SUPREME COURT OF THE UNITED STATES
(Term: October 2025-2026)

***

PAUL M. POUPART

versus

LOUISIANA

***

ON PETITIONER FOR THE GREAT WRIT OF CERTIORARI TO THE LOUISIANA SUPREME COURT, CASE NUMBER: 25-KO-1364, FROM THE COURT OF APPEAL-FIFTH CIRCUIT, CASE NUMBER: 25-CA-102; ORIGINATING IN THE TWENTY-FOURTH JUDICIAL DISTRICT COURT, PARISH OF JEFFERSON, STATE OF LOUISIANA, CASE NUMBER: 856-442, HER HONOR, STATE DISTRICT JUDGE DANYELLE M. TAYLOR, PRESIDING

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(*Petitioner*)
Paul M. Poupart # 357073
LDPS&C – Elayn Hunt Correctional Center
6925 Highway 74, Unit 2, Golf 3-11
St. Gabriel, LA 70776-0174

The Supreme Court of the State of Louisiana

PAUL M. POUPART

No. 2025-KO-01364

VS.

STATE OF LOUISIANA

IN RE: Paul M. Poupart - Applicant Plaintiff; Applying For Writ Of Certiorari, Parish of Jefferson, 24th Judicial District Court Number(s) 856-442, Court of Appeal, Fifth Circuit, Number(s) 25-CA-102;

April 09, 2026

Writ application denied.

JLW

JDH

JBM

JMG

CRC

AHP

Griffin, J., would grant in part.

Supreme Court of Louisiana
April 09, 2026

Katie Marjanovic

Chief Deputy Clerk of Court
For the Court

PAUL M. POUPART

VERSUS

STATE OF LOUISIANA

NO. 25-CA-102

FIFTH CIRCUIT

COURT OF APPEAL

STATE OF LOUISIANA

ON APPEAL FROM THE TWENTY-FOURTH JUDICIAL DISTRICT COURT
PARISH OF JEFFERSON, STATE OF LOUISIANA
NO. 856-442, DIVISION "O"
HONORABLE DANYELLE M. TAYLOR, JUDGE PRESIDING

September 24, 2025

SUSAN M. CHEHARDY
CHIEF JUDGE

Panel composed of Judges Susan M. Chehardy,
Jude G. Gravois, and Timothy S. Marcel

AFFIRMED

SMC
JGG
TSM

FIFTH CIRCUIT COURT OF APPEAL
A TRUE COPY OF DOCUMENTS AS
SAME APPEARS IN OUR RECORDS
Miss Walker
Deputy, Clerk of Court

CHEHARDY, C.J.

Plaintiff-appellant, Paul M. Poupart, appeals the trial court's January 27, 2025 judgment, which sustained peremptory exceptions raising the objections of lack of subject matter jurisdiction, *res judicata*, no right of action, and no cause of action, that were filed by defendant-appellee, the State of Louisiana, through Liz Murrill in her official capacity as the Attorney General for the State of Louisiana (the "State"), and which dismissed Mr. Poupart's declaratory judgment action, wherein he alleged the multiple offender statute, La. R.S. 15:529.1, under which he was adjudicated and sentenced as a fourth felony offender, was unconstitutional.[1] For the reasons that follow, we affirm the trial court's judgment.

FACTUAL BACKGROUND AND PROCEDURAL HISTORY

In January 2011, following a jury trial, plaintiff-appellant, Paul M. Poupart, proceeding *pro se*, was found guilty of public intimidation, and was sentenced to imprisonment at hard labor for a term of five years. He was later adjudicated a fourth felony offender, and on April 29, 2011, his original five-year sentence was vacated, and he was re-sentenced under La. R.S. 15:529.1, to imprisonment at hard labor for a term of twenty years, to be served without the benefit of probation or suspension of sentence. Mr. Poupart's sentence and conviction were upheld by this Court on February 28, 2012, and the Supreme Court subsequently denied writs. *See State v. Poupart*, 11-710 (La. App 5 Cir. 2/28/12), 88 So.3d 1132, *writ denied*, 12-705 (La. 10/8/12), 98 So.3d 867. Mr. Poupart filed five applications for post-conviction relief, as well as other legal actions, and, in 2017, the Supreme Court declared that he had exhausted his right to obtain post-conviction relief in state court. *See State ex rel. Poupart v. State*, 17-1237 (La. 9/15/17), 224 So.3d 960.

[1] Additionally, the judgment declared as moot the State's declinatory exceptions of prematurity and unauthorized use of a summary proceeding and the declinatory exceptions of insufficiency of service of process and insufficiency of citation.

