

Fifth Circuit Court of Appeal State of Louisiana

No. 26-KH-422

STATE OF LOUISIANA

versus

DREW PIZZO

IN RE DREW PIZZO
APPLYING FOR SUPERVISORY WRIT FROM THE TWENTY-FOURTH JUDICIAL DISTRICT
COURT, PARISH OF JEFFERSON, STATE OF LOUISIANA, DIRECTED TO THE HONORABLE
FRANK A. BRINDISI, DIVISION "E", No. 88-876

TRUE COPY

October 07, 2026



LINDA TRAN
DEPUTY CLERK

Panel composed of Judges Susan M. Chehardy,
Scott U. Schlegel, and Timothy S. Marcel

WRIT DENIED

Relator, Drew Pizzo, seeks review of the district court's July 29, 2026 ruling denying his application for post-conviction relief (APCR).

For the following reasons, the writ application is denied.

On June 21, 1990, a jury found relator guilty of second degree murder, in violation of La. R.S. 14:30.1. On July 16, 1990, the trial court sentenced relator to life imprisonment at hard labor without benefit of parole, probation, or suspension of sentence. Relator's conviction and sentence were affirmed by this Court on February 14,

1991, and on May 2, 1991, the Louisiana Supreme Court dismissed relator's appeal without prejudice at his request.

On July 17, 2026, relator filed an APCR invoking the "facts not known" exception of La. C.Cr.P. art. 930.8(A)(1), claiming that he had recently discovered, through polling slips, that only eleven jurors served on his jury. On July 29, 2026, the district court denied relief, finding that "[t]he record is very clear that there were twelve jurors who decided the case," and that relator "fails to meet his burden of proof on the merits of this claim," and that he "fails entirely to prove any basis to escape numerous procedural bars under La. C.Cr.P. art. 930.4 and 930.8." On September 8, 2026, relator filed the instant application, re-urging the same claim.

On review, we agree with the district court that relator's APCR is procedurally barred under La. C.Cr.P. art. 930.8. It provides, in pertinent part, that "[n]o 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 under the provisions of Article 914 or 922," unless one of the enumerated exceptions applies. Because relator's conviction and sentence became final in 1991, his application, filed some thirty-five years later, is untimely.

Relator argues that the exception in La. C.Cr.P. art. 930.8(A)(1) applies here. That exception permits consideration of an otherwise untimely application where "[t]he application alleges, and the petitioner proves or the state admits, that the facts upon which the claim is

predicated were not known to the petitioner or his prior attorneys,” provided that the petitioner also proves that “he exercised diligence in attempting to discover any post conviction claims that may exist” and submits the new facts “to the court within two years of discovery.”

We agree with the district court that relator has not satisfied this exception. Relator’s claim rests on a recent “discovery” — jury polling slips he obtained from the Jefferson Parish Clerk of Court on August 6, 2025, which he contends show that only eleven jurors served on his jury.¹ He asserts this newly discovered fact triggers the exception. However, we disagree. The record shows that relator was present throughout his trial, thus, the number of jurors who served on his jury would have been obvious and known to him at that time. Because the asserted fact was known or reasonably knowable to relator at trial, it is not “newly discovered” within the meaning of La. C.Cr.P. art.

930.8(A)(1). Regardless, a defendant’s late realization that an error may have occurred at trial does not qualify as the discovery of a new fact for the purposes of Article 930.8(A)’s exception. *See State v. Parker*, 98-256 (La. 5/8/98), 711 So.2d 694, 695 (per curiam); *Achelles v. Hooper*, 22-177 (La. App. 5 Cir. 5/17/22)(unpublished writ disposition) , *writ denied*, 22-1025 (La. 11/16/22), 349 So.3d 1003.

Because no exception applies, relator’s application is time-barred. La. C.Cr.P. art. 930.8(F) clearly provides that “[a]ll of the limitations set forth in this Article shall be jurisdictional and shall not be waived or

¹ To the extent that relator’s claim could be read as a challenge to jury unanimity, in *State v. Reddick*, 21-1893 (La. 10/21/22), 351 So.3d 273, 283, 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.” Thus, even if relator raised a *Ramos* claim, his conviction became final decades before *Ramos* was decided.

excused by the court or the district attorney.” Accordingly, this Court is without authority to consider this APCR.

Based on the foregoing, relator’s writ application is denied.

Gretna, Louisiana, this 7th day of October, 2026.

TSM
SMC
SUS

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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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 **10/07/2026** 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:

A handwritten signature in blue ink, reading "Curtis B. Pursell", is written over a horizontal line.

CURTIS B. PURSELL
CLERK OF COURT

26-KH-422

E-NOTIFIED

24th Judicial District Court (Clerk)
Honorable Frank A. Brindisi (DISTRICT JUDGE)
Darren A. Allemand (Respondent)

MAILED

Drew Pizzo #131376 (Relator)
Rayburn Correctional Center
27268 Highway 21
Angie, LA 70426