

Fifth Circuit Court of Appeal State of Louisiana

No. 25-KH-460

STATE OF LOUISIANA

versus

SHANNON J. ZENO

IN RE SHANNON J. ZENO

APPLYING FOR SUPERVISORY WRIT FROM THE TWENTY-FOURTH JUDICIAL DISTRICT COURT, PARISH OF JEFFERSON, STATE OF LOUISIANA, DIRECTED TO THE HONORABLE ELLEN SHIRER KOVACH, DIVISION "K", No. 98-1190

TRUE COPY

January 14, 2026



LINDA TRAN
DEPUTY CLERK

Panel composed of Judges Fredericka Homberg Wicker,
Marc E. Johnson, and Scott U. Schlegel

WRIT DENIED

In his *pro se* application for supervisory writ, Relator, Shannon J. Zeno, seeks review of the trial court's denial of his motion to correct illegal sentence. For the following reasons, we deny the writ application.

BACKGROUND

On July 22, 1998, a non-unanimous jury found Relator guilty of conspiracy to commit armed robbery, in violation of La. R.S. 14:26, and armed robbery, in violation of La. R.S. 14:64. On July 27, 1998, the trial court sentenced Relator on the conspiracy conviction to forty-nine years and six months imprisonment at hard labor, and ninety-nine years imprisonment at hard labor for the armed robbery conviction; all sentences to be run consecutively and to be served without benefit of

parole, probation, or suspension of sentence. Relator's sentences were the maximum allowable by law. *See La. R.S. 14:64(B); La. R.S. 14:26(C).*

On August 13, 1998, the trial court found Relator to be a third-felony offender, vacated the armed robbery conviction, and imposed a life sentence without benefit of parole, probation, or suspension of sentence, to run consecutively with Relator's conspiracy sentence. Because armed robbery and one of the predicate felonies are crimes of violence, the enhanced sentence was mandatory. *See State v. Zeno*, 99-69 (La. App. 5 Cir. 8/31/99), 742 So.2d 699, 711 (citing La. R.S. 15:529.1(A)(1)(b)(ii), La. R.S. 14:2(13)(w), and La. R.S. 14:64), *writ denied*, 00-105 (La. 6/30/00), 765 So.2d 1065. On direct appeal to this Court, Relator challenged as excessive the consecutive nature of his sentences only; he did not challenge either sentence on its own as excessive nor did he challenge the enhanced sentence as a third-felony offender. This Court affirmed Relator's convictions and sentences on August 31, 1999, and the Louisiana Supreme Court denied his writ application on June 30, 2000.¹

ANALYSIS

On August 15, 2025, Relator filed a Motion to Correct Illegal Sentence with the trial court claiming that his habitual offender sentence is illegal because it is a double enhancement. On August 26, 2025, the trial court denied relief, finding that Relator failed to raise a cognizable claim as he "did not point to a claimed illegal term in his sentence," but rather "he again challenges the habitual offender adjudication." Moreover, the trial court found "no illegality in the terms of [Relator's] sentence, as the sentence imposed is within the statutory parameters provided." This writ application followed.

¹ *State v. Zeno*, 99-69 (La. App. 5 Cir. 8/31/99), 742 So.2d 699, 711–12, *writ denied*, 00-105 (La. 6/30/00), 765 So.2d 1065.

Compliance with Uniform Rules

As an initial matter, we review Relator's application for compliance with the Uniform Rules for Louisiana's Courts of Appeal, as it appears to be untimely and noncompliant with those rules. Relator filed his writ with this Court on October 6, 2025, which is more than forty-one days after the trial court's August 26, 2025 ruling. Additionally, Relator's application does not include a copy of the return date set by the trial court. Uniform Rules – Courts of Appeal, Rule 4-3 provides, in part, that:

The judge who has been given notice of intention as provided by Rule 4-2 shall immediately set a reasonable return date within which the application shall be filed in the Court of Appeal . . . In criminal cases . . . the return date shall not exceed 30 days from the date of the ruling at issue[.]

Upon proper showing, the trial court or the Court of Appeal may extend the time for filing the application upon the filing of a motion for an extension of the return date by the applicant, filed within the original or an extended return date period. An application not filed in the Court of Appeal within the time so fixed or extended shall not be considered, in the absence of a showing that the delay in filing was not due to the applicant's fault. 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.