In 2022, apparently after "learning that [his] sentence was [purportedly] unconstitutional," Mr. Poupart filed a Request for Administrative Remedy Procedure with the Department of Corrections, which was rejected on the basis that "offenders may request administrative remedies for situations arising from policies, conditions, or events within the institution only." Mr. Poupart again sought to challenge his conviction for public intimidation by filing a pleading captioned "Motion to Correct an Illegal Sentence" in the district court, arguing that La. R.S. 15:529.1 had been repealed without a savings clause in July 1956, and thus, his sentence was unconstitutional. Having determined that the caption of Mr. Poupart's pleading was not controlling, the district court construed his motion as, in fact, yet another application for post-conviction relief under La. C.Cr.P. art. 924, which it concluded was procedurally time-barred under La. C.Cr.P. art. 930.8, as it was filed nearly ten years after Mr. Poupart's conviction and sentence became final.[2] This Court and the Supreme Court subsequently denied writs. *See State v. Poupart*, 22-464 (La. App. 5 Cir. 12/20/22) (unpublished writ application), *writ denied*, 23-278 (La. 6/7/23), 361 So.3d 983. Mr. Poupart filed a petition for writ of certiorari with the United States Supreme Court, which also denied relief. *See Poupart v. Louisiana*, 144 S.Ct. 335, 217 L.Ed.2d 175 (2023), *reh'g denied*, 144 S.Ct. 534, 217 L.Ed.2d 282 (2023).

On June 9, 2022, while his criminal proceedings were still pending, Mr. Poupart filed the instant declaratory judgment action, originally in the Nineteenth Judicial District Court for the Parish of East Baton Rouge, seeking to have La. R.S. 15:529.1, under which he was convicted and sentenced as a fourth felony offender,

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[2] The district court issued an order denying the motion, stating "Relief is barred by mandatory post-conviction rules including the fact that the request is successive, repetitive, and untimely, therefore, the request is time-barred and procedurally barred, and relief is not warranted under any legal theory." Mr. Poupart also filed a motion to quash the multiple offender bill of information, again arguing La. R.S. 15:529.1 was not validly passed by the Legislature. Applying La. C.Cr.P. art. 535, the district court determined that such a motion should be filed prior to the commencement of trial and, as such, Mr. Poupart's motion was clearly untimely.

declared unconstitutional, once again arguing that the statute had been repealed without a savings clause in 1956—the same arguments he urged in his ongoing criminal proceedings in 2022. In effect, by way of this civil action, despite his protestations to the contrary, Mr. Poupart is ultimately seeking to have his criminal conviction and sentence as a multiple offender overturned by challenging the constitutionality of La. R.S. 15:529.1.

Of significance, in his petition seeking declaratory relief, Mr. Poupart does not name a defendant, and, upon information and belief, no party has ever been properly served with citation and petition. In December 2023, however, the Secretary of the Department of Public Safety and Corrections ("DPSC") was served with "notice" of Mr. Poupart's filing. In response, DPSC filed an exception of improper venue on the basis that Mr. Poupart's petition for declaratory judgment was related to his criminal conviction in Jefferson Parish. On February 12, 2024, the trial court sustained DPSC's exception and this suit was transferred to the Twenty-Fourth Judicial District Court for the Parish of Jefferson.

Following the transfer, despite having not been properly served with the petition, the State, through Liz Murrill in her official capacity as the Attorney General for the State of Louisiana, filed numerous exceptions, including the following: peremptory exceptions of lack of subject matter jurisdiction, *res judicata*, no right of action, and no cause of action; dilatory exceptions of prematurity and unauthorized use of a summary proceeding; and declinatory exceptions of insufficiency of service of process and insufficiency of citation. The State's exceptions came for hearing on January 9, 2025, and at the conclusion of the hearing, the trial court orally ruled, sustaining the State's peremptory exceptions of lack of subject matter jurisdiction, *res judicata*, no right of action, and no cause of action, and declaring the remaining dilatory and declinatory

exceptions as moot. A written judgment to this effect was signed on January 27, 2025, which judgment dismissed Mr. Poupart's suit with prejudice at his cost.

This timely appeal ensued.

DISCUSSION

Mr. Poupart now appeals the trial court's judgment sustaining the State's peremptory exceptions of lack of subject matter jurisdiction, *res judicata*, no right of action, and no cause of action. We find no error in the trial court's judgment.

