

**Fifth Circuit Court of Appeal  
State of Louisiana**

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No. 26-KH-157

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STATE OF LOUISIANA

*versus*

ROBERT GUCCIONE

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**IN RE ROBERT GUCCIONE**  
APPLYING FOR SUPERVISORY WRIT FROM THE TWENTY-FOURTH JUDICIAL DISTRICT  
COURT, PARISH OF JEFFERSON, STATE OF LOUISIANA, DIRECTED TO THE HONORABLE  
DANYELLE M. TAYLOR, DIVISION "O", No. 95-3869

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**TRUE COPY**

May 05, 2026



LINDA TRAN  
DEPUTY CLERK

Panel composed of Judges Jude G. Gravois,  
Marc E. Johnson, and Stephen J. Windhorst

**WRIT DENIED**

Relator, Robert Guccione, seeks this Court's supervisory review of the trial court's March 26, 2026 ruling which denied his Motion to Correct an Illegal Sentence. He argues that the trial court erred in failing to consider his federal claims that make his sentence illegal, instead finding the motion untimely. For the following reasons, we find no error in the trial court's ruling and accordingly deny the writ application.

On April 17, 1996, a jury found relator guilty of two counts of attempted second degree murder, one count of armed robbery, one count of first degree robbery, and one count of second degree kidnapping. On April 29, 1997, this Court affirmed relator's convictions and sentences. *State v. Guccione*, 96-1049 (La. App. 5 Cir. 4/29/97), 694 So.2d 1060. On March 13, 1998, the Louisiana Supreme Court denied relator's writ application. *State v. Guccione*, 97-2151 (La. 3/13/98), 712 So.2d 869.

Relator filed his Motion to Correct an Illegal Sentence with the district court on March 18, 2026. In it, relator argued that the United States Supreme Court's decision in *Ramos v. Louisiana*, 590 U.S. 83, 140 S.Ct. 1390, 206 L.Ed.2d 583 (2020), should have been applied retroactively to his case. As part of his argument, relator claimed that *State v. Reddick*, 21-1893 (La. 10/21/22), 351 So.3d 273, 283, in which the Louisiana Supreme Court held that "the new rule of criminal procedure announced in *Ramos* that requires unanimity in jury verdicts is not retroactive on state collateral review in Louisiana," was in violation of the Thirteenth Amendment.

On March 26, 2026, the district court denied relief, first pointing out that relator had raised a *Ramos* claim in a prior application for post-conviction relief, which was subsequently denied by this Court and the Louisiana Supreme Court. *See State ex rel. Guccione v. Hooper*, 21-371 (La. App. 5 Cir. 7/2/21), writ denied, 21-1087 (La. 3/7/23), 356 So.3d 1050.<sup>1</sup> In denying relator's Motion to Correct an Illegal Sentence, the district court "found no illegality in the terms of [relator's] sentencing, as the imposed sentences are within the statutory parameters provided." This timely writ application followed.

La. C.Cr.P. art. 882(A) states: "An illegal sentence may be corrected at any time by the court that imposed the sentence or by an appellate court on review." Because relator's filing below did not point to a claimed illegal term in his sentence, he did not raise a claim cognizable in a motion to correct an illegal sentence. Accordingly, the "at any time" language of La. C.Cr.P. art. 882 does not apply to relator's filing. Relator's motion attacking his convictions seeks relief available in an application for post-conviction relief.<sup>2</sup> As such, the application is untimely pursuant to La. C.Cr.P. art. 930.8(A), which provides in pertinent part: "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

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<sup>1</sup> In *Guccione*, 21-KH-371, this Court stated that relator was convicted by a non-unanimous jury. This Court found that *Ramos* did not apply retroactively to relator's convictions which had long since been final before the *Ramos* decision, citing *Edwards v. Vannoy*, 593 U.S. 255, 141 S.Ct. 1547, 209 L.Ed.2d 651 (2021), in which the United States Supreme Court held that the *Ramos* non-unanimity rule does not apply retroactively on federal collateral review. *Reddick* had not yet been decided when this Court denied relator's APCR.

<sup>2</sup> The Louisiana Supreme Court has recognized that courts should "look through the caption of the pleadings in order to ascertain their substance and to do substantial justice." *See State v. Moses*, 05-787 (La. App. 5 Cir. 5/9/06), 932 So.2d 701, 706 n.3, writ denied, 06-2171 (La. 4/5/07), 954 So.2d 140.

of conviction and sentence has become final.”<sup>3</sup> Furthermore, relator has not shown that any of the exceptions contained in La. C.Cr.P. art. 930.8(A) are applicable to his claim. Accordingly, relator’s claim is time-barred. This writ application is denied.

Gretna, Louisiana, this 5th day of May, 2026.

**JGG**  
**MEJ**  
**SJW**

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<sup>3</sup> Relator’s convictions and sentences became final in 1998. *State v. Guccione*, 97-2151 (La. 3/13/98), 712 So.2d 869.

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



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CURTIS B. PURSELL  
CLERK OF COURT

SUSAN S. BUCHHOLZ  
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FIRST DEPUTY CLERK

MELISSA C. LEDET  
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**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 **05/05/2026** 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:

**CURTIS B. PURSELL**  
CLERK OF COURT

**26-KH-157**

**E-NOTIFIED**

24th Judicial District Court (Clerk)  
Honorable Danyelle M. Taylor (DISTRICT JUDGE)  
Thomas J. Butler (Respondent)

**MAILED**

Robert Guccione #187456 (Relator)  
Raymond Laborde Correctional Center  
1630 Prison Road  
Cottonport, LA 71327