

Fifth Circuit Court of Appeal State of Louisiana

No. 26-KH-381

STATE OF LOUISIANA

versus

JOHN THOMAS

IN RE JOHN THOMAS

APPLYING FOR SUPERVISORY WRIT FROM THE TWENTY-FOURTH JUDICIAL DISTRICT COURT, PARISH OF JEFFERSON, STATE OF LOUISIANA, DIRECTED TO THE HONORABLE MICHAEL P. MENTZ, DIVISION "F", No. 20-5774

TRUE COPY

September 02, 2026



LINDA TRAN
DEPUTY CLERK

Panel composed of Judges Marc E. Johnson,
Stephen J. Windhorst, and John J. Molaison, Jr.

WRIT DENIED

Relator, John Thomas, seeks review of the 24th Judicial District Court's May 27, 2026 order denying his application for post conviction relief (APCR). In 2021, pursuant to a plea agreement, Relator pled guilty to pornography involving juveniles in violation of La. R.S. 14:81.1 (E)(2) over a six-month period. The district court sentenced Relator to ten years imprisonment at hard labor. Relator did not file a motion for appeal.

Relator filed an APCR with the district court on October 15, 2025. He claimed he received ineffective assistance of counsel based on counsel's failure to request a pre-sentence investigation or investigate Relator's background for mitigating factors. Relator also argued counsel failed to comply with the Louisiana Administrative Code section setting forth the "Trial Court Performance Standards" for public defenders.¹ The district court denied relief, finding that Relator had "not met his . . .

¹ See Louisiana Admin. Code title 22, pt. XV, § 701 ("The standards are intended to serve several purposes, first and foremost to encourage public defenders, assistant public defenders and appointed counsel to perform to a high standard of representation and to promote professionalism in the representation of indigent defendants.).

burden of proof under La. C.Cr.P. art. 930.2.” The court also stated that Relator raised a claim of ineffective assistance of counsel in a prior APCR. Relator argued counsel failed “to provide mitigating evidence (stemming from PTSD from military service) prior to sentencing,” which was previously denied by this Court and the Louisiana Supreme Court. *See State v. Thomas*, No. 24-KH-606, 2025 WL 289591 (La. App. 5 Cir. Jan. 24, 2025),² *writ denied*, 25-421 (La. 8/22/25), 420 So.3d 10 (“Applicant’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, applicant has exhausted his right to state collateral review.”).

Relator filed a notice of intent with the district court on June 26, 2026. According to Relator, he never received a response from the district court setting a return date; therefore, the application does not contain documentation of a return date as required by Uniform Rules – Courts of Appeal, Rule 4-3. However, JeffNet indicates that on July 27, 2026, the district court set an extended return date of September 6, 2026. Thus, Relator’s writ application, in which he re-urges his claim of ineffectiveness assistance of counsel at sentencing, was timely stamped as filed with this Court.

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 APCR is untimely as his conviction and sentence became final in 2021; none of La. C.Cr.P. art. 930.8(A)’s exceptions to timeliness are applicable to his claim. In fact, Relator relies on the same documentation he submitted in his prior APCR to support this claim of counsel’s ineffectiveness. Thus, we find the instant application is also repetitive and successive. La. C.Cr.P. art. 930.4(E) provides: “A successive application shall be dismissed if it fails to raise a new or different claim.” Further, Relator’ application asserts an argument previously deemed meritless by this Court. *See Thomas*, 2025 WL 289591.

Finally, Relator complains that the district court did not conduct an evidentiary hearing. However, the district court may dispose of the petition for relief summarily if the factual and legal issues can be resolved based upon the application and answer and supporting documents. La. C.Cr.P. art. 929(A). Upon review, the Court finds the district court acted within its discretion when it resolved Relator’s claim without conducting

² In denying relief, this Court concluded:

While the relator does present a traumatic and compelling mental health history, the relator has not shown that his trial counsel’s negotiations were not substantial given that the relator, who faced a maximum sentence of twenty years imprisonment for the offense of pornography involving juveniles, received a ten-year sentence. Thus, the relator has not shown that trial counsel’s negotiated plea agreement amounted to ineffective legal representation.

an evidentiary hearing. *See State ex rel. Tassin v. Whitley*, 602 So.2d 721, 722 (La. 1992).

Accordingly, the writ is denied.

Gretna, Louisiana, this 2nd day of September, 2026.

MEJ
SJW
JJM

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
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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 **09/02/2026** 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-381

E-NOTIFIED

24th Judicial District Court (Clerk)
Honorable Michael P. Mentz (DISTRICT JUDGE)
Darren A. Allemand (Respondent) Honorable Paul D. Connick, Jr. (Respondent)

MAILED

John Thomas #761750 (Relator)
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Post Office Box 788
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