The peremptory exception of lack of subject matter jurisdiction filed by the State alleged that Mr. Poupart's bringing a declaratory judgment action is an attempt to overturn his criminal conviction and sentence by challenging the constitutionality of the multiple offender statute. Although framed as a civil action for declaratory judgment, the State avers that Mr. Poupart's petition effectively seeks post-conviction relief, much like his previously filed motion to correct illegal sentence. The State argues that the law is well-settled that a prisoner cannot file a civil action to collaterally attack a criminal conviction or to bypass the procedural requirements governing post-conviction relief. Also, the State posits that the trial court does not have subject matter jurisdiction over a separate civil suit to undermine Mr. Poupart's criminal conviction.

According to the State, even assuming Mr. Poupart's assertion that he is not seeking to overturn his conviction or sentence is true, Mr. Poupart has no right of action to bring this action because he has no real and actual interest in the suit and, thus, there is no actual, justiciable controversy for which he may seek declaratory relief. Specifically, the State argues Mr. Poupart does not have a real and actual interest in this suit because he is a state prisoner that has already been adjudicated a fourth felony offender under La. R.S. 15:529.1, he has exhausted all appeals and post-conviction relief, and his conviction and sentence have been final since 2012. Consequently, resolution of the instant suit would have no effect whatsoever on

Mr. Poupart and would be tantamount to a request for an advisory opinion as to the constitutionality of the multiple offender statute. Further, the State avers that, in his criminal proceedings, Mr. Poupart raised the question regarding the validity and constitutionality of La. R.S. 15:529.1, which the district court rejected, so a civil, declaratory judgment action is no longer appropriate. Put simply, once Mr. Poupart's conviction and sentence as a fourth felony offender became final and he exhausted all possibility of post-conviction relief, the controversy ceased to exist and Mr. Poupart has no right of action to pursue this civil action.

The State further argues that Mr. Poupart's civil claim is barred by *res judicata* because his declaratory judgment action is, in essence, a petition for post-conviction relief on the same exact issue—the constitutionality of the statute—that was raised in his criminal proceedings and was rejected, not only by the district court, but also by this Court and the Supreme Court. Consequently, the State avers that *res judicata* bars re-litigation of the constitutionality issue raised in Mr. Poupart's declaratory judgment action, which is the same issue that is the subject of a final judgment issued by another court in Mr. Poupart's criminal proceedings.

On appeal, Mr. Poupart argues that, because his declaratory judgment action is civil in nature "and the availability of declaratory relief is governed by the general civil jurisdiction of the courts," who have "original jurisdiction" over such matters, the trial court has subject matter jurisdiction over this civil proceeding. La. C.C.P. art. 2.[3] He also reasons that his civil claim seeking a declaration as to the constitutionality of La. R.S. 15:529.1 is not barred by *res judicata*, because the prior final judgments denying his post-conviction relief and his motion to correct illegal sentence were criminal in nature and did not definitively resolve the question of the constitutionality of the multiple offender statute, which question he

[3] La. C.C.P. art. 2 provides: "Jurisdiction over the subject matter is the legal power and the authority of a court to hear and determine a particular class of actions or proceedings, based upon the object of the demand, the amount in dispute, or the value of the right asserted."

contends is civil in nature. Alternatively, Mr. Poupart suggests the trial court abused its discretion by failing to exercise its "equitable discretion to balance the principle of *res judicata* with the *interest of justice*," and to consider the "exceptional circumstances" that "justify relief from [the] *res judicata* effect of the judgment," and should allow him to pursue this declaratory judgment action. Mr. Poupart avers that he does have standing and a right of action to challenge an invalid law used against him illegally and that his "due process rights" require that he be allowed to pursue this declaratory judgment action. He further states that he has a cause of action because he has been "injuriously affected" by the State's enforcement of the unconstitutional sentencing statute. Lastly, Mr. Poupart contends that his due process rights were denied when the trial court dismissed his entire suit with prejudice.

We agree with the trial court and the State and find (1) the trial court does not have subject matter jurisdiction over Mr. Poupart's declaratory judgment action; (2) Mr. Poupart does not have a right of action in this matter; and (3) Mr. Poupart's claim is barred by *res judicata*.