In the instant matter, thirty days from the trial court's August 26, 2025 ruling was September 25, 2025. Relator filed his application with this Court on October 6, 2025, which is more than forty-one days after the ruling. But, given that Relator is incarcerated, he is subject to less stringent filing deadlines. *See Ruffin v. State*, 24-511 (La. App. 5 Cir. 11/19/24), 2024 WL 4835404, at *1 (unpublished) (“The actual date of filing for pleadings filed by inmates is the date the pleading is delivered to the prison authorities.”). Here, it is unclear from Relator's application the exact date he delivered his pleadings to prison authorities for filing with this Court. Relator signed and dated the application on September 26, 2025, and it was postmarked on September 29, 2025. Still, both dates are more than thirty days from

the date of the trial court's ruling, rendering the application untimely unless the return day was extended.

Uniform Rules – Courts of Appeal, Rule 4-3 allows for the trial court to order an extension of the return date. Relator's application contains no indication that he requested an extension or that the trial court granted one, as further required under Rule 4-3. However, a review of the official record in this case reveals Relator's application is both timely and compliant with Rule 4-3. Specifically, the record shows that Relator filed a notice of intent with the trial court on September 12, 2025, and that, on September 17, 2025, the trial court set an extended return date of October 14, 2025.² A service return further shows that Relator was not served with the trial court's September 17, 2025 order until October 14, 2025. By the time Relator learned of the order, he had already filed his writ application with this Court. Since Relator filed this writ application before the extended return date, we find that his application is timely pursuant to Rule 4-3. To the extent Relator's application fails to comply with the other requirements of Rule 4-3, we find that such failure resulted through no fault of his own. We will therefore consider Relator's writ application accordingly.

Motion to Correct Illegal Sentence

Relator moved the trial court to correct what he argued is an illegal sentence because it is a double enhancement. Under La. C.Cr.P. art. 882(A), “An illegal sentence may be corrected at any time by the court that imposed the sentence or by an appellate court on review.” The habitual offender bill of information filed by the State alleges that Relator was convicted of the following predicate offenses, both within the Twenty-Fourth Judicial District Court in Jefferson Parish:

- 1987 armed robbery
(no. 86-1171)

² In its September 17, 2025 order setting the return date, the trial court stated that, “Based on Petitioner being an incarcerated pro se inmate, and his timely filing notice of intention to apply for writs, this court finds good cause to extend the return date.”

- 1993 possession of firearm by convicted felon (no. 93-2132)

Relator argues that his enhanced sentence as a third-felony offender was an illegal double enhancement because one of his predicate offenses—the 1987 armed robbery—had been used previously as the underlying felony for the other predicate offense—the 1993 felon-in-possession of firearm. Relator asserts that, as a result, the trial court should have found him to be a second-felony offender instead of a third-felony offender, which would have subjected Relator to a lower sentence than life imprisonment.

At this juncture, we pause to consider a point made by the trial court that Relator has not raised claims relating to the legality of the sentence itself. Instead, Relator challenges the habitual offender adjudication itself, which led to the trial court's imposition of an enhanced sentence as a third-felony offender. A defendant may only raise claims relating to the legality of the sentence itself under the applicable sentencing statutes in a motion to correct an illegal sentence. *Taylor v. State*, 12-66, p. 2 (La. App. 5 Cir. 2/14/12) (unpublished) (citing *State v. Gedric*, 99-1213 (La. App. 1 Cir. 6/3/99), 741 So.2d 849, 851–52, *writ denied sub nom., State ex rel. Gedric v. State*, 99-1830 (La. 11/5/99), 751 So.2d 239; and *State v. Parker*, 98-256 (La. 5/8/98), 711 So.2d 694, 695), *writ denied*, 12-532 (La. 8/22/12). When a defendant fails to point to a claimed illegal term in his sentence, he does not raise a claim cognizable in a motion to correct an illegal sentence. *Parker*, 711 So.2d at 695. Rather, a claim of trial error is properly cognizable in an application for post-conviction relief, if at all. *Id.*

