

**INDEX TO APPENDICES**

<b>Appendix</b>		<b>Page</b>
A	Louisiana Fourth Circuit Opinion.....	1
B	Louisiana Supreme Court Order Denying Writs.....	14
C	Louisiana Supreme Court Writ Application.....	15
D	Trial Court Minutes & Record Excerpts.....	40



Office Of The Clerk  
**Court of Appeal, Fourth Circuit**  
State of Louisiana

400 Royal Street  
Third Floor

Justin I. Woods  
Clerk of Court

JoAnn Veal  
Chief Deputy Clerk of Court

Mailing Address:  
410 Royal Street  
New Orleans, Louisiana  
70130-2199  
(504) 412-6001  
FAX (504) 412-6019

**NOTICE OF JUDGMENT AND**  
**CERTIFICATE OF MAILING**

I CERTIFY THAT A COPY OF THE OPINION IN THE BELOW-NUMBERED MATTER HAS BEEN MAILED ON OR DELIVERED THIS DAY 03/27/2019 TO THE TRIAL JUDGE, COUNSEL OF RECORD AND ALL PARTIES NOT REPRESENTED BY COUNSEL, AS LISTED BELOW:

JJW/rmj

**JUSTIN I. WOODS**  
**CLERK OF COURT**

**2018-KA-0777**  
**C/W: 2018-K-1024**

Sherry Watters  
LOUISIANA APPELLATE PROJECT  
P. O. Box 58769  
New Orleans, LA 70158-

Nathaniel Lambert #90883  
MPEY/SPRUCE - 3  
Louisiana State Prison  
Angola, LA 70712-

Michael Danon  
Donna Andrieu  
Leon Cannizzaro  
District Attorney  
ORLEANS PARISH  
619 S. White Street  
New Orleans, LA 70119-

Scott G. Vincent  
Assistant District Attorney  
619 South White Street  
New Orleans, LA 70119-

STATE OF LOUISIANA

\*

NO. 2018-KA-0777

VERSUS

\*

COURT OF APPEAL

NATHANIEL LAMBERT

\*

FOURTH CIRCUIT

\*

STATE OF LOUISIANA

\*\*\*\*\*

CONSOLIDATED WITH:

CONSOLIDATED WITH:

STATE OF LOUISIANA

NO. 2018-K-1024

VERSUS

NATHANIEL LAMBERT

APPEAL FROM  
CRIMINAL DISTRICT COURT ORLEANS PARISH  
NO. 387-752, SECTION "D"  
Honorable Paul A Bonin, Judge

\*\*\*\*\*

**Judge Tiffany G. Chase**

\*\*\*\*\*

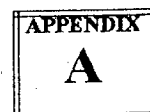
(Court composed of Judge Daniel L. Dysart, Judge Joy Cossich Lobrano, Judge Tiffany G. Chase)

**LOBRANO, J. CONCURS IN THE RESULT.**

Leon Cannizzaro, District Attorney  
Scott G. Vincent, Assistant District Attorney  
DISTRICT ATTORNEY'S OFFICE, ORLEANS PARISH  
619 S. White Street  
New Orleans, LA 70119

COUNSEL FOR APPELLEE/STATE OF LOUISIANA

Sherry Watters  
LOUISIANA APPELLATE PROJECT  
P. O. Box 58769  
New Orleans, LA 70158



2

Nathaniel Lambert #90883 (PRO SE)  
MPEY/SPRUCE - 3  
Louisiana State Prison  
Angola, LA 70712

COUNSEL FOR APPELLANT/DEFENDANT

**SENTENCES AFFIRMED; WRIT DENIED  
MARCH 27, 2019**

7012  
200  
Nathaniel Lambert (hereinafter "Mr. Lambert") appeals the trial court's denial of his motion to quash, motion for discharge, and motion to reconsider sentencing pertaining to the resentencing of his convictions for aggravated rape and aggravated crime against nature. He asserts two counseled assignments of error. First, Mr. Lambert maintains the seventeen-year delay in resentencing is unreasonable, warranting a discharge of his convictions for aggravated rape and aggravated crime against nature. Second, he contends the sentences imposed are excessive.

Additionally before us is Mr. Lambert's *pro se* writ, seeking review of the trial court's denial of his motion to correct an illegal sentence – life imprisonment without the possibility of parole, probation, or suspension of sentence – for his conviction of aggravated burglary enhanced by virtue of being adjudged a quadruple offender. We have consolidated this writ with this appeal.

For the reasons that follow, we affirm Mr. Lambert's sentences and deny his writ.

## RELEVANT FACTS AND PROCEDURAL HISTORY

In 1997, Mr. Lambert was charged by grand jury indictment of aggravated rape (La. R.S. 14:42), aggravated burglary (La. R.S. 14:60), and aggravated crime against nature (La. R.S. 14:89.1).<sup>1</sup> A twelve-person jury found him guilty on all counts. Mr. Lambert was sentenced to life imprisonment without the benefit of parole, probation, or suspension of sentence for the charge of aggravated rape; thirty years for the charge of aggravated burglary; and fifteen years for the charge of aggravated crime against nature. The State then filed a multiple bill on the aggravated burglary conviction. After a habitual offender hearing, the trial court vacated the thirty-year sentence and resented Mr. Lambert as a recidivist offender to life imprisonment. He appealed. This Court affirmed all of Mr. Lambert's convictions, but vacated the sentences on his convictions of aggravated rape and aggravated crime against nature, and remanded for resentencing because the trial court sentenced him prior to hearing his motion for new trial. *Lambert*, 1998-0730, p. 45, 749 So.2d at 767. Although the trial court ruled on other post-conviction relief, it never resented Mr. Lambert on his convictions for aggravated rape and aggravated crime against nature.

In September 2017, Mr. Lambert filed a *pro se* motion to clarify sentences averring that his "RAP sheet" incorrectly reflected two life sentences and should be amended to only reflect the life sentence resulting from the enhanced sentence on aggravated burglary. The trial court denied the motion for clarification as premature and appointed Mr. Lambert counsel for a resentencing hearing.

---

<sup>1</sup> The underlying crimes occurred during a break-in of the victim's home. Mr. Lambert, wielding a hammer, raped the victim over the course of two hours under the threat that he would kill her if she did not comply. *State v. Lambert*, 1998-0730, pp. 2-6 (La.App. 4 Cir. 11/17/99), 749 So.2d 739, 745-47, writ denied, 781 So.2d 1258 (La. 1/26/01).

The resentencing hearing occurred on April 3, 2018. In conjunction with the hearing, Mr. Lambert filed a *pro se* motion to quash and *pro se* motion for discharge from custody based on the delay in resentencing. These motions were denied and the court resentenced Mr. Lambert to life imprisonment without the benefit of parole, probation, or suspension of sentence on the count of aggravated rape, and fifteen years on the count of aggravated crime against nature, with both sentences to run concurrently, with credit for time served. After his motion to reconsider the sentences was denied, Mr. Lambert timely appealed.

After the appeal was lodged in this Court, Mr. Lambert filed a *pro se* motion in the trial court to correct his multiple offender sentence on the aggravated burglary conviction on the grounds of retroactive application of La. R.S. 15:308 and *State ex rel. Esteen v. State*, 2016-0949 (La. 1/30/18), 239 So.3d 233. The trial court denied the motion in a written ruling, finding Mr. Lambert would be ineligible for relief. Since he was resentenced to life imprisonment for the charge of aggravated rape, the retroactive application would not ameliorate his circumstances. La. R.S. 15:308(B). Mr. Lambert filed a *pro se* writ to this Court seeking supervisory review and further requesting a stay of his appeal or consolidation of his writ into his appeal. As disposition of this claim is germane to the appeal of his life sentence for aggravated rape, we ordered the writ to be consolidated with the instant appeal.

#### **STANDARD OF REVIEW**

A trial court's ruling on a motion to quash involving factual determinations should not be disturbed absent an abuse of discretion. *State v. Simmons*, 2013-0312, p. 4 (La.App. 4 Cir. 10/16/13), 126 So.3d 692, 695. An appellate court may

not set aside a sentence absent an abuse of discretion by the sentencing court.  
*State v. Cann*, 471 So.2d 701, 703 (La. 1985).

### ERRORS PATENT

The record was reviewed for errors patent pursuant to La. C.Cr.P. art. 920.  
None were found.

### DISCUSSION

Mr. Lambert asserts two counseled assignments of error. We address each in turn before considering his *pro se* writ.

#### COUNSELED ASSIGNMENT OF ERROR NO. 1: DELAY IN RESENTENCING

In Mr. Lambert's first counseled assignment of error, he argues the trial court erred in not discharging his sentences for aggravated rape and aggravated crime against nature because the seventeen-year delay in resentencing was unreasonable.<sup>2</sup> Louisiana Constitution Article I § 22 provides:

All courts shall be open, and every person shall have an adequate remedy by due process of law and justice, administered without denial, partiality, or unreasonable delay, for injury to him in his person, property, reputation, or other rights.

Principles of due process prohibit inordinate delays in post-conviction proceedings. *State v. Duncan*, 396 So.2d 297, 299 (La. 1981). These principles are primarily safeguarded by statutory law. See *Betterman v. Montana*, 136 S.Ct. 1609, 1617 n.10 (2016) (listing, among other similar provisions, La. C.Cr.P. art. 874). La. C.Cr.P. art. 874 mandates sentences shall be imposed without unreasonable delay. In determining whether the delay in Mr. Lambert's resentencing was unreasonable or prejudicial, this Court must adopt a flexible approach evaluating the

<sup>2</sup> Per the 1966 Official Revision Comment (d) to La. C.Cr.P. art. 874, the article calls for relief by discretionary supervisory writs, rather than a right of appeal. The comment emphasizes the purpose of the statute is to avoid clogging the docket with "frivolous appeals."

7



circumstances of his case. *Duncan*, 396 So.2d at 299 (citing *City of Baton Rouge v. Bourgeois*, 380 So.2d 63 (La. 1980) (*per curiam*) and *State v. Johnson*, 363 So.2d 458 (La. 1978)). That there was a delay of seventeen years prior to Mr. Lambert's resentencing is not disputed. Mr. Lambert contends this delay should be considered as presumptively unreasonable and that, coupled with alleged prejudice stemming from his loss of prison privileges, the appropriate sanction is discharge of his convictions of aggravated rape and aggravated crime against nature.<sup>3</sup> See *Bourgeois*, 380 So.2d at 64. The question thus presented is whether such a sanction is warranted under the foregoing factual circumstances.

The unreasonableness of a sentencing delay is irrelevant in the absence of prejudice to the defendant.<sup>4</sup> *Johnson*, 363 So.2d at 461 (citing La. C.Cr.P. art.

---

<sup>3</sup> It has been suggested that the appropriate remedy to a speedy sentencing violation is the imposition of the minimum possible sentence. Kristin Sactveit, *Beyond Pollard: Applying the Sixth Amendment Speedy Trial Right to Sentencing*, 68 Stan. L. Rev. 481, 504 ("at sentencing, a defendant's freedom is no longer on the table; his best case scenario has instead become, the minimum sentence available for his conviction"). As discussed *infra*, this notion is implicit in Louisiana's jurisprudence requiring a showing of prejudice to the defendant. There can be no prejudice where resentencing will result in the same mandatory sentence.

<sup>4</sup> In *Pollard v. United States*, 352 U.S. 354 (1957), the United States Supreme Court assumed *arguendo* that the Sixth Amendment right to a speedy trial encompassed a right to speedy sentencing. The Court applied a series of factors enumerated in *Barker v. Wingo*, 407 U.S. 514 (1972) – used in determining speedy trial violations – to delays in sentencing. Our Supreme Court, emphasizing *Pollard* did not directly address whether the Sixth Amendment encompasses a right to speedy sentencing, held that it does not. *Johnson*, 363 So.2d at 460-61. *Johnson* focused solely on prejudice and did not address the remaining *Barker* factors. Later opinions of our Supreme Court, dealing with delays in habitual offender enhancement proceedings, have weighed the *Barker* factors. See, e.g., *State v. Muhammad*, 2003-2991, pp. 14-15 (La. 5/25/04), 875 So.2d 45, 55 ("[w]hile these factors are neither definitive nor dispositive in the context of a habitual offender proceeding, they are instructive"). The factors, aside from prejudice to the defendant, include the length of the delay, the reasons for the delay, and the accused's assertion of his right. *Id.* (citing *Barker*, 407 U.S. at 531-32). However, *Johnson* and its progeny dictate that prejudice to the defendant is the controlling factor. The United States Supreme Court would later directly address the question left open in *Pollard* by holding that the Sixth Amendment right to a speedy trial does not extend beyond conviction. *Betterman*, 136 S.Ct. at 1618. The majority of justices declined to speculate whether the *Barker* factors should be used to consider due process concerns over delayed sentencing. See *id.* (Thomas, J. with whom Alito, J. joins, concurring). The majority opinion (authored by Justice Ginsburg) also expressed doubt as to whether the remedy for speedy trial violations – dismissal of the charges – would be appropriate in the delayed sentencing context: "It would be an unjustified windfall, in most cases, to remedy sentencing delay by vacating validly obtained convictions." *Id.* at 1615 (citing *Bozza v. United*

921); *Duncan*, 396 So.2d at 300; *State v. Watkins*, 2007-0789, p. 9 (La.App. 4 Cir. 11/21/07), 972 So.2d 381, 386 (“[e]ven assuming the delay was unreasonable, it did not prejudice [the defendant]”). As a conviction for aggravated rape mandates a sentence of life imprisonment without the benefit of parole, probation, or suspension of sentence, we find Mr. Lambert has suffered no prejudice.<sup>5</sup> See *State v. Stewart*, 1998-1215, p. 5 (La.App. 4 Cir. 3/10/99), 732 So.2d 74, 76 (even where delay not attributable to defendant, no prejudice found because he could not have expected a less severe result on resentencing); *State v. Howard*, 2000-2700, p. 9 (La.App. 4 Cir. 1/21/02), 805 So.2d 1247, 1255 (no prejudice found even where delay in sentencing occurred solely through acts and omission of the trial court because defendant could not have expected a less severe sentence on resentencing). On resentencing, Mr. Lambert was subject to the same mandatory sentence he originally received. Moreover, during the seventeen-year delay, Mr. Lambert was concurrently serving his life sentence for aggravated burglary.

Mr. Lambert also argues that he suffered prejudice through the loss of privileges due to the prolonged pendency of resentencing. The privileges include being prevented from enrolling into school to obtain a GED, working at the Angola Rodeo, receiving trustee status and enrolling in educational/trade programs. While we do not dispute the value of such privileges, we find they do not constitute prejudice as contemplated by the jurisprudence. See, e.g., *State v. Hancock*, 1999-

---

*States*, 330 U.S. 160, 166 (1947) (“an error in passing the sentence” does not permit a convicted defendant “to escape punishment altogether”). *Johnson*’s requirement of a showing of prejudice prevents such windfalls.

