Fifth Circuit Court of Appeal
State of Louisiana

No. 26-KH-238

STATE OF LOUISIANA

versus

MOZINE JOHNSON

IN RE MOZINE JOHNSON
APPLYING FOR SUPERVISORY WRIT FROM THE TWENTY-FOURTH JUDICIAL DISTRICT COURT, PARISH OF JEFFERSON, STATE OF LOUISIANA, DIRECTED TO THE HONORABLE JUNE B. DARENSBURG, DIVISION "C", NUMBER 05-2244

TRUE COPY
SUSAN BUCHHOLZ
DEPUTY CLERK

August 18, 2026

Panel composed of Judges Fredericka Homberg Wicker, John J. Molaison, Jr., and Scott U. Schlegel

WRIT DENIED

Relator, Mozine Johnson, seeks to invoke this Court's supervisory jurisdiction to review the judgment of the 24th Judicial District Court, entered on April 22, 2026, denying Relator's Emergency Petition, Writ of Habeas Corpus. For the reasons stated below, the writ application is denied.

Relator's conviction and sentence on two counts of armed robbery with a firearm have been final for many years. *State v. Johnson*, 08-1156 (La. App. 5 Cir. 4/28/09), 9 So.3d 1084, *writ denied*, 09-1394 (La. 2/26/10), 28 So.3d 268.[1] Since that time, Relator has filed a multitude of applications for post-conviction relief under various titles. Most recently, this Court denied a writ application filed by Relator challenging his sentence as a multiple offender. *Johnson v. State*, 26-81 (La. App. 5 Cir. 3/6/26), 2026 WL 636769. Thereafter, on April 17, 2026, Relator filed his Emergency Petition, Writ of Habeas Corpus in the district court, asserting

[1] In *Johnson v. Cain*, No. 12-0621, 2012 WL 5363327, at *1 (E.D. La. 10/30/12), where the court denied Relator's petition for federal habeas corpus, the court observed that Relator's conviction and sentence became final on May 27, 2010, because he failed to apply for certiorari to the United States Supreme Court from the Louisiana Supreme Court's denial of writs from the affirmance of his conviction and sentence on his direct appeal.

that his conviction and sentence were rendered by a court which lacked subject matter jurisdiction. The basis for his claim that the district court lacked subject matter jurisdiction is that the amended bill of information was defective in that it charged him under La. R.S. 14:64.3, which is not an offense but a sentence enhancement statute. The district court denied his emergency petition, finding that Louisiana's habeas corpus is available to one who is confined as the result of an instituted or anticipated criminal proceeding; it is not an available remedy if the prisoner may file an application for post-conviction relief. The district court found:

> The defendant is not confined in anticipation of a criminal proceeding and has been convicted and sentenced many years ago. He has exhausted collateral review and has not shown a narrow exception for filing any legal challenge. No relief is warranted and the court will deny the request.

We observe as an initial matter that Relator's application to this Court fails to include a notice of intent to seek supervisory writs or an order setting a return date, in violation of the Uniform Rules–Courts of Appeal, Rules 4-2, 4-3, and 4-5(C)(11). Second, given Relator's extensive history of seeking post-conviction review of his sentences, his motion for habeas corpus, which we construe, as did the district court, as an application for post-conviction relief, is successive and duplicative under La. C.Cr.P. art. 930.4. Third, Relator filed his application well past the two-year period for seeking post-conviction relief pursuant to La. C.Cr.P. art. 930.8, and Relator has failed to enunciate any reason why an exception to the two-year limitation should apply.

Additionally, Relator's application lacks merit. The district court correctly ruled that Louisiana habeas corpus is not a remedy that is available to Relator under La. C.Cr.P. art. 351 at this stage of the proceedings. Further, in *State v. Burton*, 12-1321 (La. App. 4 Cir. 5/8/13), 116 So.3d 863, *writ denied*, 13-1177 (La. 11/15/13), 125 So.3d 1103, the Fourth Circuit considered, and in our view, correctly disposed of, the very issue that Relator presents here. The defendant in that case argued post-appeal, in a post-conviction application, that the district court had not had subject matter jurisdiction in his case because the State instituted prosecution against him under La. R.S. 14:64.3, which is not a crime, but a sentencing enhancement statute. This argument was rejected.

> Louisiana Rev. Stat. 14:64 defines armed robbery as 'the taking of anything of value belonging to another from the person of another or that is in the immediate control of another, by use of force or intimidation, while armed with a dangerous weapon.' Additionally, La.Rev.Stat. 14:64.3 pertains to armed robberies that are committed with the use of a firearm. Comparing the bill of information to the statutes at issue, we find that Burton was sufficiently notified by the wording of the bill of information of the crimes with which he was being charged as the bill of information details that Burton committed a robbery while armed with a firearm. Thus, it is clear that Burton was charged with an 'offense' over which the trial court, as a state court of Louisiana, had "subject-matter" jurisdiction.

116 So.3d at 869-70.

The same is true here. Count 3 of the bill of information, on which Relator was convicted, charges that "on or about the 31st day of December 2004, the said MOZINE JOHNSON violated R.S. 14:64.3 in that he did rob Michelle Colbert while armed with a dangerous weapon, to wit, a gun or firearm." The language of Count 4, on which Relator was also convicted, contains the same language, but with a different date and victim. Clearly, the bill of information sufficiently notified Relator of the crimes with which he was charged.

Further, as in *Burton*, Relator did not raise the insufficiency of the bill of information prior to trial. *See Johnson*, 9 So.3d at 1086, n.1, 1092. Accordingly, Relator waived any irregularity as to the bill of information. *Id.* at 1096, *citing* La. C.Cr.P. art. 555; *State v. Johnson*, 04-614 (La. App. 5 Cir. 11/16/04), 890 So.2d 19, 26, *writ denied*, 05-243 (La. 12/9/05), 916 So.2d 1048.

Accordingly, for all of the reasons stated above, the writ application is denied.

Gretna, Louisiana, this 18th day of August, 2026.

FHW
JJM
SUS

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

FIFTH CIRCUIT
101 DERBIGNY STREET (70053)
POST OFFICE BOX 489
GRETNA, LOUISIANA 70054
www.fifthcircuit.org

CURTIS B. PURSELL
CLERK OF COURT

SUSAN S. BUCHHOLZ
CHIEF DEPUTY CLERK

LINDA M. TRAN
FIRST DEPUTY CLERK

MELISSA C. LEDET
DIRECTOR OF CENTRAL STAFF

(504) 376-1400
(504) 376-1498 FAX

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 **08/18/2026** 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

CURTIS B. PURSELL
CLERK OF COURT

26-KH-238

E-NOTIFIED
24th Judicial District Court (Clerk)
Honorable June B. Darensburg (DISTRICT JUDGE)
Thomas J. Butler (Respondent)

MAILED
Mozine Johnson #76622 (Relator)
Rayburn Correctional Center
27268 Highway 21
Angie, LA 70426