

Fifth Circuit Court of Appeal State of Louisiana

No. 26-KH-389

STATE OF LOUISIANA

versus

WALTER THOMAS

IN RE WALTER THOMAS

APPLYING FOR SUPERVISORY WRIT FROM THE TWENTY-FOURTH JUDICIAL DISTRICT COURT, PARISH OF JEFFERSON, STATE OF LOUISIANA, DIRECTED TO THE HONORABLE LEE V. FAULKNER, JR., DIVISION "P", No. 19-1509

TRUE COPY

September 30, 2026



LINDA TRAN
DEPUTY CLERK

Panel composed of Judges Susan M. Chehardy,
Jude G. Gravois, and Scott U. Schlegel

WRIT DENIED.

On December 9, 2019, relator pled guilty to possession of a firearm by a convicted felon, and the trial court subsequently sentenced relator in accordance with the plea agreement to ten years imprisonment at hard labor.¹ On the same date, the State filed a multiple offender bill of information, alleging relator to be a second-felony offender. After relator stipulated to the multiple bill, the trial court vacated the original sentence and, pursuant to the plea agreement, resentenced relator as a second-felony offender to ten years imprisonment at hard labor without benefit of

¹ Pursuant to La. R.S. 14:95.1(B), relator faced a sentence of imprisonment at hard labor for not less than five nor more than twenty years without the benefit of probation, parole, or suspension of sentence. On appeal, this Court found that the trial court failed to restrict benefits when the original sentence was imposed but concluded no corrective action was needed, stating:

La. R.S. 15:301.1(A) provides that the statutory restrictions, even if they are not recited at sentencing, are deemed to be contained in the sentence, and are, therefore, statutorily effective. *State v. Davis*, 17-81 (La. App. 5 Cir. 6/29/17), 224 So.3d 1211, 1219. Further, the trial court vacated the sentence prior to resentencing defendant as a second-felony offender and any issues pertaining to the original sentence are now moot.

See State v. Thomas, 20-97 (La. App. 5 Cir. 11/4/20), 306 So.3d 568, 578.

parole, probation, or suspension of sentence. Relator's conviction and sentence were affirmed by this Court on November 4, 2020. *State v. Thomas*, 20-97 (La. App. 5 Cir. 11/4/20), 306 So.3d 568. Relator did not file a writ application with the Louisiana Supreme Court.

Relator filed his application for post-conviction relief with the district court on July 8, 2026. In it, relator maintains that the trial court failed to inform him that he had the right to remain silent at the multiple offender hearing. Relator also argued that his enhanced sentence as a multiple offender "improperly invaded the jury's province" by increasing his exposure to punishment without submission to a jury. On July 15, 2026, the district court denied relief, stating:

The court first notes that the petitioner fails to use the mandatory application form required by La. C.Cr.P. art. 926. Furthermore, even if the petitioner had properly completed the application, he fails to establish entitlement to further review.

On June 3, 2026, the Supreme Court of Louisiana held the denial of relief. [sic] The Court held that unless the petitioner could show a very narrow exception to authorize a successive filing, he had he had [sic] exhausted his claims for collateral relief. The petitioner fails to show such an exception or to suggest any entitlement to post-conviction review by this court.

Apparently, relator did not file a notice of intent with the district court as required by Uniform Rules – Courts of Appeal, Rule 4-2, which provides as follows:

The party, or counsel of record, intending to apply to the Court of Appeal for a writ shall give to the opposing parties or the opposing counsel of record, notice of such intention. The party, simultaneously, shall give notice to the judge whose ruling is at issue, by requesting a return date to be set by the judge within the time period provided for in Rule 4-3.

Furthermore, there is no documentation of a return date with relator's writ application as required by Uniform Rules – Courts of Appeal, Rule 4-3.² Finally, in addition to these deficiencies, relator's substantive claims lack merit.

On August 21, 2026, relator's writ application, postmarked August 11, 2026,³ was stamped as filed with this Court within thirty days of the district court's July 15, 2026 ruling from which relator appears to seek review. In it, relator re-urges his claims raised below regarding his multiple offender hearing and sentence.

² Rule 4-3 states, in pertinent part: "The application for writs shall contain documentation of the return date and any extensions thereof; any application that does not contain this documentation may not be considered by the Court of Appeal."

³ For the purpose of determining timeliness, the actual date of filing for pleadings filed by inmates is the date the pleading is delivered to the prison authorities. *See Houston v. Lack*, 487 U.S. 266, 108 S.Ct. 2379, 101 L.Ed.2d 245 (1988); *State ex rel. Johnson v. Whitley*, 92-2689 (La. 1/6/95), 648 So.2d 909; *Shelton v. Louisiana Department of Corrections*, 96-348 (La. App. 1 Cir. 2/14/97), 691 So.2d 159.

La. C.Cr.P. art. 930.8(A) states 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 of conviction and sentence has become final.” Here, relator’s post-conviction application is untimely as his conviction and sentence became final in 2020, *see State v. Thomas*, 20-97 (La. App. 5 Cir. 11/4/20), 306 So.3d 568, and none of La. C.Cr.P. art. 930.8(A)’s exceptions are applicable to his claims. Thus, relator’s claims are time-barred.

For these reasons, relator’s writ is denied.

Gretna, Louisiana, this 30th day of September, 2026.

SMC
JGG
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 **09/30/2026** 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-389

E-NOTIFIED

24th Judicial District Court (Clerk)
Hon. Lee V. Faulkner, Jr. (DISTRICT JUDGE)
Darren A. Allemand (Respondent)

MAILED

Walter Thomas #590630 (Relator)
Raymond Laborde Correctional Center
1630 Prison Road
Cottonport, LA 71327