<sup>5</sup> The Fifth Circuit has reached the same result by applying *Johnson* in cases with similar circumstances. See *State v. Sims*, 2009-0509, pp. 5-6 (La.App. 5 Cir. 2/12/10), 33 So.3d 340, 343-44; *State v. Girod*, 2004-0854, pp. 15-16 (La.App. 5 Cir. 12/28/04), 892 So.2d 646, 654-55; *State v. Robinson*, 2009-0104, p. 7 (La.App. 5 Cir. 7/28/09), 19 So.3d 1206, 1210.

9

0293, pp. 8-9 (La.App. 3 Cir. 11/24/99), 748 So.2d 549, 554 (prejudice where delay in sentencing on prior conviction prevented eligibility for parole to a half-way house). On resentencing, Mr. Lambert would not have stood to gain the benefit of parole or early release. Accordingly, we find this assignment of error without merit.

#### **COUNSELED ASSIGNMENT OF ERROR NO. 2: EXCESSIVE SENTENCE**

In Mr. Lambert's second counseled assignment of error, he argues the trial court erred in denying his motion to reconsider sentences. We find the resentencing of Mr. Lambert to life imprisonment for his conviction of aggravated rape is not excessive.<sup>6</sup> In determining the excessiveness of a sentence, appellate courts apply a two-pronged test. *State v. Barbain*, 2015-0404, p. 29 (La.App. 4 Cir. 11/4/15), 179 So.3d 770, 787-88. The first prong, ensuring adequate compliance with the sentencing guidelines of La. C.Cr.P. 894.1, is inapplicable to this case as "failing to articulate reasons for sentencing when imposing a mandatory sentence is not an error because such action would be an exercise in futility." *State v. Hayden*, 1998-2768, pp. 13-14 (La.App. 4 Cir. 5/17/00), 767 So.2d 732, 742 (citations omitted). The trial court was not required to justify its imposition of a mandatory sentence under the sentencing guidelines.

The second prong focuses on the constitutional determination of whether the sentence imposed is too severe in light of the particular defendant and circumstances of the case. *Barbain*, 2015-0404 at p. 29, 179 So.3d at 787-88. A sentence violates La. Const. art. I, § 20, if it is grossly out of proportion to the seriousness of the offense or nothing more than a purposeless and needless

---

<sup>6</sup> As the sentences run concurrently and the trial court gave Mr. Lambert credit for time already served, the excessive sentence claim in relation to the aggravated crime against nature is moot.

infliction of pain and suffering. *State v. Dorthey*, 623 So.2d 1276, 1280-81 (La. 1993). Furthermore, a sentence is grossly disproportionate if, when the crime and punishment are considered in light of the harm done to society, it shocks the sense of justice. *State v. Weaver*, 2001-0467, p. 11 (La. 1/15/02), 805 So.2d 166, 174.

Courts start with the presumption that the mandatory sentence is constitutional. *State v. Johnson*, 1997-1906, pp. 7 (La. 3/4/98), 709 So.2d 672, 676. A defendant must rebut this presumption with clear and convincing proof that he is exceptional such that the legislature failed to assign a sentence meaningfully tailored to the culpability of the offender, the gravity of the offense, and the circumstances of the case. *Id.*, 1997-1906, p. 8, 709 So.2d at 676. A rebuttal results in a downward departure from the mandatory sentence. Mr. Lambert has failed to demonstrate by clear and convincing evidence that he was entitled to a downward departure of the mandatory life sentence for aggravated rape. Courts have consistently rejected the assertion that the mandatory life sentence for aggravated rape is excessive punishment under the Louisiana Constitution.<sup>7</sup> *Barbain*, 2015-0404 at pp. 30-31, 179 So.3d at 788; *State v. Foley*, 456 So.2d 979, 982-83 (La. 1984) (“[a]ggravated rape deserves a harsh penalty [as] it is one of the most violent felonies a person can commit”); *Edwards v. Butler*, 882 F.2d 160, 166-67 (5<sup>th</sup> Cir. 1989). Mr. Lambert argues his advanced age, sixty-five at the time of resentencing, and the fact that his previous convictions were for non-violent crimes should be taken into consideration. However, this Court has consistently refused to consider a defendant’s age and first-time offender status as exceptional circumstances when the crime committed is violent in nature. *State v. Hunter*,

---

<sup>7</sup> Similarly, in holding that a death sentence for rape was excessive punishment, the United States Supreme Court still opined that “[s]hort of homicide, [rape] is the ultimate violation of self.” *Coker v. Georgia*, 433 U.S. 584, 597 (1977).

2018-0206, p. 16 (La.App. 4 Cir. 8/22/18), 252 So.3d 1053, 1065. Mr. Lambert's motion to reconsider sentence, filed immediately after resentencing, does not articulate any factual basis for a downward departure under *Dorthey*. Nor did Mr. Lambert or his counsel make an oral argument regarding any exceptional circumstances at the hearing prior to the trial court's resentencing. Consequently, we find no error in the trial court's determination that no factual grounds exist under *Dorthey* to reconsider the sentences. Thus, this assignment of error is without merit.

#### ***PRO SE WRIT: ILLEGAL SENTENCE***

Relying on our Supreme Court's holding in *State ex rel. Esteen v. State*, 2016-0949 (La. 1/30/18), 239 So.3d 233, and La. R.S. 15:308, Mr. Lambert argues that he is entitled to resentencing on his enhanced sentence of life imprisonment for the charge of aggravated burglary. He contends the other offenses used to enhance his sentence (theft and possession of cocaine) could no longer be used under the current habitual offender statute. *See* La. R.S. 15:529.1. The trial court acknowledged that Mr. Lambert was "superficially" correct. Nonetheless, it concluded that, in light of the resentencing to life imprisonment on the charge of aggravated rape, Mr. Lambert's circumstances would not be ameliorated by retroactive application of the habitual offender statute.<sup>8</sup> We agree. As we have affirmed Mr. Lambert's resentencing, the ameliorative requirements of La. R.S. 308(B) are not met.

---

<sup>8</sup> The trial court also noted the State argued Mr. Lambert was convicted of two other felonies (aggravated battery and armed robbery) that would be available for a reconstructed multiple bill.

12

**DECREE**

For the foregoing reasons we affirm the trial court's denial of Mr. Lambert's motion to quash, motion for discharge and motion to reconsider sentence. Accordingly, we affirm the sentences imposed on resentencing for Mr. Lambert's convictions of aggravate rape and aggravated crime, against nature. We also deny his consolidated *pro se* writ because his circumstances would not be ameliorated given our disposition of his appeal.

**SENTENCES AFFIRMED; WRIT DENIED**



The Supreme Court of the State of Louisiana

STATE OF LOUISIANA

No.2019-KH-00736

VS.

NATHANIEL LAMBERT

C/W

STATE OF LOUISIANA VS. NATHANIEL  
LAMBERT

-----  
IN RE: Nathaniel Lambert - Applicant Defendant; Applying For Supervisory Writ,  
Parish of Orleans Criminal, Criminal District Court Number(s) 387-752, Court of  
Appeal, Fourth Circuit, Number(s) 2018-KA-0777 C/W 2018-K-1024;  
-----

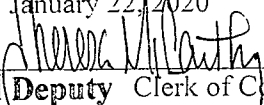
January 22, 2020

Writ application denied.

JTG  
BJJ  
JLW  
JDH  
SJC  
WJC

Supreme Court of Louisiana

January 22, 2020

  
-----  
Second Deputy Clerk of Court  
For the Court

15



IN THE  
SUPREME COURT  
STATE OF LOUISIANA

No. \_\_\_\_\_

STATE OF LOUISIANA,

- Versus -

NATHANIEL LAMBERT

"WRIT OF CERTIORARI AND REVIEW"

-----  
APPLICATION FOR SUPERVISORY WRITS FROM THE COURT OF  
APPEAL, FOURTH CIRCUIT, STATE OF LOUISIANA, DOCKET  
NUMBER 2018-KA-0777 & 2018-K-1024. THE HONORABLES  
DYSART, LOBRANO AND CHASE, PRESIDING JUDGES.  
-----

-----  
APPEAL/SUPERVISORY WRIT FROM THE ORLEANS CRIMINAL  
DISTRICT COURT, DOCKET NO. 387-752, PARISH OF ORLEANS,  
STATE OF LOUISIANA. THE HONORABLE PAUL A. BONIN,  
PRESIDING JUDGE, SECTION "D".  
-----

ORIGINAL BRIEF BY NATHANIEL LAMBERT IN PROPER PERSON

Submitted By:

*Nathaniel Lambert*  
Nathaniel Lambert  
#090883, Oak #3  
Louisiana State Penitentiary  
Angola, Louisiana 70712

4-23-19

PREPARED BY:

Inmate Counsel Substitute  
Main Prison Criminal Litigation Team  
Louisiana State Penitentiary  
Angola, Louisiana 70712

16

COURT RULES  
APPENDIX C SUPREME COURT OF LOUISIANA  
WRIT APPLICATION FILING SHEET

No

TO BE COMPLETED BY COUNSEL  
of PRO SE LITIGANT FILING APPLICATION

TITLE

STATE OF LOUISIANA

VS.

NATHANIEL LAMBERT

Applicant: Nathaniel Lambert  
Have there been any other filing in this  
Court in this matter? No

Are you seeking a Stay Order? NO  
Priority Treatment? NO  
If so you MUST complete & attach a Priority Form

LEAD COUNSEL PRO SE LITIGANT INFORMATION

APPLICANT: Nathaniel Lambert RESPONDENT: Leon Cannizzaro  
Address: #090883, OAK #3 Address: 619 S. White Street  
Angola, Louisiana 70712 New Orleans, La 70119  
Phone: \_\_\_\_\_ Bar Roll No. \_\_\_\_\_ Phone: \_\_\_\_\_ Bar Roll No. \_\_\_\_\_  
Pleading being filed: X In Proper Person X In Forma Pauperis

Attach a list of additional counsel/pro se litigants, their addresses, phone numbers and the parties they represent.

TYPE OF PLEADING

Civil  Criminal  Bar  Civil Juvenile  Criminal Juvenile  Other  
ADMINISTRATIVE OR MUNICIPAL COURT INFORMATION

Tribunal/Court: \_\_\_\_\_ Docket No. \_\_\_\_\_  
Judge/Commissioner/Hearing Officer: \_\_\_\_\_ Ruling Date: \_\_\_\_\_

DISTRICT COURT INFORMATION

Parish and Judicial District Court: Orleans Crim Dist Court Docket No: 387-752  
Judge and Section: Paul A. Bonin "D" Date of Ruling/Judgment: 4/3/18 - 11-2-18

APPELLATE COURT INFORMATION

Circuit: 4th Circuit Filing Date: Oct. 2, 2018 & Nov. 2018 Docket No: 2018-KA-0777 / 2018-K-1024  
Applicant in Appellate Court: Sherry Walters for Nathaniel Lambert  
Ruling Date: March 27, 2019 Panel of Judges: Dysart, Lombardo, Chase  
Rehearing Info: N/A Applicant: N/A Date Filed: \_\_\_\_\_ Action on Rehearing: \_\_\_\_\_  
Ruling Date: \_\_\_\_\_ Panel of Judges: \_\_\_\_\_ En Banc: \_\_\_\_\_  
2018-KA-0777 / 2018-K-1024 consolidated 12/18/18 See Appendix D

PRESENT STATUS

Pre-Trial, Hearing/Trial Scheduled Date: \_\_\_\_\_  Trial in Progress,  Post-Trial  
Is there a stay order now in effect? NO Has this pleading been filed simultaneously in any other court? If so, explain briefly \_\_\_\_\_

VERIFICATION

I certify that the above information and all of the information contained in this application is true and correct to the best of my knowledge and that all relevant pleadings and rulings, as required by Supreme Court Rule X, are attached to this filing. I further certify that a copy of this application has been mailed or delivered to the appropriate court of appeal (if required), to the respondent judge in the case of a remedial writ, and to all other counsel and unrepresented parties

Nathaniel Lambert  
SIGNATURE 4-23-19

17

RULE X

Section 1. Writ Grant Considerations:

The following consideration under Rule X Section 1(a) is applicable as to, why this case is appropriate for review. Petitioner suggest, that review in the lower courts amounted to erroneous interpretations or application of the Constitution or Laws of the United States and the State of Louisiana. And the Court of Appeal has decided, or sanctioned a lower courts decision of, a significant issue of law which has not been, but should be, resolved by this court.

Further, the lower court's have erroneously interpreted and applied the constitution and law of this state, and misapplied United States Supreme Court precedent, and the decision will cause material injustice and/or significantly affect the public's interest or confidence in the judicial system's ability to render just verdicts.

All courts shall be open and every person shall have an *adequate remedy* by *due process of law* and *justice* administered *without denial, partiality or unreasonable delay* for injury to him in his person property reputation or other rights. (Emphasis Added) La. Const. Art. 1 § 22; USCA 14; and *Something Irish Co. v. Rack* 333 So.2d 773.

**Due Process**—All persons born or naturalized in the United States and subject to the jurisdiction thereof are citizens of the United States and of the State wherein they reside. *No State shall make or enforce any law* which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life liberty or property *without due process of law*, nor deny to any person within its jurisdiction the *equal protection of the laws.*" USCA 14

Both Louisiana and U.S. Supreme Court's have ruled the Sixth Amendment to the U.S. Constitution speedy trial guarantee does not extend to sentencing. See *Beltzman v. Montana*, 136 S.Ct. 1609, 194 L.Ed.2d 723 (U.S.Mont. 2016); *State v. Johnson*, 363 So.2d 458 (La. 1978). The courts have reserved the question of whether the 5th and 14th Amendment Due Process Clause applies to inordinate delays in sentencing.

Defendant submits the 17 year delay in sentencing in his case denied him Fifth and Fourteenth Amendment Due process and the courts should consider the appropriate test for such a due process challenge and the appropriate remedy at law.

18

For instance, as noted by Justice Sotomayor in *Betterman*, in evaluating whether a delay in instituting judicial proceedings following a civil forfeiture violated the Due Process Clause, the Court applied the test from *Barker v. Wingo*, 407 U.S. 514, 92 S.Ct. 2187, 35 L.Ed 2d 101 (1972). In the instant case, Petitioner submits the court erred dispensing with all but the fourth factor (prejudice) set forth in *Barker v. Wingo, supra*.

