v. Strickland*, 04-843 (La. App. 5 Cir. 3/1/05), 900 So.2d 885, 892 n.2., writ denied, 05-820 (La. 6/17/05), 904 So.2d 683.

In the instant case, the record shows that the State amended the bill of information before trial and that trial counsel waived a reading of the amended bill of information. The record also shows that on appeal, Relator raised a *pro se* assignment of error asserting claims of alleged defects in the amended bill of information, and lack of notice of the charges against him.³ On direct review, we found no merit to his *pro se* assignment of error, expressly rejecting Relator’s claims that the amended bill of information failed to provide adequate notice or otherwise prejudiced him, stating:

To the extent defendant claims he did not receive sufficient notice of the charges against him, the transcript reflects that a discussion amongst the parties and the trial court occurred regarding the amendments to the bill of information before the commencement of trial. Defense counsel waived a reading of the bill of information, stating, “I waive a reading because I’ve received it and we enter a plea of not guilty.”

In addition, defense counsel did not file a bill of particulars, and the State provided open-file discovery. Open file discovery relieves the State of the necessity of answering a motion for a bill of particulars. *State v. Parker* 04-1017 (La. App. 5 Cir. 3/29/05), 901 So.2d 513, 519, writ denied, 05-1451 (La. 1/13/06), 920 So.2d 235. The discovery receipt filed into the record on August 6, 2020, reflects that defense counsel received, among other things, the arrest report, a probable cause affidavit, and the police report.

Accordingly, upon review of the record, we find that defendant was fully aware of the charges against him in the amended bill of information and did not show any prejudice by any alleged defect in the amended bill of information. This assignment of error lacks merit.

Robinson, 361 So.3d at 1118-19.

In the instant application, Relator re-purposes his arguments, but does not present new allegations or grounds for misconduct for us to review. Our appellate opinion previously addressed all relevant arguments including timing, content, and

³ On appeal, relator claimed that the amended bill “was ‘upgraded’ regarding counts one and three without any additional evidence being submitted; the bill did not set out the elements of armed robbery or contain a value amount; and he did not receive a copy of the charges against him prior to trial.” *Robinson*, 361 So.3d at 1118.

alleged prejudice from the State’s amendment and associated conduct.⁴ Relator therefore fails to meet his post-conviction burden under La. C.Cr.P. art. 930.2.⁵

Ineffective Assistance

As part of his claim, Relator also faults trial counsel for failing to object to the amended bill of information and for not seeking a continuance after the State’s amendment so that further investigation of the victims could be completed.⁶

Under the Sixth Amendment to the United States Constitution and Article I, Fr§ 13 of the Louisiana Constitution, a defendant is entitled to effective assistance of counsel. *State v. Casimer*, 12-678 (La. App. 5 Cir. 3/13/13), 113 So.3d 1129, 1141. To prove ineffective assistance of counsel, a defendant must satisfy the two-prong test set forth in *Strickland v. Washington*, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984). *Casimer*, 113 So.3d at 1141. Under the *Strickland* test, the defendant must show: (1) that counsel’s performance was deficient, that is, that the performance fell below an objective standard of reasonableness under prevailing professional norms; and (2) that the deficient performance prejudiced the defense. *Id.* An error is considered prejudicial if it was so serious as to deprive the defendant of a fair trial, or “a trial whose result is reliable.” *Id.* (quotations omitted). To prove prejudice, the defendant must demonstrate that, but for counsel’s unprofessional conduct, the outcome of the trial would have been different. *Id.* (citing *Strickland*, *supra*).

Our review shows that the amendment corrected a translation error, as explained by Detective Collins on direct examination, when he stated: “that there was an apparent language barrier, and he could not speak Spanish.” *Robinson*, 361 So.3d at 1114. The record also shows that Relator knew the victims personally from prior interactions. At trial, Relator testified that “at the time of the incident, he had known the alleged victims for a few months from ‘going that way’ and claimed that they would ask him to obtain drugs for them.” He further “stated that he did not know their names; but that he called them ‘friend’, and they called him ‘Ray.’” *Id.* And further, the record establishes that the State provided open-file discovery to trial counsel, which included the arrest report, a probable cause affidavit, and the police report.

⁴ Although our appellate opinion does not specifically reference a separate claim of misconduct, we discussed alleged prejudice from the State’s amendments in the context of defendant’s claims relating to notice, right to counsel, and effective assistance. We rejected his claims arising from the conduct and amendments of the prosecution with respect to the bill of information. Thus, in substance, Relator’s current claim pertaining to the State’s mishandling of the bill of information was raised and fully addressed on appeal.

⁵ La. C.Cr.P. art. 930.2 states: “The petitioner in an application for post-conviction relief shall have the burden of proving that relief should be granted.”

