

SUPREME COURT OF LOUISIANA

No. 18-KH-1410

NOV 05 2018

MARKUS D. LANIEUX

v.

STATE OF LOUISIANA

ON SUPERVISORY WRITS TO THE TWENTY-FOURTH  
JUDICIAL DISTRICT COURT, PARISH OF JEFFERSON

 PER CURIAM:

Denied. Relator does not identify an illegal term in his sentence, and therefore, his filing is properly construed as an application for post-conviction relief. *See State v. Parker*, 98-0256 (La. 5/8/98), 711 So.2d 694. As such, it is subject to the time limitation set forth in La.C.Cr.P. art. 930.8. Relator's application was not timely filed in the district court, and he fails to carry his burden to show that an exception applies. La.C.Cr.P. art. 930.8; *State ex rel. Glover v. State*, 93-2330 (La. 9/5/95), 660 So.2d 1189. In addition, relator's sentencing claim is not cognizable on collateral review. La.C.Cr.P. art. 930.3; *State ex rel. Melinie v. State*, 93-1380 (La. 1/12/96), 665 So.2d 1172; *see also State v. Cotton*, 09-2397 (La. 10/15/10), 45 So.3d 1030.

Relator has now fully litigated several applications for post-conviction relief in state court. Similar to federal habeas relief, *see* 28 U.S.C. § 2244, Louisiana post-conviction procedure envisions the filing of a second or successive application only under the narrow circumstances provided in La.C.Cr.P. art. 930.4 and within the limitations period as set out in La.C.Cr.P. art. 930.8. Notably, the legislature in 2013 La. Acts 251 amended that article to make the procedural bars

against successive filings mandatory. Relator'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, relator has exhausted his right to state collateral review. The district court is ordered to record a minute entry consistent with this per curiam.

MARKUS D. LANIEUX

NO: 18-KH-366

VERSUS

FIFTH CIRCUIT

STATE OF LOUISIANA

COURT OF APPEAL

STATE OF LOUISIANA

July 17, 2018

Susan Buchholz  
First Deputy Clerk

IN RE MARKUS D. LANIEUX

APPLYING FOR SUPERVISORY WRIT FROM THE TWENTY-FOURTH JUDICIAL DISTRICT COURT,  
PARISH OF JEFFERSON, STATE OF LOUISIANA, DIRECTED TO THE HONORABLE DONALD A.  
ROWAN, JR., DIVISION "L", NUMBER 08-6123

Panel composed of Judges Fredericka Homberg Wicker,  
Stephen J. Windhorst, and Marion F. Edwards, Judge Pro Tempore

### WRIT DENIED

Relator, Markus Lanieux, was convicted in the Twenty-Fourth Judicial District Court of aggravated flight from an officer, in violation of LSA-R.S. 14:108.1(C). He was thereafter adjudicated a third felony offender. His conviction and sentence were affirmed on appeal. *State v. Lanieux*, 09-676 (La. App. 5 Cir. 03/09/10), 42 So.3d 979, *writ denied*, 10-0844 (La. 11/12/10), 49 So.3d 886. According to the writ application, relator filed a Motion to Correct Illegal Sentence on June 1, 2018, in which he contended that his life sentence was illegal because the multiple offender statute under which he was sentenced is unconstitutional. The trial court denied relator's Motion to Correct Illegal Sentence on June 4, 2018.

We first note that relator's application is deficient under Uniform Rules, Courts of Appeal, Rules 4-2 and 4-3, in that it does not include a notice of intent or evidence of a return date. Nevertheless, we will consider the merit of relator's claims.

The official record in this case shows that relator has challenged his adjudication as a multiple offender several times since his conviction and sentence became final. In previously denying a timely filed application for post-conviction relief filed by relator on January 10, 2013, in which he challenged his multiple offender adjudication, the trial court properly advised that under *State v. Hebreard*, 98-0385 (La. App. 4 Cir. 03/25/98), 708 So. 2d 1291, and *State ex rel. Melinie v. State*, 93-1380 (La. 01/12/96), 665 So. 2d 1172, such a post conviction claim is not permissible under La. C.Cr.P. art. 930.3. This Court, in turn, found no error in the trial court's ruling on that issue. *State v. Lanieux*, 13-739 (La. App. 5 Cir. 10/28/13) (unpublished writ disposition).

**Additional material  
from this filing is  
available in the  
Clerk's Office.**