Further, the court erred in finding the defendant failed to prove prejudice. The court was required to review the allegations of prejudice on a "case by case" basis which it did not do. Relief should be granted in that the 4th Circuit Court of Appeal has so far departed from proper judicial proceedings or so abused its powers, as to call for an exercise of this Court's supervisory authority.

Further, Lambert was denied an evidentiary hearing to allow evidence to be placed in to the record in support of his claims on the issue of prejudice.

In light of the constitutional error of the trial court, Petitioner's sentences are NULL and must be vacated. His remaining HFC life sentence would therefore be ameliorated and the case remanded for resentencing in light of *Estelle*.

Petitioner further prays that, his Pro se petition be liberally construed, and that in submitting his issues and question of law, all of the constitutional error's committed in convicting and sentencing him be preserved for federal review.

## TABLE OF CONTENTS

WRIT APPLICATION FILING SHEET.....	i
Rule X: WRIT GRANT CONSIDERATIONS.....	ii
TABLE OF CONTENTS.....	iv
TABLE OF AUTHORITIES.....	v
MOTION TO PROCEED IN FORMA PAUPERIS.....	vi
AFFIDAVIT OF POVERTY.....	vii
JURISDICTION.....	1
STATEMENT OF THE CASE.....	1
STATEMENT OF THE FACTS.....	3
SUMMARY OF THE ARGUMENT.....	3
ISSUE PRESENTED.....	5
ASSIGNMENT OF ERROR.....	5
ARGUMENT NO. 1 – DELAY IN RE-SENTENCING.....	5
ARGUMENT NO. 2: EXCESSIVE SENTENCE.....	10
ARGUMENT NO. 3: ERRUD DENYING MOTION TO CORRECT ILLEGAL SENTENCE.....	12
CONCLUSION.....	15
PRAYER FOR RELIEF.....	16
CERTIFICATE OF SERVICE.....	16
APPENDIX.....	17

TABLE OF AUTHORITIES

PAGE

CONSTITUTION

U.S.C. Amend. Fifth..... 2, 3, 12, 16  
 U.S.C. Amend. Eighth..... 11  
 U.S.C. Amend. Fourteenth..... 2, 3, 12, 16  
 La. Const. Art. I, § 2..... 6  
 La. Const. art. I, § 19..... 1  
 La. Const. Art. I, § 20..... 11  
 La. Const. Art. I, § 22..... 6  
 La. Const. Article 5, § 5..... 1

CASES

City of Baton Rouge v. Bourgeois, 380 So.2d 63 (La 1980)..... 4, 6  
 Mintie v. Biddle, 15 F.2d 931 (8th Cir. 1926)..... 4  
 Polard v. U.S., 352 U.S. 354, 361-62, 77 S.Ct. 481 (1957)..... 4  
 Rummel v. Estelle, 445 U.S. 263, 288, 100 S.Ct. 1133, 63 L. Ed.2d 382 (1980)..... 11  
 State ex. Rel. Esteen v. State of Louisiana, 216-0949 (La. 1/30/18); 239 So.3d 233..... 12, 2, 15  
 State v. Davis, 542 So.2d 856 (La. App. 3 Cir. 1989)..... 8  
 State v. Dick, 951 So.2d 124 (La. 1/26/07)..... 12  
 State v. Dorsey, 95-1084 (La. App. 3 Cir. 3/20/96), 672 So.2d 188..... 8  
 State v. Dorthey, 623 So.2d 1276, 1278 (La. 1993)..... 11  
 State v. Duncan, 396 So.2d 297 (La. 1981)..... 4  
 State v. Girod, La. App. 04-854, 892 So.2d 646, (La.App. 5 Cir. 2004), writ denied, La. 2005-0597, 903 So.2d 455 (La. 2005)..... 8  
 State v. Hancock, LA. App. 99-293, 748 So.2d 549 (LA.App. 3 Cir. 1999)..... 6  
 State v. Howard, La.App. 2000-2700, 805 So.2d 1247 (La.App. 4 Cir.), writ denied, La. 2002-0648, 824 So.2d 1187, (La. 2002)..... 6  
 State v. Johnson, 365 So.2d 458 (La. 1978)..... 4, 8  
 State v. Lambert, 98-0730, 749 So.2d 739 (La. 4 Cir. 1999), writ denied 781 So.2d 1258 (La. 2001)..... 1, 3, 5  
 State v. Martin, 372 So.2d 563 (La. 1979)..... 4  
 State v. McQueen, 308 So.2d 752 (La. 1975)..... 4  
 State v. Milson, 458 So.2d 1037 (La.App. 3d Cir. 1984)..... 4, 6  
 State v. Simmons, 126 So.3d 692 (La. App. 4 Cir. 2013), writ denied, 138 So.3d 644 (La. 2014). 7  
 State v. Stewart, 98-0346 (La.App. 4 Cir. 3/10/99), 732 So.2d 74..... 8

AUTHORITIES

Acts 2014, No. 340, § 1..... 14  
 Act. 2001 No. 403..... 13  
 Act. 2002 No. 45..... 13  
 Acts 2017, No. 267, § 1..... 9  
 La. C.C.P. art. 5181..... 7  
 La. C. Cr.P. art. 874..... 4, 6, 8  
 La. C. Cr.P. art. 881.5..... 13  
 La. C. Cr.P. art. 917..... 1  
 La. C. Cr.P. art. 921.1..... 5  
 La. C. Cr.P. art. 923..... 13, 10  
 LSA-R.S. 308 B..... 3  
 LSA-R.S. 14:67(B)..... 13  
 LSA-R.S. 14:60..... 13  
 LSA-R.S. 14:95.1..... 13  
 LSA-R.S. 15:308(B)..... 12  
 LSA-R.S. 15:529.1 A (1)(c)(ii)..... 13, 14, 15  
 LSA-R.S. 15:572.4..... 9  
 LSA-R.S. 40:967(C)(2)..... 13  
 Benjamin Nathan Cardozo. The Nature of the Judicial Process, pp.92-93 (1921)..... 15

21

MOTION TO PROCEED IN FORMA PAUPERIS

Pursuant to Article 5181 et Seq. of the Louisiana Code of Civil Procedure, motion is hereby made for leave to proceed in forma pauperis in this application for writ of review.

In support of his motion the Petitioner submits that he is indigent by virtue of his incarceration, having no income or assets to pay the cost of the this prosecution in or advance or as they may accrue.

However, Petitioner contends that he has sought this relief requested in good faith because he believes that he is entitled to such relief as a matter of law.

WHEREFORE, considering the foregoing, Petitioner respectfully prays that this Honorable Court will grant the motion.

Respectfully Submitted,

*NATHANIEL LAMBERT*  
Nathaniel Lambert  
#090883, Oak #3  
Louisiana State Penitentiary  
Angola, Louisiana 70712

4-23-19

## AFFIDAVIT OF POVERTY

I, Nathaniel Lambert, being first duly sworn deposes and say that:

1. I am currently confined to the Louisiana State Penitentiary, Angola, Louisiana 70712.
2. I am the petitioner listed in the foregoing Writ of Certiorari and Review.
3. That I am destitute, without the legal means by which to pay for the cost of the proceedings governing the aforementioned legal application.
4. That I do not own any property of any sort, including cars, homes, trucks, real-estate, land, appliances, moveable or immoveable.
5. That I do not own any stocks, bonds, notes, certificates of deposit or other instruments of value, which can be used to pay the cost of these proceedings.

Respectfully Submitted,

*Nathaniel Lambert*  
Nathaniel Lambert  
4090883, Oak #3  
Louisiana State Penitentiary  
Angola, Louisiana 70712

4-23-19



## JURISDICTION

This Honorable Court is vested with jurisdiction pursuant to Article 5, § 5 of the 1974 Constitution.

## STATEMENT OF THE CASE

Nathaniel Lambert was convicted of the 1997 charges of aggravated rape, aggravated burglary, and aggravated crime against nature, on an eleven to one vote (R.554). He was sentenced before there was a ruling on his motion for new trial. Then he was found to be a multiple offender on the aggravated burglary charge and re-sentenced on that charge only (R.552-553). Consequently, the court of appeal affirmed the convictions in *State v. Lambert*, 98-0730, 749 So.2d 739 (La. 4 Cir. 1999), writ denied 781 So.2d 1258 (La. 2001), but vacated the sentences on aggravated rape and aggravated crime against nature. The court of appeal remanded the case for re-sentencing in 1999 (R.269-276).

The record is filled with illegible pages from micro fiche reproduction of the record.<sup>1</sup> The defendant's pro se applications for post conviction relief based on ineffective assistance of counsel, improper seating of the grand jury, and *Miranda* issues denied (Minute Entries 2/27/02, 7/31/14; R.22, 54-65, 183, 550). Moreover, on November 14, 2012, the district court denied the pro se Motion to Correct Illegal Sentence (See Docket Master). However, the district court never set the matter for re-sentencing as directed in the court of appeal's decision.

In October of 2017, the defendant filed a pro se Motion to Clarify the Sentences (R. 166-169). The Court of Appeal granted a writ of Mandamus, ordering a ruling on the motion for clarification (4<sup>th</sup> Cir. No. 17-K0-881, R.162). The district court reviewed the record, found there was no compliance with the 1999 ruling, but denied the motion for clarification as premature. Instead the district court appointed counsel for Mr. Lambert and set a hearing for re-sentencing (R.21, 161)(App. K).

<sup>1</sup> Louisiana Criminal Code Article 917 and the Louisiana Constitution, Article I, Section 19, impose a duty on the lower court and its clerk to deliver transcript and record of the lower proceedings.

"No person shall be subject to imprisonment or forfeiture of rights or property without the right of judicial review based upon a complete record of all evidence upon which the judgment is based. This right may be intelligently waived. The cost of transcribing the record shall be paid as provided by law."

Mr. Lambert filed a Motion to Quash the conviction and a Motion for Discharge, based on unreasonable delay in sentencing (R. 352-391)(App. F & G)

Seventeen years after the sentences for aggravated rape and aggravated crime against nature were vacated by the court of appeal and the case was remanded, it still took another order in case no. 17-K-0881 before, on April 3, 2018, the district court denied the motions and without considering any evidence re-sentenced the defendant to fifteen years on the aggravated crime against nature and life without parole on the aggravated rape (R. 14, 394), to run concurrently with the multiple bill life that was in place since August 15, 1997.<sup>2</sup> His Motion to Reconsider the Sentence was denied (R. 14, 378-381). He timely made a Motion for Appeal (R. 14, 374-377).

In July of 2018, the defendant filed a pro se Motion To Correct The Illegal Multiple Offender Sentence (App. C - Exhibit B) on the aggravated burglary conviction, based on the deficient predicate convictions to-wit a now misdemeanor theft, the double use of a cocaine conviction, and the change in multiple offender sentencing and this courts Esteen ruling. None of the predicate convictions were crimes of violence or qualifying offenses that would support a life sentence (R. 150-160). The district court set a hearing on the motion for September 28, 2018 (R. 13).

On October 2, 2018 The District Court entered a ruling as follows:

The prisoner, Nathaniel Lambert, DOC #90883, filed a Motion to Correct Illegal Sentence. Because under the particular circumstances of this case the sentence is not illegal, I now DENY his motion.

In 1997, he was sentenced as a quadruple offender under La. R.S. 15:529.1 by my predecessor judge to serve the balance of his natural life for a violation of La. R.S. 14:60 (aggravated battery). He argues in his motion that he is entitled to a re-sentencing because of the retroactive application of La. R.S. 15:308. See *State ex rel. Esteen v. State*, 16-0949 (La. 1/30/18), 239 So.3d 233. But on April 3, 2018, on remand from the Fourth Circuit, see in *State v. Nathaniel Lambert*, 98-KA-0730 (La. App. 4 Cir. 11/17/99), I sentenced Mr. Lambert to natural life for a violation of La. R.S. 14:42 (aggravated rape), to be served concurrently with the life sentence imposed by Judge Manillo.

Thus, the effect of these concurrent life sentences is that, even if Mr. Lambert could obtain retroactive relief as a quadruple offender and reduce one life sentence, he is still ineligible for relief under Section 308 because relief is only available "provided that such [retroactive] application

<sup>2</sup> The fifteen year sentence on the crime against nature charge would have been completed as Lambert has served over 21 years.

25

ameliorates the person's circumstances." La. R.S. 308 B (emphasis added). Mr. Lambert's circumstances would not be ameliorated by retroactive application.

FN 1. On that same day, in response to the Fourth Circuit's remand, [the court] also sentenced Mr. Lambert to serve 15 years at hard labor without the benefit of probation, parole, or suspension of sentence. That sentence is to be served consecutively to the life sentence for aggravated rape.

FN 2. Superficially, Mr. Lambert's argument that the multiple bill that was actually filed in his case would not support an automatic life sentence appears correct. But the prosecution counter-argues that he was also convicted of two other felonies (aggravated battery and armed robbery) which would be available for use in a reconstructed multiple bill in the event a re-sentencing were to be ordered.

(See Appendix )

Notice of intent to take writs, motion to fix time and extension of time ... was timely file and the court granted an extension of time and set December 3, 2018 as the return date. (App. C - Exhibit C).

Appeal Counsel Sherry Watters filed appeal on the re-sentencing, and Mr. Lambert filed a pro se application for supervisory writs on the denial of his Motion to Correct the Illegal Sentence, and motion to consolidate with appeal as the disposition of the claim was germane to the appeal of his life sentence for aggravated rape, which the court granted. (App. D). On March 27, 2019 the Court of appeal affirmed the sentences and denied writs. (App. A).

Wherefore, Petitioner is properly and timely before this Court seeking writ of certiorari and/or review.

#### STATEMENT OF THE FACTS

Are set forth in *State v. Lambert*, 98-0730, 749 So.2d 739 (La. 4 Cir. 1999), writ denied 781 So.2d 1258 (La. 2001).

#### SUMMARY OF THE ARGUMENT

Nathaniel Lambert's constitutional right under the Fifth and Fourteenth Amendments and La. Const. Art. 1 § 22, to be sentenced without delay was violated when the Court failed in its duty to sentence him for seventeen years, through no fault of the defendant. A). The defendant came before the district court many times over the years, yet the court never completed its duty; B) Even after the defendant made the effort

to address the issue, the defendant had to get the Court of Appeal to order the district court to act; C). The District Court erred in denying the motion to quash and the motion for discharge.

Louisiana courts have recognized that a defendant is statutorily entitled to the imposition of sentence without unreasonable delay. *State v. Johnson*, 363 So.2d 458 (La.1978); *City of Baton Rouge v. Bourgeois*, 380 So.2d 63 (La.1980); *State v. Milson*, 458 So.2d 1037 (La.App. 3d Cir. 1984). Louisiana cases also require an examination of prejudice caused by the delay. *State v. Duncan*, 396 So.2d 297 (La.1981); *State v. Martin*, 372 So.2d 563 (La.1979).

