

The Supreme Court of the State of Louisiana

STATE OF LOUISIANA

No. 2023-KH-00278

VS.

PAUL M. POUPART

IN RE: Paul M. Poupart - Applicant Defendant; Applying For Supervisory Writ, Parish of Jefferson, 24th Judicial District Court Number(s) 09-4796, Court of Appeal, Fifth Circuit, Number(s) 22-KH-464;

June 07, 2023

Writ application denied.

JLW

SJC

JTG

WJC

JBM

PDG

Supreme Court of Louisiana
June 07, 2023

Vickie Marjanovic
Chief Deputy Clerk of Court
For the Court

STATE OF LOUISIANA
VERSUS
PAUL M. POUPART

NO. 22-KH-464
FIFTH CIRCUIT
COURT OF APPEAL
STATE OF LOUISIANA

December 20, 2022

FIFTH CIRCUIT COURT OF APPEAL
A TRUE COPY OF DOCUMENTS AS
SAME APPEARS IN OUR RECORDS
Susan S. Buchholz
Susan S. Buchholz
Chief Deputy Clerk

IN RE PAUL M. POUPART

APPLYING FOR SUPERVISORY WRIT FROM THE TWENTY-FOURTH JUDICIAL DISTRICT COURT,
PARISH OF JEFFERSON, STATE OF LOUISIANA, DIRECTED TO THE HONORABLE
R. CHRISTOPHER COX, III, DIVISION "B", NUMBER 09-4796

Panel composed of Judges Fredericka Homberg Wicker,
Stephen J. Windhorst, and Hans J. Liljeberg

WRIT DENIED

Relator, Paul Poupart, seeks review of the trial court's denial of his "Motion to Correct an Illegal Sentence and Motion to Quash." For the following reasons, we deny the writ.

On January 12, 2011, relator was found guilty by jury as charged for public intimidation in violation of La. R.S. 14:122 and was sentenced to five years imprisonment at hard labor. On March 9, 2011, the State filed a multiple offender bill of information. Relator was adjudicated a fourth-felony offender on April 29, 2011, and the district court vacated relator's original sentence and resentenced him to twenty years imprisonment at hard labor without the benefit of probation or suspension of sentence under La. R.S. 15:529.1. Relator filed a motion for appeal. On February 28, 2012, this Court affirmed relator's conviction and sentence. *See State v. Poupart*, 11-710 (La. App. 5 Cir. 2/28/12), 88 So.3d 1132. On October 8, 2012, the Louisiana Supreme Court denied relator's writ application. *See State v. Poupart*, 12-0705 (La. 10/8/12), 98 So.3d 867.

On July 14, 2022, nearly ten years after his conviction and sentence became final, relator filed a "Motion to Correct Illegal Sentence and Motion to Quash," challenging the constitutionality of the statutes upon which his convictions are based. On July 21, 2022, the trial court denied relator's relief requested through his motion, first finding relator's motion to be an untimely application for post-conviction relief and, further, that relator's request for relief is "successive, repetitive...time-barred and procedurally barred, and relief is not warranted under any legal theory."

Although La. C.Cr.P. art. 882(A) provides that an illegal sentence may be corrected at any time, a defendant must point to an illegal term in his sentence to raise a claim cognizable in a motion to correct an illegal sentence. *State v. Parker*, 98-256 (La. 5/8/98), 711 So.2d 694, 695. We first find that relator has failed to point to an illegal term in his sentence and, thus, his motion is more appropriately considered as an application for post-conviction relief. La. C.Cr.P. art. 930.8 provides that no application for post-conviction relief shall be considered if it is filed more than two years after defendant's conviction and sentence become final, unless certain enumerated exceptions apply. Therefore, relator's application for post-conviction relief, filed nearly ten years after his conviction and sentence became final, is procedurally time-barred under La. C.Cr.P. art. 930.8.

Moreover, this Court has previously considered identical arguments raised by relator and, thus, we agree with the trial court that relator's application seeking post-conviction relief is successive and repetitive. *See Poupart v. State*, 21-KH-105 (La. App. 5 Cir. 4/27/21) (unpublished writ disposition), *writ denied*, 21-799 (La. 10/5/21), 325 So.3d 377; *Poupart v. State*, 19-KH-591 (La. App. 5 Cir. 1/23/20) (unpublished writ disposition), *writ denied*, 20-364 (La. 6/3/20), 296 So.3d 1067; *State ex rel. Poupart v. State*, 19-KH-255 (La. App. 5 Cir. 7/8/19) (unpublished writ disposition), *writ denied*, 19-1679 (La. 11/19/19), 282 So.3d 1071. Accordingly, this writ is denied.

Gretna, Louisiana, this 20th day of December, 2022.

FHW
SJW
HJL