In his application, Relator does not seek to correct an illegal sentence but rather his status as a third-felony offender, which Relator failed to attack either through direct appeal or through post-conviction relief. Because Relator does not point to a claimed illegal term in his sentence, he has not raised a claim cognizable

in a motion to correct an illegal sentence. Consequently, the only avenue through which Relator could challenge his habitual offender status is through a timely application for post-conviction relief. La. C.Cr.P. art. 930.8(A) provides that, “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.” Relator’s judgment of conviction and sentence became final upon the Louisiana Supreme Court’s denial of his writ application on June 30, 2000.³ He therefore could not seek post-conviction relief past 2002, unless he could demonstrate that one of the exceptions under Article 930.8(A)(1)–(4) applied to his claim, which Relator has not done here. Accordingly, Relator’s claim is time-barred under Article 930.8.⁴

Even if Relator’s application did not have the foregoing fatal procedural defects, and his claim was properly before us, it would nevertheless fail on the merits as well, because the trial court’s actions did not amount to a double enhancement. A prior conviction for possession of a firearm by a felon may be used as a predicate offense for habitual offender adjudication, provided that the felony underlying that firearm conviction is not also used as a separate predicate offense. *State v. Fletcher*, 01-809 (La. App. 5 Cir. 2/26/02), 811 So.2d 1010, 1013. This Court has previously held that “if a felon in possession of a firearm conviction is used to enhance a subsequent conviction, the underlying felony used as an element of the firearm conviction may not be used in the multiple bill, as this constitutes double enhancement.” *Id.* (referring to *State v. Bailey*, 97-493 (La. App. 5 Cir. 11/12/97), 703 So.2d 1325, 1331).⁵

³ See *State ex rel. Zeno v. State*, 00-105 (La. 6/30/00), 765 So.2d 1065.

⁴ See *Carlin v. Cain*, 97-2390 (La. 3/13/98), 706 So.2d 968 (appellate courts may raise the time-bar of La. C.Cr.P. art. 930.8 sua sponte).

⁵ In so holding, we relied on two previous Fourth Circuit cases that held that the use of both a felon-in-possession conviction and its underlying felony was not allowed in one multiple offender

Here, Relator does not include any documentation showing that the 1987 armed robbery conviction in the multiple bill (case number 86-1171) was used as the underlying felony for the 1993 firearm conviction (case number 93-2132) also in the multiple bill. A review of the full record reveals, however, that it was not. The record shows that Relator has two separate earlier convictions for armed robbery, both from 1987—one we already know as case number 86-1171 from the multiple bill; and the other being case number 86-2535. The first case (86-1171) was included as a predicate offense for the habitual offender adjudication in the instant matter, whereas the second case (86-2535) was used as the underlying felony for the 1993 firearm conviction. As a result, Relator was not subject to double enhancement of his sentence. This claim is without merit.

CONCLUSION

Accordingly, Relator's writ application is denied.

Gretna, Louisiana, this 14th day of January, 2026.

**FHW
MEJ
SUS**

adjudication. *See State v. Moten*, 92-365 (La. App. 4 Cir. 5/13/93), 619 So.2d 683, 685 (“[a] felon in possession of a firearm conviction may be used to enhance the penalty for a subsequent conviction only if the underlying felony used as an element of the firearm conviction is not also used in the same multiple bill”); and *State v. Hymes*, 6601 (La. App. 4 Cir. 9/15/87), 513 So.2d 371, 373 (“a 14:95.1 conviction may be used to enhance the penalty for a subsequent conviction only if the underlying felony used as an element of the firearm conviction is not also used in the same multiple bill”).

SUSAN M. CHEHARDY

CHIEF JUDGE

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

JUDGES



CURTIS B. PURSELL

CLERK OF COURT

SUSAN S. BUCHHOLZ
CHIEF DEPUTY CLERK

LINDA M. TRAN
FIRST DEPUTY CLERK

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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 01/14/2026 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 that reads "Curtis B. Pursell".

CURTIS B. PURSELL
CLERK OF COURT

25-KH-460

E-NOTIFIED

24th Judicial District Court (Clerk)
Honorable Ellen Shirer Kovach (DISTRICT JUDGE)
Thomas J. Butler (Respondent)

MAILED

Shannon J. Zeno #118583 (Relator)
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