The sanctions for an unreasonable delay and its resulting prejudice to the defendant is the divestiture of the trial court's jurisdiction to impose sentence on the defendant. *State v. McQueen*, 308 So.2d 752 (La.1975); LSA C.Cr.P. art. 874. Further, if jurisdiction was lost by indefinite postponement of sentence without order of continuance, defendant's consent was immaterial. *Mintie v. Biddle*, 15 F.2d 931 (8th Cir. 1926).

The delay was purposeful and oppressive and therefore in violation of the Sixth and Fourteenth Amendment. *Polaris v. U.S.*, 352 U.S. 354, 361-62, 77 S.Ct. 481 (1957).

Mr. Lambert was prejudiced by the delay in sentencing. Re-sentencing delay caused prejudice where the pre-sentence detainer or unsettled nature of his sentence prevented Lambert from attaining trustee (minimum custody) status for these many years. This in turn caused his LARNA score to remain high and effected his ability to apply for the pardon board. Significantly, prior to the 2017 changes in the Pardon Board rules under La. R.S. 15:572.4 required 15 years **after sentencing** before a defendant could apply to the board. (See footnote 6 herein). Further, Lambert was prevented from going into GED or trade school or seeking other rehabilitative programs for over eighteen years.

Further, defendant is prejudiced where the sentence delay increased the time that must be served where the defendant is serving consecutive sentences. *State v. Hancock*, 748 So.2d 549, 99-293 (La. App. 3 Cir. 1999).

Alternatively, the sentences of life imprisonment without parole and fifteen years imprisonment on this 65 year old offender are excessive, cruel and unusual punishment under the circumstances of this offender and this offense.

The defendant had served more than 18 years before the sentence was imposed.

The HFC life would be ameliorated and defendant entitled to resentencing absent the null and void sentence. A. The defendant was prejudiced by the delay in sentencing.

#### ISSUE PRESENTED

1. Whether the lower courts erred in denying the motion to quash and the motion for discharge based on the unreasonable seventeen year delay in re-sentencing the defendant?
2. Whether the trial court imposed excessive sentences on the offender; the sentence is excessive, cruel and unusual punishment, that does not fit the offense or the offender.
3. Whether The District Court Erred Denying Petitioner's Motion To Correct An Illegal Sentence On The Basis That Lambert Has Another Life Sentence, Which Is Not Final As It Is Presently Seeking Certiorari or Review In This Court.

#### ASSIGNMENT OF ERROR

- 1: The trial court erred in denying the motion to quash and the motion for discharge based on the unreasonable seventeen year delay in re-sentencing the defendant.
- 2: The trial court imposed excessive sentences on the offender; the sentence is excessive, cruel and unusual punishment, that does not fit the offense or the offender.
- 3: The District Court Erred Denying Petitioner's Motion To Correct An Illegal Sentence On The Basis That Lambert Has Another Life Sentence, Which Is Not Final As It Is Presently Seeking Certiorari or Review In This Court.

#### ARGUMENT NO. 1 – DELAY IN RE-SENTENCING

After the Court vacated the sentences and remanded for sentencing in *State v Lambert*, 98-0730, 749 So.2d 739 (La. 4 Cir. 1999), writ denied 781 So.2d 1258 (La. 2001), the Court of Appeal Clerk delivered the decision to the district court as required by La. C.Cr.P. art. 923 and 921.I (R. 264-65, 269-76). The district court failed to timely execute the judgment as required by Art. 923 which states:

When a decision of an appellate court becomes final, the clerk of court shall transmit a certified copy of the decree to the court from which the appeal was taken. When the judgment is received by the lower court, it shall be filed and executed.

The Court Of Appeal's November 17, 1999 decision was clocked in by the

Clerk of Orleans Parish Criminal District Court on November 30, 1999 (R.269). Clearly the lower court received the decision timely. Yet there does not appear in the record a single reason or explanation for the district court's failure to comply to set the sentencing. It does not appear that the court took any action whatsoever.

Mr. Lambert was incarcerated the entire time, subject to being available by writ. He was often in the court on other issues. There is no record of the court or the State filing a motion to set the case for re-sentencing or of a writ being filed to bring him to court for re-sentencing. There is no indication that the district court could not secure his presence. Instead seventeen years later and despite a statute that puts the duty for executing an appellate judgment on the clerk and the lower court, the district court denied the motion for discharge and incorrectly blamed the defendant for the lapse.

The district court's failure to execute the judgment to sentence Mr. Lambert in a timely manner violated his constitutional and statutory rights. See *La. C.Cr.P. Article 874*.<sup>3</sup> The Louisiana Constitution of 1974, Article 1, Section 2, guarantees all citizens due process of law. La. Const. Art. 1, § 22, states that "all courts shall be open, and every person shall have an adequate remedy by due process of law and justice, administered without denial, partiality, or unreasonable delay, for injury to him in his person, reputation, or other rights."

Under La. Code Crim. Proc. Art. 874, a defendant is entitled to prompt sentencing without unreasonable delay; in determining whether a delay is unreasonable or prejudicial, appellate courts adopt a flexible approach in which all of the circumstances are evaluated on a case-by-case basis.<sup>4</sup> As noted in the Comments to Art. 874, Fed Rule 32(a) and the federal jurisprudence provide guidance in determining what is an "unreasonable delay." The circumstances, as

<sup>3</sup> La. C.Cr.P. art. 874. Prompt sentence required; relief by writs: Sentence shall be imposed without unreasonable delay. If a defendant claims that his sentence has been unreasonably delayed, he may invoke the supervisory jurisdiction of the appellate court.

<sup>4</sup> *State v. Howard*, La.App. 2000-2700, 805 So.2d 1247 (La.App. 4 Cir.), writ denied, La. 2002-0648, 824 So.2d 1187, (La. 2002); *State v. Hancock*, LA. App. 99-293, 748 So.2d 549 (La.App. 3 Cir. 1999); *City of Baton Rouge v. Bourgeois*, 380 So.2d 63 (La. 1980); *State v. Milson*, 458 So.2d 1037 (La. App. 3 Cir. 1984).

well as the length of the delay are considered. Even if a delay is lengthy, appellate courts have displayed a marked tendency to find consent to the delay on the part of the defendant by his failure to move for sentencing, or to find the delay was for good cause. But in federal law, there is no statute comparable to La.C.Cr.P. art. 923 which places the burden on the clerk and district court, not the defendant, to execute the judgment.

The sanctions for noncompliance with Art. 874 is divestiture of the trial court's sentencing jurisdiction and the trial judge's power to impose sentence. The federal and majority jurisprudence imposes a mandatory duty with loss of sentencing power in cases of extreme and clearly unjustified delay. Under Louisiana law, where Art. 923 puts the duty to execute the judgment on the lower court, a seventeen year delay without any excuse, removes jurisdiction from the court to impose sentence.

In *Hancock*, supra, the Court found the eight-year delay between the time the U.S. Bureau of Prisons notified state authorities that defendant had been incarcerated in federal prison on a charge and the time state authorities scheduled defendant for sentencing on a previous conviction for which he had been given probation, was unreasonable and prejudicial. The court ordered discharge. The Court in *State v. Simmons*, 126 So.3d 692 (La. App. 4 Cir. 2013), writ denied, 138 So.3d 644 (La. 2014) upheld the granting of defendant's motion to quash where the state had all the necessary information to confirm defendant's prior conviction, yet the state delayed filing the multiple bill for over a year and offered no justification for its delay.

In both of these cases, where the state offered no reason or justification in the record for the delay, discharge was required. The delay in this case was much longer. There was absolutely no justification offered. The court had all of the information necessary to execute judgment for re-sentencing. It simply failed to do so, through no fault of Mr. Lambert. The court's delay in setting the hearing and

assuring defendant's presence violated the requirement that sentences be imposed without unreasonable delay and was unduly prejudicial. The lower courts erred in denying his motion for discharge.

In *Milson*, sentence was deferred after a plea of guilty to manslaughter and the defendant was released on bond while PSI was ordered. When no further action was taken for four and one-half years and no reason for the delay was offered, the court found that the delay in sentencing was without good cause. The Court noted that the record was void of any evidence that defendant was ever notified of an earlier sentencing date, or that defendant concealed his whereabouts from the trial court or the state. In *State v. Davis*, 542 So.2d 856 (La. App. 3 Cir. 1989), the court ruled that the trial court erred in sentencing the defendant after a lapse of three years and nine months since the conviction. In a brief opinion, the court noted that the delay was unreasonable and the record did not reflect any factor which justified such a delay.

Similarly to both *Milson* and *Davis*, in this case, there is no record whatsoever that the district court set the matter for sentencing or notified the incarcerated defendant. Mr. Lambert's discharge is required as the court lost jurisdiction to impose sentence by its own negligence. This case is not like *State v. Johnson*, 363 So.2d 458, 461 (La. 1978); where Johnson had escaped and committed another offense in Michigan which he served his sentence before being returned to Louisiana, and where the court held that the defendant was not prejudiced by a delay of seven years between the defendant's conviction and sentence without determining the reasonableness of the delay under Art. 874 or the duty of the court, but instead added a prejudice requirement that is not included in Article 874 or the Louisiana Constitution.<sup>5</sup>

<sup>5</sup> In *State v. Dorsey*, 95-1084 (La. App. 3 Cir. 3/20/96), 672 So.2d 188, the court held that a four year delay between conviction and sentence was not prejudicial where the defendant had been in and out of jail in that period and caused some of the delays. In *State v. Stewart*, 98-0346 (La. App. 4 Cir. 3/10/99), 732 So.2d 74, the Court found that the defendant was not prejudiced by a delay of three years and four months between his conviction and sentencing because Stewart did not show that he suffered any prejudice by the delay in sentencing. In *Howard*, supra, the Court also found that the four year delays in sentencing occurred solely through the acts and omissions of the court without any justification, but found no prejudice because the defendant got the minimum sentence. See also *State v. Girod*, La. App. 04-854, 892 So.2d 646. (La. App. 5 Cir.



To be clear, the Court in Lambert vacated the sentences on two counts because they were imposed before there was a ruling on the motion for new trial. The State did not take a writ on that issue. For the next seventeen years, Nathaniel Lambert had no sentence on those two counts. During the seventeen year delay, the fifteen year sentence originally imposed on aggravated crime against nature would have been served in its entirety two years before resentencing. Certainly that is enough prejudice to require discharge from that sentence.

Mr. Lambert was being held on a sentence on the remaining count for which he has a pending challenge to the propriety of the multiple bill sentence on that count which has serious merits. The only thing keeping Mr. Lambert in jail for those seventeen years was the sentence of the remaining count which was illegal, as he was not properly found to be a multiple offender.

A seventeen year delay should be a presumptive denial of justice, but Mr. Lambert described specific prejudice in his motion for discharge. Not having sentences for seventeen years and having open proceedings: a) prevented enrollment in school to obtain GED; b) prevented him from working in Angola rodeo; c) prevented him from being issued trustee status, and all the perks the status includes; and d) prevented enrollment in trade schools and education programs (R.388). Additionally, eligibility for sentencing reform programs that have been enacted in the last seventeen years often requires completion of these programs to be considered for parole or early release. Finally, Mr. Lambert could not apply for commutation, because, according to the Pardon Board rules applicable at the time, the pardon board required an offender serving a life sentence to serve fifteen years from the **date of sentencing** before becoming eligible for commutation of sentencing.<sup>9</sup>

The prejudice to Mr. Lambert is described by the maxim, "Justice delayed is

---

<sup>9</sup> 2009), writ denied, La. 2005-0537, 503 So.2d 435 (La. 2005).  
6 La. R.S. 15:572.4 Board of Pardons. Rules, regulations, and procedures: notice; restrictions; time periods for additional review. (D) [a]ny applicant who has been sentenced to life imprisonment shall not be eligible to apply to the board for a pardon or commutation of sentence for a period of fifteen years after being sentenced by the trial Court. . . the law changed when Acts 2017, No. 267, § 1 added ",except that period of time prior to the imposition of the sentence in which the defendant was in actual custody for the offense for which he was sentenced to life imprisonment shall be included in computing the fifteen-year period" following "trial court" in subsec. D. 9

justice denied.” Mr. Lambert could not exercise his right to appeal the sentences, as he is doing now, because for seventeen years. His conviction and sentence were not final. He had no sentence. By delaying the sentence for seventeen years, Mr. Lambert was also denied his right to appeal the sentences at a time when the factors about himself and the case were better understood and access to records was clear.

There is no evidence that Nathaniel Lambert knew that there was a problem before March 3, 2017, when the Department of Corrections informed him that the original sentences were still on his record. Apparently the Department did not receive the decision or execute it either. Mr. Lambert filed the “Motion for Clarification of Sentence” in October of 2017 (R.169). The district court initially denied it until the Court of Appeal ordered a hearing.

Nathaniel Lambert diligently pursued issues that were known to him and appeared in court several times over the years. He was not absent and had not absconded after his trial. He did not contribute to the inattention to the appellate order by the trial court. There are no findings of absence and inattention for which the defendant should be held accountable, particularly where La. C.Cr.P. Art. 923 created a mandatory duty for the court to execute the judgment, not the defendant. The trial court incorrectly denied the Motion to Quash and Motion to Discharge based on the unreasonable delay in executing the Court of Appeal order and sentencing the defendant on two counts. Discharge should be ordered as the court no longer had jurisdiction to impose sentence seventeen years later.

#### ARGUMENT NO. 2: EXCESSIVE SENTENCE

Alternatively, the sentence of fifteen years and life without parole are excessive for the sixty five year old offender. The fifteen year sentence was the maximum for the aggravated crime against nature conviction and the life sentence is the maximum for a non-capital offense. The district court did not provide any basis for imposing the maximum sentences. While Mr. Lambert admittedly has past convictions, the sentences are overwhelmingly excessive, cruel and unusual punishment considering this offense, this

offender, and the time already served. The defendant objected to the sentence (4/3/18 Tr. 3-5). Motion to Reconsider the Sentence was denied (4/3/18 tr. 5)

Under *State v. Dorthey*, 623 So.2d 1276, 1278 (La. 1993), it is the judiciary's responsibility to ensure that the United States and Louisiana Constitutions' prohibitions against the imposition of excessive or cruel punishment are followed. U.S. Const. Amend. 8; La. Const. of 1974, Art. I, Sect. 20. more than the maximum sentence on aggravated crime against nature had already been served, yet it was still excessive to impose the maximum. For the sixty five year old defendant who had made efforts to reform, the sentence was excessive.