⁶ On appeal, relator made a claim of ineffective assistance of counsel, alleging the following complaints:

Defendant contends that his counsel was unconstitutionally defective for failing to follow up on pre-trial motions, failing to raise any objections during jury selection and trial, and failing to object to the trial court’s rescheduling of trial. He asserts that he was prejudiced by his attorney’s “ineffectiveness during the entire court proceedings.” Defendant’s contentions as to the denial of his motion for new trial are also based on allegations of ineffective assistance of counsel. Defendant complains that the trial court abused his discretion in denying his motion for new trial because the court saw and watched the deficient performance of his attorney prior to and during trial. Defendant notes that he had to file a *pro se* motion for new trial.

Robinson, 361 So.3d at 1121. This Court found relator’s claim was without merit. Relator’s prior claim on appeal rested on different grounds than the arguments raised here; however, Relator’s claim for ineffective assistance of counsel, as presented in this writ application, also fails to meet the two-prong *Strickland* test.

Relator complains that trial counsel should have requested a continuance for further investigation; however, given Relator's prior relationship with the victims, and the State's discovery production, Relator fails to show what further investigation, or beneficial evidence would have been uncovered had his trial counsel requested a continuance. Additionally, Relator fails to meet his burden in showing any grounds for an objection to the amended bill, particularly considering that this Court rejected Relator's claim challenging the amended bill on direct review. Furthermore, it is well established that decisions regarding objections are within the ambit of trial strategy. *State v. Moore*, 16-644 (La. App. 5 Cir. 3/15/17), 215 So.3d 951, 968 (“[t]he time and manner of making objections is part of the trial strategy decision-making of the trial attorney”). Accordingly, Relator has failed to “overcome the presumption that, under the circumstances [counsel's decisions] ‘might be considered strong trial strategy’.” *Strickland*, 466 U.S. at 689, 104 S.Ct. at 2065 (quoting *Michel v. Louisiana*, 350 U.S. 91, 101, 76 S.Ct. 158, 164, 100 L.Ed.2d 83 (1955)). As such, Relator has not demonstrated that the claimed errors rendered his trial “fundamentally unfair.” *Strickland*, 466 U.S. at 700, 104 S.Ct. at 2071.

Moreover, on direct appeal, we rejected Relator's broader ineffective-assistance complaint, stating: “[D]efendant fails to make any arguments as to how these allegations affected the outcome or how the outcome would have been different. Further, many of these allegations relate to trial strategy and cannot support an ineffective assistance of counsel claim.” *Robinson*, 361 So.3d at 1122.

To succeed on a claim of ineffective assistance, a defendant must meet the two-prong test set forth in *Strickland*. In this instance, Relator fails to meet his burden, under either prong; accordingly, Relator's ineffective assistance of counsel claim does not entitle him to relief.

For the foregoing reasons, the writ application is denied.

Gretna, Louisiana, this 1st day of December, 2025.

TSM
JGG
MEJ

SUSAN M. CHEHARDY
CHIEF JUDGE

FREDERICKA H. WICKER
JUDE G. GRAVOIS
MARC E. JOHNSON
STEPHEN J. WINDHORST
JOHN J. MOLAISSON, JR.
SCOTT U. SCHLEGEL
TIMOTHY S. MARCEL

JUDGES



FIFTH CIRCUIT
101 DERBIGNY STREET (70053)
POST OFFICE BOX 489
GRETNA, LOUISIANA 70054
www.fifthcircuit.org

CURTIS B. PURSELL
CLERK OF COURT

SUSAN S. BUCHHOLZ
CHIEF DEPUTY CLERK

LINDA M. TRAN
FIRST DEPUTY CLERK

MELISSA C. LEDET
DIRECTOR OF CENTRAL STAFF

(504) 376-1400
(504) 376-1498 FAX

NOTICE OF DISPOSITION CERTIFICATE OF DELIVERY

I CERTIFY THAT A COPY OF THE DISPOSITION IN THE FOREGOING MATTER HAS BEEN TRANSMITTED IN ACCORDANCE WITH **UNIFORM RULES - COURT OF APPEAL, RULE 4-6** THIS DAY **12/01/2025** TO THE TRIAL JUDGE, THE TRIAL COURT CLERK OF COURT, AND AT LEAST ONE OF THE COUNSEL OF RECORD FOR EACH PARTY, AND TO EACH PARTY NOT REPRESENTED BY COUNSEL, AS LISTED BELOW:

A handwritten signature in blue ink that reads "Curtis B. Pursell".

CURTIS B. PURSELL
CLERK OF COURT

25-KH-502

E-NOTIFIED

24th Judicial District Court (Clerk)
Honorable Donald A. Rowan, Jr. (DISTRICT JUDGE)
Thomas J. Butler (Respondent)

MAILED

Jacob Robinson #569661 (Relator)
Louisiana State Penitentiary
Angola, LA 70712