A trial judge is allowed wide discretion in imposing sentence, but the discretion is not unbridled. The sentence imposed upon Mr. Lambert must be meaningfully tailored to his culpability and circumstances of his case, and must fairly and justly serve society's penological goals. His previous convictions were not crimes of violence.

Whereas "cruel and unusual" punishment is prohibited by the Eighth Amendment to the United States Constitution, the explicit prohibition of our own state constitution is against "excessive" punishment. Article 1, Section 20, Louisiana Constitution of 1974. It gives the courts power to determine that sentences "though not cruel or unusual, are too severe as punishment for certain conduct and thus unconstitutional." A sentence within statutory limits can still be excessive if it does not fit the crime or the defendant. "No penalty is per se constitutional." The Eighth amendment prohibition on cruel and unusual punishment requires felony prison sentences to be proportional to the crime. *Solem*, supra at U.S. 288-89. The United States Supreme Court has stated that an unconstitutional sentence "is not just erroneous but contrary to law and, as a result void."

"The inquiry of whether a sentence is grossly disproportionate, however, focusses on whether "a person deserves such punishment, not simply on whether punishment would serve a utilitarian goal." *Rummel v. Estelle*, 445 U.S. 263, 288, 100 S.Ct. 1133, 63 L.Ed.2d 382 (1980)(Emphasis added) (Powell, J., dissenting). The immense severity of the fifteen year and life sentences do not fit this case. Where the crime and punishment

are assessed in light of the harm done to society, if the sentence shocks the sense of justice, it is excessive. The sense of justice is shocked by the imposition of the 15 year and two life sentences upon this offender for offenses occurring during the same criminal episode. This case demanded consideration of sentences less than the maximum and less than the mandatory minimum. The case should be remanded for consideration of a downward departure from the life sentence.

**ARGUMENT NO. 3: ERRED DENYING MOTION TO CORRECT ILLEGAL SENTENCE ON THE BASIS THAT LAMBERT CIRCUMSTANCES WOULD NOT BE AMELIORATED BY RETROACTIVE APPLICATION BECAUSE HE HAS ANOTHER LIFE SENTENCE, WHICH IS NOT FINAL, IN VIOLATION OF THE FIFTH, SIXTH AND FOURTEENTH AMENDMENTS.**

It is undisputed that at the time the legislature made the changes to the multiple offender law retroactive to Mr. Lambert's multiple bill life imposed August 15, 1997, which was the only legal sentence he had at the time, became illegal if his sentence would be ameliorated by the change in the law. It was not until after this court's January 30, 2018 *Esteen* decision, the district court on April 3, 2018, re-sentenced the defendant to fifteen years on the aggravated crime against nature and life without parole on the aggravated rape (R. 14, 394), and then found his HFC sentence would not be ameliorated. Defendant was prejudiced by the re-sentencing.

On January 30, 2018, the Louisiana Supreme Court in *State ex. Rel. Esteen v. State of Louisiana*, 2019WL618429, 216-0949 (La. 1/30/18), revisited the interpretation of LSA-R.S. 15:308 (B) and (C) that it made in *State v. Dick*, 951 So.2d 124 (La. 1/26/07).

In *Dick*, the court was faced with the conflict of interpreting LSA-R.S. 15:308(B) and (C). The conflict was centered around how did a person who was affected by 15:308 (B) was to get relief. The court was thought to have settled the conflict by determining that the only way that a person affected by 15:308 (B) could get relief is through 15:308 (C), the Risk Review Panel.

The court in *Esteen*, determined that LSA-R.S. 15:308 (B) is a mandatory retroactive provision, that shall apply to those who were convicted or sentenced prior to

June 15, 2001, if it ameliorates their sentence. The court also decided that 15:308 (B) grants the District Court, the authority to correct those previously imposed sentences through motion to correct illegal sentence. The *Esteen* court's decision abrogated the one it made in *Dick*, insofar as it related to a person affected by 15:308 (B) sole remedy being 15:308 (C).

Petitioner requested the District Court to correct his illegal sentence. In accordance with La.C.Cr.P. art. 881.5 "On motion of the state or the defendant or on its own motion, at any time the court may correct a sentence imposed by the court which exceeds the maximum sentence authorized by law." petitioner will show the court, how the retroactive application of the more lenient penalty provision of LSA-R.S. 15:308, ameliorates his sentence (Makes it a sentence unauthorized by law).

Petitioner was sentenced as a habitual offender to life, under then existing, LSA-R.S. 15:529.1 A. (1)(c)(ii), using his current offense of aggravated burglary LSA-R.S. 14:60, prior offenses possession of cocaine LSA-R.S. 40:967(C)(2), theft LSA-14:67(B) and convicted felon in possession of a firearm, LSA-R.S. 14:95.1.

Act. No. 403 of the 2001 Regular Session of the Legislature and Act. No. 45 of the 2002 First Extraordinary Session of the Legislature changed LSA-15:529.1, as it read when petitioner was sentenced, it removed the section of the statute that petitioner was convicted under (A)(1)(c)(ii) and replaced it with (A)(4)(b) which now reads;

If the fourth felony and two of the prior felonies are felonies described as a crime of violence under R.S. 14:2(B), a sex offense as defined in 15:540 et seq. When the victim is under the age of eighteen at the time of the commission of the offense, or as a violation of the Uniform Controlled Substance law punishable by imprisonment for ten years or more, or any other crime punishable by twelve years or more, or any combination of such crimes, the person shall be imprisoned for the remainder of his natural life without the benefit of parole, probation or suspension of sentence.

With the retroactive application of 15:308 (b) (Act. No. 45 of the 2006 Regular Session of the Legislature), petitioner would not be eligible for the same life sentence without the benefit of parole probation or suspension of sentence that he received when he was convicted, that makes the life sentence that he now has illegal because, ("it is no

longer authorized by law." See: *Esteen*, supra.).

As a fourth felony offender under the more lenient penalty provision of 15:529.1 (A) (4)(a), which petitioner would now be sentenced, his sentence would now fall in the range from no less than 30 years and no more than his natural life, with the benefits of parole, probation and or suspension of sentence. That is because his prior convictions of possession of cocaine (0-5 years) and theft (0-2 years) cannot be used, because they do not meet any of the requirements of 15:529.1(A)(4)(b). Thus, petitioner's sentence would be ameliorated. For these reasons petitioner request that his court grant his motion to correct his illegal sentence.

The court ruled the application of *Esteen* would not ameliorate Lambert's sentence.

The court found defendant to be a third felony offender and enhanced his sentence under R.S. 15:529.1(A)(1)(c)(ii), which was specifically amended under Acts 2001, No. 403 and Acts 2002, 1<sup>st</sup> Ex.Sess., No. 45, and made applicable to Lambert in LSA R.S. 15:308 by Acts 2006, No. 45, § 1 and amended by Acts 2014, No. 340, § 1. A plain reading of the law specifically makes Lambert eligible for parole as his enhanced sentenced was under R.S. 15:529.1(A)(1)(c)(ii).

Lambert submits he is eligible for Act 469 if eligible for R.S. 15:308. And the legislature made him eligible for R.S. 15:308 when they passed Acts 2001, No. 403 and Acts 2002, 1<sup>st</sup> Ex. Sess., No. 45 amending R.S. 15:308 to specifically include R.S. 15:529.1(A)(1)(c)(ii), which is the statute Lambert was sentenced under.

Under the new law the only violent felony used in the multiple bill of information was the present offense of aggravated burglary, the other prior offenses alleged in the bill were theft, possession of crack cocaine and possession of a firearm.

Does the application of *Esteen* ameliorate his position due to the fact that under the law in effect on June 15, 2001 the defendant's prior convictions for Aggravated Battery in 1983 and Armed Robbery in 1979 would nevertheless Mandate the imposition of a life sentence on the aggravated Burglary count.

First, neither prior conviction for Aggravated Battery in 1983 and Armed Robbery in 1979 were raised in the multiple bill of information (See attached HFC Bill of

information) to enhance the sentence on Aggravated Burglary nor were they submitted and proven at the habitual hearing, therefore they are not applicable to enhance the sentence.

Therefore, denying Lambert parole eligibility violates Due process when, as here, the state has gone beyond the sentence imposed by the court based on the bill of information suggesting those sentenced under R.S. 15:529.1(A)(1)(c)(ii) are ineligible for the 30 year sentence or Parole, by re-adjudicate his sentence based on finding he “has convictions that still could have resulted in a life sentence, but were not charged in the HFC bill at the time of sentencing.

The legislature, “[i]n the interest of fairness in sentencing,” declared in La.R.S. 15:308(B) its intention that the more lenient penalty provisions be applied retroactively to those persons “who were sentenced according to [listed provisions, including R.S. 15:529.1(A)(1)(c)(ii)] prior to June 15, 2001, provided that such application ameliorates the person's circumstances.” The declared interest in fairness in sentencing is not equivalent to a matter of grace. (FN omitted). Nothing in the constitution prohibits the legislature from enacting more lenient provisions and declaring they be applied retroactive in the interest of fairness in sentencing. See, *State ex rel. John Estee v. State of Louisiana*, 2018 WL 618429, No. 2016-KH-0949 (La. 1/30/2018), at \*5.

#### CONCLUSION

The great ideals of liberty and equality are preserved against the assaults of opportunism, the expediency of the passing hour, the erosion of small encroachments, the scorn and derision of those who have not patience with general principles, by enshrining them in constitutions...*Benjamin Nathan Cardozo, The Nature of the Judicial Process*, pp.92-93 (1921). For Justice Cardozo, the judiciary was the body of defenders because of that branch's role in the preservation of liberty and the seeking of justice.

Wherefore, Petitioner submits that in light of the arguments, jurisprudence and exhibits contained herein, this Honorable Supreme Court should grant his writ of certiorari because it is evident that the lower State Court findings were contrary to and

involved an unreasonable application of clearly established state and federal law, ie, violations of his Fifth, Sixth and Fourteenth Amendment rights.

The trial court lost jurisdiction due to the delay in resentencing, and the Court erred finding the change in the law does not ameliorate Lambert's sentence because he has another life sentence which is not final as it is presently pending before this court and thereby denying the Motion To Correct Illegal Sentence, his sentence should be vacated and he be re-sentenced to the more lenient provisions of LSA-R.S. 15:308 (B), in accordance with the Louisiana Supreme Court's decision in *State ex Rel. Esteen v. State*, supra. The trial court judgment should be vacated and this matter be remanded for re-sentencing.

**PRAYER FOR RELIEF**

WHEREFORE, Appellant prays that this Honorable Court grants his Application for Certiorari and after review of the statutory and substantial constitutional errors set forth herein, this court vacated the lower courts judgments or rulings and remand this matter with instruction, and that this Honorable Court grant such relief that he is entitled or have available to him due to the errors presented herein.

Respectfully,

*NATHANIEL LAMBERT*  
Nathaniel Lambert  
#090883, Oak #3  
Louisiana State Penitentiary  
Angola, Louisiana 70712

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing writ has this day been served upon Leon Camizzaro, Orleans Parish District Attorney, 619 South White Street, New Orleans, LA 70119, by placing a copy of the same in the U.S. Mail, postage prepaid, on this 23 day of April, 2019.

*NATHANIEL LAMBERT*  
Nathaniel Lambert  
#090883, Oak #3  
Louisiana State Penitentiary  
Angola, Louisiana 70712



IN THE  
SUPREME COURT  
STATE OF LOUISIANA

No. \_\_\_\_\_

STATE OF LOUISIANA,

- Versus -

NATHANIEL LAMBERT

APPENDIX

- App. A: 3/27/19 Court of Appeal, Fourth Circuits decision and order – Sentences affirmed / writ denied No. 2018-KA-0777.
- App. B: 10/2/2018 Original Brief on Appeal to Court of Appeal, Fourth Circuit No. 2018-KA-0777.
- App. C: 11/\*\*/18 Pro se Application for Supervisory writ filed in Court of Appeal, Fourth Circuit No. 2018-K-1024 from denial of Motion to Correct Illegal Sentence, and Exhibits.
- Exhibit A: 11/2/18 Trial courts ruling denying motion to correct illegal sentence.
- Exhibit B: 10/2/18 Motion To Correct An Illegal Sentence.
- Exhibit C: 10/18/18 Notice of intent to seek writs and motion for extension of time w/attached order granting same.
- App. D: 12/10/18 Court of Appeal, Order granting motion to consolidate pending appeal 2018-KA-0777 with writ application 2018-KA-1024.
- App. E: 4/3/18 Notice of Appeal and order setting return date for 7/16/18
- App. F: 4/3/18 Motion to Quash filed in district court.
- App. G: 3/16/18 Motion To Be Discharged From Custody Because Of Unreasonable Delay In Re-Sentencing On Remand.
- App. H: 10/18/18 Motion to Reconsider Sentence.
- App. I: 7/13/18 Orleans Crim. District Court Order setting briefing schedules to respond to Motion to Correct Illegal Sentence.
- App. J: 9/10/18 “Rebuttal / Objection to the States Opposition to Motion to Correct Illegal Sentence.”
- App. K: 11/14/17 Orleans Crim. District Court order vacated sentences and setting sentencing hearing.

=====

DF# DEFENDANT(S): CNTS CHARGE(S):  
=====

1	LAMBERT, NATHANIEL	1	RS 14 42	BOND:	300,000.00
			FIRST DEGREE RAPE		
		1	RS 14 60	BOND:	300,000.00
			AGG BURGLARY		
		1	RS 14 89.1	BOND:	200,000.00
			AGG CRIME AGAINST NATURE		

=====

DATE	PROCEEDINGS	
2/13/1997	FILED INDICTMENT "A TRUE BILL" CAPIAS ISSUED BOND SET (NONE) MAGISTRATE PAPERWORK FILED (M-316556, DOB 3/8/53, F# 756869)	CUSHENBERR
2/14/1997	ALLOTTED. ARRAIGNMENT SET 2/18/97.	CUSHENBERR
2/18/1997	DEFENDANT LAMBERT APPEARED IN COURT UNATTENDED BY COUNSEL FOR ARRAIGNMENT. COURT APPOINTED OIDP TO REPRESENT THE DEFENDANT. THUR COUNSEL ENTERED A PLEA OF NOT GUILTY. COURT GRANTED COUNSEL FOR DEFENDANT 10 DAYS TO FILE MOTIONS AND PLEADINGS. HEARING ON MOTION SET FOR 3/21/97 AND TRIAL FOR 4/28/97. COUNSEL FOR DEFENDANT FILE THE FOLLOWING MOTIONS IN OPEN COURT ON THIS DAY. APPLICATION FOR BILLOF PARTICULARS, MOTION FOR DISCOVERY AND INSPECTION, MOTION TO SUPPRESS HTE EVIDENCE, MOTION TO SUPPRESS THE CONFESSION, MONTION TO SUPPRESS THE IDENTIFICATION, MOTION TO PRELIMINARY HEARING, MOTION FOR A SPEEDY TRIAL. NOTIFY ALL. PDOJL	POLITES
3/21/1997	DEFENDANT LAMBERT APPEARED IN COURT ATTENDED BY COUNSEL, MR. P. MILLER, FOR HEARING ON MOTIONS AND PRELIMINARY HEARING. NO MOTIONS LIE IN THIS CASE. THEREFORE, COURT SET THIS MATTER FOR TRIAL FOR 4/28/97. NOTIFY ALL. PDOJL	POLITES
4/23/1997	STATE FILED A MOTION TO LIMINE INTO RECORD ON THIS DAY.	BROWN_A
4/28/1997	DEFENDANT LAMBERT APPEARED IN COURT ATTENDED BY COUNSEL, MR. P. MILLER, FOR TRIAL. TRIAL RESET FOR 5/27/97. NOTIFY ALL. PDOJL	POLITES
5/23/1997	CLERK'S OFFICE FILED DECREE FROM THE FOURTH CIRCUIT COURT OF APPEALS. DATED 5/23/97, NO. 97-K1019. DEFENDANT LAMBERT APPLYING FOR SUPREVISORY WRITS. DENIED.	POLITES
5/27/1997	NO COURT HELD ON THIS DAY. TRIAL RESET FOR 7/7/97.	POLITES
5/28/1997	HEARING TO OBTAIN JURY INFORMATION FROM THE STATE OR ALTERNATIVELY TO BAR THE STATE FROM USING SUCH INFORMATION. DEFENDANT LAMBERT APPEARED WITH COUNSEL P. POWELL, ESQ. OF OIPD FOR HEARING MOTION TO LIMINE AND MOTION TO DECLARE RELEVANT PROTIONS OF LA. CODE OF EVIDENCE ARTICLE 412 UNCONSTITUTIONAL ON 6/18/97. TRIAL PREVIOUSLY SET FOR 7/7/97. DEFENSE FILED MOTIONS AND A WITNESS LIST. PDOJL. NOTIFY ALL WITNESSES. NOTIFY ALL DEFENSE WITNESSES.	BROWN A
6/18/1997	DEFENDANT APPEARED ATTENDED BY COUNSEL, POWELL MILLER, ESQ., FOR HEARING ON MOTIONS AND PRELIMINARY HEARING. DEFENSE MOVED FOR A CONTINUANCE, WHICH WAS GRANTED BY THE COURT. COURT RESET HEARING ON MOTIONS ON 7/7/97, PDOJL. NOTIFY ALL WIT-	DEVERNAY

CONTINUED

41

DATE	PROCEEDINGS	
6/18/1997	NESSSES.	DEVERNAY
7/01/1997	ADA FILED SET SHEET. MOTIONS SET FOR 7/7/97. CANCEL TRIAL DATE OF 7/7/97.	POLITES
7/07/1997	DEFENDANT LAMBERT APPEARED IN COURT ATTENDED BY COUNSEL, MR. POWELL MILLER, FOR HEARING ON MOTIONS AND PRELIMINARY HEARING. HEARING ON MOTIONS SET FOR 7/8/97. NOTIFY ALL. PDOJL	MCCRAINE
7/09/1997	NO COURT HELD ON THIS DATE. TRIAL SET FOR 8/11/97.	CUSHENBERR
8/11/1997	DEFENDANT LAMBERT APPEARED IN COURT ATTENDED BY COUNSEL, MR. P. MILLER, ESQ. THE COURT ORDERED THE TRIAL TO BEGIN. THE COURT HEARD THE DEFENSE 412 MOTION TO ADMIT TESTIMONY CONCERNING THE VICTIM'S PAST HISTORY. THE JURY RETURNED INTO OPEN COURT. THE COURT ORDERED THE TRIAL TO PROCEED. THE MINUTE CLERK READ THE INDICTMENT TO THE JURY. THE STATE MARKED THE FOLLOWING EXHIBITS S-1 THRU S-17. THE STATE INTRODUCE THE FOLLOWING EXHIBITS INTO EVIDENCE S-1 THRU S-17. THE JURY RETIRED TO DELIBERATE IN THE ABOVE MATTER AND AT 10:00 P.M. RETURNED INTO OPEN COURT WITH ALL PARTIES PRESENT WITH THE FOLLOWING VERDICT: AS TO 14:42: "WE, THE JURY, FIND THE DEFENDANT, GUILTY AS CHARGED." AS TO 14:60: "WE, THE JURY, FIND THE DEFENDANT, GUILTY AS CHARGED." AS TO 14:89.1: "WE, THE JURY, FIND THE DEFENDANT, GUILTY AS CHARGED." THE COURT ORDERED THE VERDICT RECORDED IN THE RECORD AND DISMISSED THE JURY. THE COURT SET SENTENCING AND HEARING ON ALL DEFENSE POST-TRIAL MOTIONS FOR 8/15/97 AND THE DEFENDANT REMANDED. PDOJL	CUSHENBERR
8/15/1997	DEFENDANT LAMBERT APPEARED IN COURT ATTENDED BY COUNSEL MRS. CHERRILYNNE THOMAS, ESQ. (STANDING IN FOR MR. POWELL MILLER) FOR SENTENCING. THE COURT SENTENCED THE DEFENDANT TO SERVE: FOR R.S. 14:60-- THIRTY YEARS DEPARTMENT OF CORRECTIONS AT HARD LABOR. FOR R.S. 14:89.1-- FIFTEEN YEARS DEPARTMENT OF CORRECTIONS AT HARD LABOR. FOR R.S. 14:42-- LIFE IMPRISONMENT IN THE DEPARTMENT OF CORRECTIONS AT HARD LABOR WITHOUT THE BENEFIT OF PAROLE, PROBATION, OR SUSPENSION OF SENTENCE. ALL SENTENCES ARE TO BE SERVED CONSECUTIVELY. COURT COSTS ARE WAIVED. THE STATE FILED A MULTIPLE BILL ON THE ABOVE DEFENDANT. DEFENDANT LAMBERT APPEARED IN COURT ATTENDED BY COUNSEL FOR A HEARING ON THE MULTIPLE BILL. THE STATE MARKED AND INTRODUCED INTO EVIDENCE FOR THIS HEARING ONLY THE FOLLOWING EXHIBITS S-1 THRU S-7. AFTER CONSIDERING THE EVIDENCE ADDUCED, THE COURT FOUND THE DEFENDANT GUILTY AS A MULTIPLE OFFENDER (LA. R.S. 15:529.1). DEFENDANT, THRU COUNSEL, REQUESTED IMMEDIATE SENTENCING. AS TO THE R.S. 14:60 VIOLATION, THE COURT SET ASIDE THE PREVIOUS SENTENCE AND RESENTENCED THE DEFENDANT TO SERVE: LIFE IMPRISONMENT IN THE DEPARTMENT OF CORRECTIONS AT HARD LABOR. THIS SENTENCE IS TO BE SERVED CONCURRENTLY WITH THE OTHER TWO SENTENCES IMPOSED IN THIS CASE (LIFE IMPRISONMENT AT HARD LABOR WITHOUT BENEFITS AND FIFTEEN YEARS AT HARD LABOR EACH TO RUN CONSECUTIVELY). THE DEFENDANT IS TO RECEIVE CREDIT FOR TIME SERVED FROM DATE OF ARREST; COURT COST WAIVED.	CUSHENBERR
11/12/1997	DEFENDANT LAMBERT APPEARED IN COURT ATTENDED BY COUNSEL, MR. JUSTIN HOLMES, ESQ. OF BARRETT, JUSTIN AND HOMES FOR A HEARING TO DETERMINE COUNSEL. APPEAL STATUS SET 1/30/98. PDOJL	POLITES
11/17/1997	CLERK'S OFFICE FILED NOTICE OF APPEAL.	POLITES
1/21/1998	CLERK'S OFFICE FILED DECREE FROM THE FOURTH CIRCUIT OF APPEAL.	POLITES

CONTINUED

42

CASE: 387-752  
SECTION: D  
CLASS: 2

C K E T M A S T E R  
ORLEANS PARISH CRIMINAL DISTRICT COURT

DATE: 7/17/2018  
TIME: 11:05:33  
PAGE: 3

DATE	PROCEEDINGS	
1/21/1998	DATED 1/21/98, NO.98-K-0056. DEFENDANT LAMBERT APPLYING FOR SUPERVISORY WRITS. DENIED.	POLITES
1/30/1998	APPEAL STATUS RESET FOR 3/30/98. NOTIFY DEFENSE ATTORNEY.	POLITES
3/30/1998	DEFENDANT LAMBERT STATUS HEARING IS COMPLETED. COURT SET THIS MATTER FOR A APPEAL STATUS ON 5/29/98.	WILLIAMSM
5/29/1998	COUNSEL FOR DEFENSE IS JUSTIN HOLMES. COURT RESET APPEAL STATUS FOR 8/28/98. PDOJL-LAMBERT.	BRISCO M
8/28/1998	APPEAL STATUS CONTINUED UNTIL 9/1/98. NOTIFY DEFENSE ATTORNEY. STATE NEEDS TO FILE WRIT TO DEFENDANT.	BROWN A
3/29/2001	STATE FILED A MOTION FOR DISMISSAL OF PETITIONER'S POST CONVICTION APPLICATION.	ROBERTSONR
5/03/2001	STATE FILED RESPONSES TO P.CX. APPLICATION ON 3/28/01	BYRDR
5/07/2001	STATE ON 3/28/01 FILED A MOTION FOR DISMISSAL OF PETITIONER'S POST CONVICTION APPLICATION IN RESPONSE TO DEFENSE MOTION FOR POST CONVICTION RELIEF FILED ON A PREVIOUS DATE. DEFENDANT FILED A SUPPLEMENTAL BRIEF TO APPLICATION FOR POST CONVICTION RELIEF ON 4/23/01. DEFENSE THEN FILED A MOTION TO WITHDRAW SUPPLEMENTAL BRIEF ON 5/4/01.	BYRDR
2/27/2002	JUDGMENT ON APPLICATION FOR POST-CONVICTION RELIEF DENIED. THE DEFENDANT ALLEGES THAT HE WAS DENIED EFFECTIVE ASSISTANCE OF COUNSEL AT TRIAL WHEN HIS TRIAL ATTORNEY FAILED TO CALL TOW METERIAL WITNESSES IN HIS BEHALF. THE DEFENDANT IN HIS APPLICATION STATES "SEE MUMORANDUM ATTACHED" HOWEVER, HE FILED A MOTION TO WITHDRAW SUPPLMENTAL BRIEF. THERE IS NO MEMORANDUM ATTACHED TO THE APPLICATION. THERE ARE NO SUPPORTING FACTS TO SUBSTANTIATE THE CLAIMS ASSERTED BY THE DEFENDANT. FURTHERMORE, THERE IS NOTHING TO INDICATE WHO THE WITNESSES ARE AND HOW THEIR NOT BEING CALLED TO TESTIFY WOULD HAVE AFFECTED THE OUTCOME OF THE DEFENDANT'S TRIAL. ADDITIONALLLY NOTED, THE STATE ON MAY 7, 2001, FILED A MOTION FOR DISMISSAL OF THE DEFENDANT'S POST-CONVICTION RELIEF APPLIATION..	BYRDR
8/14/2002	ADD ON FOR EVIDENTIARY HEARING ON 8/15/02. WRIT	GEORGES
8/15/2002	SET FOR HEARING ON 8/16/02. DEFENDANT WAS NOT PRESENT.	BYRDR
8/16/2002	RESET FOR STATUS HEARING ON 9/10/02. TO SET POST CONVICTION RELIEF HEARING DATE.	GEORGES
8/26/2002	DEFENSE FILED A AMENDED WITNESS. COURT APPOINTED CLIF STOUTZ,ESQ SET FOR STATUS ON 9/25/02. PDOJL	BYRDR
9/10/2002	RESET FOR STATUS ON 9/25/02. PDOJL	BYRDR
9/25/2002	>DEFENSE COUNSEL DEREK HONORE APPEARED WITHOUT DEFENDANT NATHANIEL LAMBERT FOR STATUS HEARING >RESET BY COURT THIS CASE WAS RESET DUE TO AN ACT OF GOD AND THE COURT BUILDING W AS	HHARRIS

CONTINUED

43

CASE: 387-752  
SECTION: D  
CLASS: 2

C K E T M A S T E R  
ORLEANS PARISH CRIMINAL DISTRICT COURT

DATE: 7/17/2018  
TIME: 11:05:33  
PAGE: 4

=====  
DATE PROCEEDINGS  
=====

9/25/2002 HARRIS  
CLOSED. >STATUS HEARING SET FOR 10/18/02 THIS DEFENDANT IS  
POSSIBLY INCARATED AT ANGOLA AND SHOULD BE WRITTED IN BY THE  
STATE. >PDOJL

10/18/2002 MARULLOF  
>DEFENSE COUNSEL DEREK HONORE APPEARED WITHOUT DEFENDANT,  
NATHANIEL LAMBERT FOR STATUS HEARING >STATUS HEARING SET FOR  
10/25/02

10/25/2002 MARULLOF  
>DEFENSE COUNSEL DEREK HONORE APPEARED WITHOUT DEFENDANT,  
NATHANIEL LAMBERT FOR STATUS HEARING >RESET BY COURT >STATUS  
HEARING SET FOR 11/14/02 >NOTIFY DEFENDANT. >NOTIFY SURETY.

11/14/2002 MARULLOF  
>DEFENSE COUNSEL DEREK HONORE APPEARED WITHOUT DEFENDANT,  
NATHANIEL LAMBERT FOR STATUS HEARING >STATUS HEARING SET FOR  
01/07/03 THE STATE WILL WRIT THE DEFENDANT IN.

1/07/2003 MARULLOF  
>DEFENSE COUNSEL DEREK HONORE APPEARED WITHOUT DEFENDANT,  
NATHANIEL LAMBERT FOR STATUS HEARING >THIS MATTER IS SET IN  
ERROR.

9/02/2003 CARMENAC  
CLERK'S OFFICE FILED DECREE FROM THE 4TH CIRCUIT COURT OF APPEAL,  
NO. 2002-KH-2119, DATED 9/2/03. DEFENDANT FILED SUPERVISORY  
AND/OR REMEDIAL WRITS. WRIT DENIED.

9/19/2003 MARULLOF  
>DEFENDANT, NATHANIEL LAMBERT DID NOT APPEAR FOR STATUS HEARING  
>EVIDENTIARY HEARING SET FOR 09/25/03 WRIT WAS DONE ON THIS  
DATE.

9/25/2003 MARULLOF  
>DEFENSE COUNSEL DEREK HONORE APPEARED WITHOUT DEFENDANT,  
NATHANIEL LAMBERT FOR EVIDENTIARY HEARING >EVIDENTIARY HEARING  
SET FOR 10/02/03

10/02/2003 MARULLOF  
>THE DEFENDANT, NATHANIEL LAMBERT APPEARED FOR EVIDENTIARY  
HEARING WITH COUNSEL, DEREK HONORE >EVIDENTIARY HEARING SET FOR  
10/17/03

10/17/2003 MARULLOF  
>DEFENDANT, NATHANIEL LAMBERT DID NOT APPEAR FOR EVIDENTIARY  
HEARING >EVIDENTIARY HEARING SET FOR 10/27/03

10/27/2003 MARULLOF  
>THE DEFENDANT, NATHANIEL LAMBERT APPEARED FOR EVIDENTIARY  
HEARING WITH COUNSEL, DEREK HONORE >EVIDENTIARY HEARING SET FOR  
10/30/03

10/30/2003 MARULLOF  
>DEFENDANT, NATHANIEL LAMBERT APPEARED WITHOUT COUNSEL FOR  
EVIDENTIARY HEARING THE DEFENDANT MOVED THE COURT TO ALLOW HIM  
MORE TIME TO GET A PRIVATE ATTORNEY TO REPERSENT HIM IN THIS  
MATTER. THE COURT GRANTED THE DEFENSE MOTION. >HRG TO DETERMINE  
COUNSEL SET FOR 11/13/03 WRIT FOR THE DEFENDANT WAS DONE IN  
OPEN COURT. CLERKS OFFICE: SEND NOTICE TO ATTORNEY POWELL  
MILLER, ATTORNEY DAN MACNAMARA, MS. SHELIA WEBB AND MR. WINSTON  
WINN. (SEE DEFENSE WITNESS LIST THAT WAS FILED ON THIS DATE)

11/05/2003 CARMENAC  
CLERK'S OFFICE FILED DECREE FROM THE 4TH CIRCUIT COURT OF APPEAL  
NO. 20030K-1686, DATED:11/5/03. DEFENDANT IS APPYLING FOR  
SUPERVISORY WRIT. WRIT DENIED.

11/13/2003 MARULLOF  
>DEFENDANT, NATHANIEL LAMBERT APPEARED WITH COUNSEL, CLIF STOUTZ

CONTINUED

44

=====  
DATE PROCEEDINGS  
=====

11/13/2003 MARULLOF  
>FOR HRG TO DETERMINE COUNSEL >RESET ON DEFENSE MOTION >HRG TO DETERMINE COUNSEL SET FOR 11/21/03 >SEND NOTICES TO ALL ON THE DEFENSE WITNESS LIST. WRIT FOR THE DEFENDANT WAS DONE IN OPEN COURT.

11/21/2003 MARULLOF  
>DEFENDANT, NATHANIEL LAMBERT APPEARED WITHOUT COUNSEL FOR HRG TO DETERMINE COUNSEL >RESET ON DEFENSE MOTION >HRG TO DETERMINE COUNSEL SET FOR 01/15/04 >NOTIFY DEF.COUNSEL. WRIT FOR THE DEFENDANT WAS DONE IN OPEN COURT.

1/15/2004 MARULLOF  
>THE DEFENDANT, NATHANIEL LAMBERT APPEARED FOR HRG TO DETERMINE COUNSEL WITH COUNSEL, CLIF STOUTZ THE DEFENSE CALLED DW-1 POWELL MILLER ON THIS DATE. >EVIDENTIARY HEARING SET FOR 01/28/04

1/28/2004 MARULLOF  
>DEFENSE COUNSEL CLIF STOUTZ APPEARED WITHOUT DEFENDANT NATHANIEL LAMBERT FOR EVIDENTIARY HEARING >RESET ON DEFENSE MOTION >EVIDENTIARY HEARING SET FOR 02/18/04 THE WRIT TO HAVE THE DEFENDANT BROUGHT IN WAS DONE ON THIS DATE.

2/18/2004 MARULLOF  
>THE DEFENDANT, NATHANIEL LAMBERT APPEARED FOR EVIDENTIARY HEARING WITH COUNSEL, CLIF STOUTZ THE DEFENSE CALLED AS A WITNESS DW-1 SHEILA WEBB. THE DEFENSE FILED INTO EVIDENCE DE-1 COPY OF LETTER. THE COURT HELD THIS HEARING OPEN FOR THE DEFENSE. >EVIDENTIARY HEARING SET FOR 04/20/04 WRIT FOR THE DEFENDANT WAS DONE IN OPEN COURT. >NOTIFY DEF.COUNSEL.

4/20/2004 MARULLOF  
>THE DEFENDANT, NATHANIEL LAMBERT APPEARED FOR EVIDENTIARY HEARING WITH COUNSEL, CLIF STOUTZ THE COURT DENIED THE MOTION FOR POST CONVICTION RELIEF ON THIS DATE. THE DEFENSE THEN FILED AN ORAL MOTION TO RECONSIDER THE RULING. THE COURT DENIED THE DEFENSE MOTION. >CASE CLOSED, THIS DEFENDANT.

10/04/2004 ELZEYA  
CLERK OFFICE FILED DECREE FROM FOURTH CIRCUIT COURT OF APPEAL, NO. 2004-K-1639. WRIT DENIED.  
C L O S E D

3/02/2011 SHOLESR  
CLERK'S OFFICE RECEIVED DEFENSE MOTION TO CORRECT AN ILLEGAL SENTENCE. (AS TO NATHANIEL LAMBERT)

5/31/2011 SHOLESR  
CLERK'S OFFICE RECEIVED DEFENSE MOTION TO CORRECT AN ILLEGAL SENTENCE. (AS TO NATHANIEL LAMBERT)

7/20/2011 TROSCLAIR  
CLERK'S OFFICE RECEIVED MOTION TO COMPEL AN ANSWER. (AS TO N.LAMBERT)

11/13/2012 CATHERINEG  
PER THE REQUEST OF THE COURT STATUS HEARING SET 11/14/12. PJOJL >DEFENDANT, NATHANIEL LAMBERT DID NOT APPEAR FOR STATUS HEARING >STATUS HEARING SET FOR 11/14/12 >DEFENDANT'S PRESENCE NOT REQUIRED.

11/14/2012 MARULLOF  
>DEFENDANT, NATHANIEL LAMBERT DID NOT APPEAR FOR STATUS HEARING THE COURT DENIED THE MOTION TO CORRECT AN ILLEGAL SENTENCE. >CASE CLOSED, THIS DEFENDANT.

4/02/2014 MARULLOF  
>DEFENDANT, NATHANIEL LAMBERT DID NOT APPEAR FOR APPEAL STATUS >RESENTENCING SET FOR 04/10/14 >NOTIFY DEF.COUNSEL. THE COURT

CONTINUED

45

=====  
DATE PROCEEDINGS  
=====

4/02/2014 WILL WRIT THE DEFENDANT IN. MARULLOF

4/07/2014 MARULLOF  
>DEFENDANT, NATHANIEL LAMBERT DID NOT APPEAR FOR HEARING THE COURT ORDERED THE RESENTENCING HEARING SET FOR 04/10/14 BE REMOVED FROM THE COURTS DOCKET. >HRG TO DETERMINE COUNSEL SET FOR 04/14/14 THE COURT WILL WRIT THE DEFENDANT IN.

4/10/2014 MARULLOF  
>DEFENDANT, NATHANIEL LAMBERT APPEARED WITHOUT COUNSEL FOR RESENTENCING >RESENTENCING SET FOR 04/15/14

4/14/2014 MARULLOF  
>DEFENDANT, NATHANIEL LAMBERT APPEARED WITHOUT COUNSEL FOR HRG TO DETERMINE COUNSEL >HRG TO DETERMINE COUNSEL SET FOR 04/15/14

4/15/2014 MARULLOF  
>DEFENDANT, NATHANIEL LAMBERT DID NOT APPEAR FOR RESENTENCING >STATUS HEARING SET FOR 05/16/14 >DEFENDANT'S PRESENCE NOT REQUIRED.

5/16/2014 MARULLOF  
>DEFENDANT, NATHANIEL LAMBERT DID NOT APPEAR FOR STATUS HEARING >RESENTENCING SET FOR 06/02/14 THE COURT WILL WRIT THE DEFENDANT IN.

6/02/2014 MARULLOF  
>DEFENDANT, NATHANIEL LAMBERT DID NOT APPEAR FOR RESENTENCING >RESENTENCING SET FOR 06/19/14 >NOTIFY DEF.COUNSEL. THE STATE WILL WRIT THE DEFENDANT IN.

6/19/2014 MARULLOF  
>DEFENDANT, NATHANIEL LAMBERT APPEARED WITHOUT COUNSEL FOR RESENTENCING >CONTINUED ON DEFENSE MOTION. THE COURT ORDERED THAT THE DEFENDANT MUST BE HELD IN ORLEANS PARISH PRISON WITHOUT BOND. >DEFENDANT REMANDED TO CRIMINAL SHERIFF. >RESENTENCING SET FOR 07/18/14 >NOTIFY DEF.COUNSEL. >PDOJL

7/18/2014 MARULLOF  
>DEFENDANT, NATHANIEL LAMBERT APPEARED WITHOUT COUNSEL FOR RESENTENCING >CONTINUED ON DEFENSE MOTION. >RESENTENCING SET FOR 07/31/14 >NOTIFY DEF.COUNSEL. >PDOJL

7/31/2014 MARULLOF  
>DEFENDANT, NATHANIEL LAMBERT APPEARED WITHOUT COUNSEL FOR RESENTENCING. THE COURT DENIED THE DEFENDANT CLAIM ON THIS DATE. >CASE CLOSED, THIS DEFENDANT.

4/08/2016 WRIGHTD  
>THE PETITIONER'S APPLICATION FOR POST CONVICTION RELIEF IS HEARBY DENIED. A COPY OF THIS JUDGEMENT WAS FILED INTO THE COURT'S RECORD AND A COPY FORWARDED TO THE 4TH CIRCUIT.

9/12/2017 FISHERT  
CLERK'S OFFICE RECEIVED MOTION FOR CLARIFICATION OF THE SENTENCE.

11/14/2017 SCOTTD  
>DEFENDANT, NATHANIEL LAMBERT DID NOT APPEAR FOR HRG TO DETERMINE COUNSEL THE COURT DENIED THE DEFENSE MOTION FOR CLARIFICATION. >COURT APPOINTED OPD. >RESENTENCING SET FOR 01/03/18 ( AT 1:30PM ) >NOTIFY DEF.COUNSEL. THE COURT WILL WRIT THE DEFENDANT IN.

11/15/2017 MARULLOF  
>DEFENDANT, NATHANIEL LAMBERT DID NOT APPEAR FOR UNSCHEDULED ACTIVITY THE COURT FILED WITH THE CLERK OF COURT; - ORDER FROM THE COURT OF APPEAL, FOURTH CIRCUIT.

1/03/2018 SCOTTD  
>DEFENSE COUNSEL ZACHARY ORJUELA APPEARED WITHOUT DEFENDANT,

CONTINUED

46

=====  
DATE PROCEEDINGS  
=====

1/03/2018 SCOTTD  
NATHANIEL LAMBERT FOR RESENTENCING >RESENTENCING SET FOR  
02/05/18 ( AT 1:30PM ) >NOTIFY DEF.COUNSEL. THE STATE WILL WRIT  
THE DEFENDANT IN.

2/05/2018 SCOTTD  
>DEFENDANT, NATHANIEL LAMBERT APPEARED WITHOUT COUNSEL FOR  
RESENTENCING >RESET BY COURT >RESENTENCING SET FOR 03/15/18 (   
AT 1:30PM ) >NOTIFY DEF.COUNSEL. THE STATE WILL WRIT THE  
DEFENDANT IN.

3/15/2018 MARULLOF  
>DEFENSE COUNSEL ZACHARY ORJUELA APPEARED WITHOUT DEFENDANT,  
NATHANIEL LAMBERT FOR RESENTENCING >RESENTENCING SET FOR  
04/03/18 >NOTIFY DEF.COUNSEL. THE STATE WILL WRIT THE DEFENDANT  
IN.

4/03/2018 MARULLOF  
>THE DEFENDANT, NATHANIEL LAMBERT APPEARED FOR RESENTENCING WITH  
COUNSEL, ZACHARY ORJUELA THE COURT DENIED THE DEFENSE MOTION TO  
QUASH AND THE MOTION TO BE DISCHARGED FROM CUSTODY BECAUSE OF  
UNREASONABLE DELAY IN RE-SENTENCING ON REMAND. THE VACATED THE  
PREVIOUS SENTENCE AS TO RS.: 14:89.1 AND 14:42. THE COURT THEN  
RESENTENCED THE DEFENDANT TO THE FOLLOWING: AS TO RS.: 14:89.1,  
15 YEARS, AT THE DEPARTMENT OF CORRECTIONS. AS TO RS.: 14:42  
LIFE, AT THE DEPARTMENT OF CORRECTIONS. WITHOUT THE BENEFIT OF  
PROBATION, PAROLE OR SUSPENSION OF SENTENCE. CREDIT FOR ALL  
TIME SERVED, AS TO BOTH COUNTS. THE SENTENCE IS TO RUN  
CONCURRENT WITH ALL COUNTS. THE DEFENSE FILED NOTICE OF APPEAL  
AND A MOTION TO RECONSIDER SENTENCE. THE COURT APPOINTED THE  
LOUISIANA APPELLATE PROJECT TO REPRESENT THE DEFENDANT ON  
APPEAL. THE COURT DENIED THE MOTION TO RECONSIDER SENTENCE.  
>RETURN DATE FOR APPEAL SET FOR 07/16/18 >DEFENDANT'S PRESENCE  
NOT REQUIRED.

4/19/2018 LABRANCHRO  
CLERK'S OFFICE SERVED NOTICE OF APPEAL IN ACCORDANCE WITH  
LA CCRP ART. 915(B).

7/13/2018 MARULLOF  
>DEFENDANT, NATHANIEL LAMBERT DID NOT APPEAR FOR UNSCHEDULED  
ACTIVITY >HEARING SET FOR 09/28/18 ( DEFENSE MOTION TO CORRECT  
ILLEGAL SENTENCE )

7/16/2018 MARULLOF  
>DEFENDANT, NATHANIEL LAMBERT DID NOT APPEAR FOR RETURN DATE FOR  
APPEAL >APPEAL STATUS SET FOR 08/31/18 >DEFENDANT'S PRESENCE  
NOT REQUIRED.

=====  
END OF DOCKET MASTER  
=====



STATE OF LOUISIANA

RECEIVED

VERSUS

MAR 16 8 24 AM '98

NATHANIEL LAMBERT  
(CDC #387-752"D")

CLERK'S OFFICE  
CRIMINAL DISTRICT COURT

\* \* \* \* \*

ORDER

IN RE: HONORABLE FRANK A. MARULFO

The appeal record is not lodged in this court as required by August 11, 1997 and the sentencing transcript of August 13, 1997 has not been prepared by the court reporter(s) and filed with the Office of the Judicial Administration, Criminal District Court, Parish of Orleans, as required by C.Cr.P. art. 919(A).

On January 16, 1997, this court ordered Judge Marulfo to have the necessary transcripts prepared and filed with the Office of the Judicial Administration within thirty days of the date of this order. The transcript has not been filed.

IT IS ORDERED that the Honorable Frank Marulfo, Judge of the Criminal District Court, Parish of Orleans, be held in contempt of court for failing to comply with the Order of the Office of the Judicial Administration. Failure to comply will result in contempt proceedings.

New Orleans, Louisiana, this 16th day of March, 1998.

*William A. Reynolds, III*  
JUDGE

PLEASE SERVE  
**RONI AUCOIN**  
Appellant Transcript Clerk  
Criminal District Court  
2700 Tulane Avenue  
New Orleans, LA 70112

FILED

48

MISSISSIPPI  
NATHANIEL LAMBERT  
(GDC #387-752 SECTION "D")

RECEIVED

JUN 29 8 47 AM '98

CLERK'S OFFICE  
CRIMINAL DISTRICT COURT

DIRECTED TO: HONORABLE FRANK A. MARULLO, JR.  
CRIMINAL DISTRICT COURT, ORLEANS PARISH, SECTION "D"

ORDER

On May 21, 1998, this court ordered the Honorable Frank A. Marullo, Jr. to take all steps necessary to have the transcripts of the motion hearings held on May 28, 1997 and July 8, 1997 prepared and forwarded to the Clerk of this Court within thirty days. To date, these transcripts have not been received nor has a request for an extension for time been filed.

IT IS THEREFORE ORDERED that the Honorable Frank A. Marullo, Jr. comply with this order within thirty days of this order. Failure to comply will result in the

New Orleans, Louisiana, this 29th day of June, 1998.

*Arthur J. Klein*  
\_\_\_\_\_  
JUDGE

PLEASE SERVE THROUGH \_\_\_\_\_ FOR SERVICE OF PROCESS:

Ms. Roni Aucoin  
Judicial Administrator's Office  
Criminal District Court  
2700 Tulane Avenue  
New Orleans, La. 70119

49

NO. 2003-K-1366

COURT OF APPEAL, FOURTH CIRCUIT

STATE OF LOUISIANA

STATE OF LOUISIANA

VERSUS

NATHANIEL LAMBERT

*File writ  
for  
October 3  
October 17<sup>th</sup>  
D.O.B. October 24<sup>th</sup>  
3/8/1953*

IN RE: NATHANIEL LAMBERT

APPLYING FOR: SUPERVISORY WRIT

DIRECTED TO: HONORABLE FRANK A. MARULLO, JUDGE  
CRIMINAL DISTRICT COURT ORLEANS PARISH  
SECTION "D", 387-752

*827-7249*

*225-655-4411*

WRIT GRANTED

In writ 2002-K-0347, on April 11, 2002, the district court was ordered to conduct an evidentiary hearing limited to relator's claim that counsel was ineffective for failing to present two witnesses, who allegedly saw relator with the victim prior to the crimes. The remainder of the claims raised by relator in his application for post-conviction relief were denied.

The record before this court fails to show that the evidentiary hearing was conducted. Therefore, the district court is ordered to comply with the previous order issued by this court within thirty (30) days of this order. As proof of compliance, the district court is ordered to provide this court with a copy of its judgment following the hearing.

**50**

New Orleans, Louisiana this

19<sup>TH</sup> day of AUGUST 2003

1 pgs

[Signature]  
JUDGE MICHAEL E. KIRBY

[Signature]  
JUDGE MAX N. TOBIAS JR.

[Signature]  
JUDGE LEON A. CANNIZZARO JR.

PLEASE SERVE:  
RONI AUCOIN  
JUDICIAL ADMINISTRATOR'S OFFICE  
CRIMINAL DISTRICT COURT  
ORLEANS PARISH

HONORABLE FRANK A. MARULLO  
JUDGE, SECTION D  
CRIMINAL DISTRICT COURT  
ORLEANS PARISH

[Signature]

[Signature]

AUG 19 2003

FILED

FILED

55

51

STATE OF LOUISIANA

\*

NO. 2016-K-0242

VERSUS

\*

COURT OF APPEAL

NATHANIEL LAMBERT

\*

FOURTH CIRCUIT

(CRIMINAL DISTRICT COURT  
ORLEANS PARISH# 387-752)  
Section "D"

\*

STATE OF LOUISIANA

\*

\*  
\*\*\*\*\*


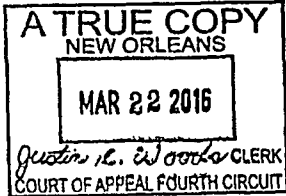
**ORDER**

\*\*\*\*\*

The Clerk of Court shall furnish the district judge, the Honorable Jerome M. Winsberg, with a copy of the writ of mandamus concerning relator's memorandum of law in support of an Application for Post-Conviction Relief, which relator states was filed in the district court on or about November 6, 2015 but has not been acted upon.

The district judge shall file a response to the application within thirty days of the date of this Order.

New Orleans, Louisiana this 22nd day of March 2016.

  
\_\_\_\_\_  
JUDGE TERRI F. LOVE  
\_\_\_\_\_  
JUDGE JOY COSSICH LOBRANO  
\_\_\_\_\_  
JUDGE ROSEMARY LEDET

52

STATE OF LOUISIANA

\*

NO. 2017-K-0881

VERSUS

\*

COURT OF APPEAL

NATHANIEL LAMBERT

\*

FOURTH CIRCUIT

(CRIMINAL DISTRICT COURT  
ORLEANS PARISH# 387-752)  
Section "D"

\*

STATE OF LOUISIANA

\*

\*

\*\*\*\*\*

ORDER

\*\*\*\*\*

The Clerk of Court shall furnish the district judge, the Honorable Paul A. Bonin, with a copy of the writ of mandamus concerning relator's Motion for Clarification of Sentence, which relator states was filed in the district court on or about September 11, 2017, but has not been acted upon.

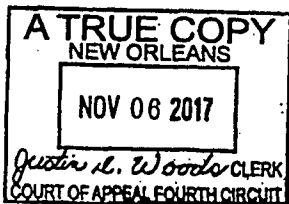
The district judge shall file a response to the application within thirty days of the date of this Order.

New Orleans, Louisiana this 16<sup>th</sup> day of NOVEMBER 2017.

JUDGE EDWIN A. LOMBARD

JUDGE ROSEMARY LEDET

JUDGE PAULA A. BROWN



Please serve:  
Judicial Administrator.  
Attention: Sandy Meadoux,  
Criminal District Court  
2700 Tulane Ave.  
New Orleans, LA

en

53

Mr. Nathaniel Lambert  
DOC. 90883  
Louisiana State Prison  
Camp D, Falcon 2  
Angola, La. 70712

Date 5-30-04

TO: Mr. Edward Lombord  
Clerk Of The Court  
Criminal District Court  
State Of Louisiana, Orleans Parish  
2700 Tulane Ave.  
New Orleans, La. 70119

In Re: State Of Louisiana v. Nathaniel Lambert  
Case No. 387-752 C.D.C. Section " D."

Dear Honorable Clerk:

Please be advised to the following to wit:

On March 15, 01, I file a P.C.R. Applacation to the district court. On March 28,01 the State file an answer to that application.

However, I never received that Answer.

In order to file to the next court I must have the state answer to my P.C.R. application.

Iam asking you to please assiat me in this matter and send me the state answer to my P.C.R. applacation.

Respectfully,  
Mr. Nathaniel Lambert



cc file:

RECEIVED  
CLERKS OFFICE  
CRIMINAL DISTRICT COURT  
MAY 3 11 34 AM '04

54

54

STATE OF LOUISIANA  
PARISH OF ORLEANS

AFFIDAVIT OF SHELIA WEBB

C  
O  
N  
T  
A  
I  
N  
S  
T  
H  
E  
F  
O  
L  
L  
O  
W  
I  
N  
G

I Shelia Webb, The Undersigned Affiant, being of majority age  
and competent to make this Affidavit, being first duly Sworn,  
do depose as follows:

On January, (6) 1997, I Shelia Webb did see Nathaniel Lambert, Nat  
and Ernestine in front of her house talking.

Ernestine Taylor, did have a hammer in her hand.  
I ask Nat, what's up and he told me he was going to fix her door  
for her.

I call Nathaniel on the side and ask him to lend me some money, he  
gave me 40.00 and told me to pay him when I get it.

Nathaniel and Ernestine went into her house, I saw the front door  
and I left.

FURTHER AFFIANT SAYETH NOT:

S/ Shelia Webb

SWORN AND SUBSCRIBED before me on this 11th day of January 1997.

Donald Ray Payne  
NOTARY PUBLIC



STATE OF LOUISIANA

AFFIDAVIT OF WINSTON WINN

PARISH OF ORLEANS

I, Winston Winn, the undersigned affiant, being of majority age and competent to make this affidavit, being first duly sworn, depose as follows, to wit:

On the sixth (6) day of January, 1997 I, the undersigned affiant, Winston Winn, did meet and engage in conversation with one Nathaniel Lambert in front of Brown Sugar Record Shop, when Ernstine Taylor called him, but I don't know what they talked about. I then told Nathaniel Lambert that I would see him later. Whereupon, I got into my car and drove away.

On the eleventh (11) day of August, 1997 I the undersigned affiant, Winston Winn, was in Court for the Trial of Nathaniel Lambert as his witness, during which time an attorney, one Power Miller, woke me up in Court and told me that I could leave as Nathaniel Lambert was not coming to trial that day.

Further Affiant Saith Not.

*x Winston Winn*

Sworn and subscribed before me 8 day of DECEMBER, 1997.

\_\_\_\_\_  
Notary Public

"IS THIS YOUR VERDICT?" *Count 3*  
no  
*J. Alonzo*  
SIGNATURE OF JUROR

"IS THIS YOUR VERDICT?"  
YES  
*A. A. P.*  
SIGNATURE OF JUROR

"IS THIS YOUR VERDICT?"  
yes  
*Sharon Thomas*  
SIGNATURE OF JUROR

"IS THIS YOUR VERDICT?"  
yes  
*E. J. Jackson*  
SIGNATURE OF JUROR

"IS THIS YOUR VERDICT?"  
yes  
*Antoinette Stewart*  
SIGNATURE OF JUROR

"IS THIS YOUR VERDICT?"  
yes  
*Karen Kinsel*  
SIGNATURE OF JUROR

"IS THIS YOUR VERDICT?"  
yes  
*Barbara D. Pagan*  
SIGNATURE OF JUROR

"IS THIS YOUR VERDICT?"  
yes  
*Kevin D. Dwyer*  
SIGNATURE OF JUROR

"IS THIS YOUR VERDICT?"  
YES  
*Edward M. Markovich*  
SIGNATURE OF JUROR

"IS THIS YOUR VERDICT?"  
yes  
*Patricia C. Morris*  
SIGNATURE OF JUROR

"IS THIS YOUR VERDICT?"

Yes

*Clara Jones*  
SIGNATURE OF JUROR

"IS THIS YOUR VERDICT?"

No

*A. Romano*  
SIGNATURE OF JUROR

"IS THIS YOUR VERDICT?"

SIGNATURE OF JUROR

*[Illegible signature]*

"IS THIS YOUR VERDICT?"

Yes

*Karnta P. Howell*  
SIGNATURE OF JUROR

"IS THIS YOUR VERDICT?"

Yes

*AJP*  
SIGNATURE OF JUROR

"IS THIS YOUR VERDICT?"

YES

*[Illegible signature]*  
SIGNATURE OF JUROR

"IS THIS YOUR VERDICT?"

Yes

*Shawn Thomas*  
SIGNATURE OF JUROR

"IS THIS YOUR VERDICT?"

Yes

*[Illegible signature]*  
SIGNATURE OF JUROR

"IS THIS YOUR VERDICT?"

Yes

*Clara Jones*  
SIGNATURE OF JUROR

"IS THIS YOUR VERDICT?"

Yes

*A. Romano*  
SIGNATURE OF JUROR

"IS THIS YOUR VERDICT?"

yes

Patricia Morris  
SIGNATURE OF JUROR

"IS THIS YOUR VERDICT?"

yes

Tommy Stewart  
SIGNATURE OF JUROR

2

"IS THIS YOUR VERDICT?"

yes

Edith [unclear]  
SIGNATURE OF JUROR

"IS THIS YOUR VERDICT?"

yes

Ronnie [unclear]  
SIGNATURE OF JUROR

"IS THIS YOUR VERDICT?"

"IS THIS YOUR VERDICT?"

YES

AHP  
SIGNATURE OF JUROR

3

"IS THIS YOUR VERDICT?" Count 3

YES

Edward J. [unclear]  
SIGNATURE OF JUROR

"IS THIS YOUR VERDICT?" Count-3

yes

Ronnie H. [unclear]  
SIGNATURE OF JUROR

"IS THIS YOUR VERDICT?" Count 3

yes

Kenn [unclear]  
SIGNATURE OF JUROR

"IS THIS YOUR VERDICT?" Count-3

yes

Ronnie [unclear]  
SIGNATURE OF JUROR

"IS THIS YOUR VERDICT?" 3

yes

Ed [unclear]  
SIGNATURE OF JUROR

"IS THIS YOUR VERDICT?" Count-3

yes

Linda [unclear]  
SIGNATURE OF JUROR

"IS THIS YOUR VERDICT?"

yes

Shawn Thomas

SIGNATURE OF JUROR

"IS THIS YOUR VERDICT?"

Count-3

yes

Clare Jones

SIGNATURE OF JUROR

"IS THIS YOUR VERDICT?"

Count-3

yes

Antoinette Stewart

SIGNATURE OF JUROR

"IS THIS YOUR VERDICT?"

Count-3

yes

Patricia C. Morris

SIGNATURE OF JUROR

60