Mr. Poupart has sought a declaratory judgment that the multiple offender statute—a criminal statute—is unconstitutional. The trial court lacks jurisdiction to grant Mr. Poupart the relief he purportedly seeks. First, an objection to the constitutionality of a criminal statute may be urged only by the filing of a motion to quash the indictment *before* commencement of the trial, not through a petition for declaratory judgment in a civil court. *See* La. C.Cr.P. art. 535; *Ricks v. Louisiana Department of Justice*, 23-549 (La. App. 1 Cir. 11/3/23), 378 So.3d 83, 87. Additionally, although framed as a civil action for declaratory relief, Mr. Poupart's efforts to challenge the constitutionality of La. R.S. 15:529.1 is an impermissible collateral attack on his final criminal conviction and sentence as a multiple felony offender, which cannot be pursued through a civil proceeding. It is

well-established in Louisiana that a prisoner may not use civil proceedings to collaterally attack previous criminal convictions. *Ricks*, 378 So.3d at 87; *Straughter v. Louisiana Department of Public Safety & Corrections*, 17-384 (La. App. 1 Cir. 11/1/17), 233 So.3d 89, 91, *writ denied*, 18-187 (La. 2/11/19), 263 So.3d 893.[4]

Second, even assuming as true Mr. Poupart's contention that he is not seeking to overturn his conviction or sentence, La. C.C.P. art. 681 provides that "... an action can be brought only by a person having a real and actual interest which he asserts." Louisiana courts have consistently held that declaratory relief is available to decide a "justiciable" controversy, meaning a presently existing, actual and substantial dispute, but the courts are not empowered to render advisory opinions on moot or abstract issues of law. *Hughes v. Connick*, 96-152 (La. App. 5 Cir. 9/26/06), 942 So.2d 1076, 1079. These purposes apply to both civil and criminal ordinances, and in the criminal context, these purposes are met only where an individual falls within a class that is threatened with prosecution under an allegedly unconstitutional statute, not after prosecution has begun. *Id.* Here, Mr. Poupart has no real or actual interest in the multiple offender statute being declared unconstitutional. He is not currently threatened with prosecution under the statute. He has already been adjudicated and sentenced as a fourth felony offender under La. R.S. 15:529.1 and his conviction and sentence are final. As such, any opinion as to the constitutionality of the statute at this juncture would be merely an advisory opinion, as the result would not affect Mr. Poupart personally. Thus, the trial court properly sustained the State's exception of lack of subject matter jurisdiction.

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[4] Further, while an illegal sentence may be corrected at any time, only the sentencing court itself or the appellate court having jurisdiction over the sentencing court have authority to do so. La. C.Cr.P. art. 882(A); *Ricks*, 378 So.3d at 87.

For similar reasons, we also agree with the trial court that Mr. Poupart does not have a right of action to pursue this declaratory judgment action. Mr. Poupart was adjudicated and sentenced as a fourth felony offender in 2011. Louisiana law provides that declaratory judgment actions are only appropriate to test the validity of criminal statutes before prosecution has commenced. As previously stated, Mr. Poupart's conviction and sentence have been final since 2012. In *Shepherd v. Shedler*, 15-1750 (La. 1/27/16), 209 So.3d 752, 762, the Supreme Court iterated the following applicable principles:

> One of the predicate issues that must be decided by a court before considering a constitutional challenge is whether the party seeking the declaration of unconstitutionality has standing to bring the challenge. To have standing to bring a constitutional challenge, the party bringing the challenge must have rights in controversy. [Citations omitted.]

Mr. Poupart is not currently threatened with prosecution under the multiple offender statute. As he has no real or actual, current interest in the constitutionality of La. R.S. 15:529.1, we find that no justiciable controversy exists that would provide him a right of action or standing to pursue this civil declaratory judgment action.[5]

In addition, we find the trial court correctly determined that Mr. Poupart is barred by *res judicata* from bringing this civil action to declare La. R.S. 15:529.1 unconstitutional, because his criminal conviction involving this statute has been fully litigated in the criminal proceeding. La. R.S. 13:4231 provides:

> Except as otherwise provided by law, a valid and final judgment is conclusive between the same parties, except on appeal or other direct review, to the following extent:

---

[5] We likewise find the trial court correctly determined that Mr. Poupart's petition for declaratory judgment fails to state a cause of action upon which relief can be granted. Although the caption of his petition indicates his claim is against the State of Louisiana, Mr. Poupart's petition states no allegations against the State, or any other defendant, for that matter. Further, as previously indicated, his effort to challenge La. R.S. 15:529.1 is an impermissible collateral attack on his final criminal conviction that cannot be pursued through a civil proceeding; it must be brought in an application for post-conviction relief, not in a declaratory judgment action.

(1) If the judgment is in favor of the plaintiff, all causes of action existing at the time of the final judgment arising out of the transaction or occurrence that is the subject matter of the litigation are extinguished and merged in the judgment.

(2) If the judgment is in favor of the defendant, all causes of action existing at the time of final judgment arising out of the transaction or occurrence that is the subject matter of the litigation are extinguished and the judgment bars a subsequent action on those causes of action.

(3) A judgment in favor of either the plaintiff or the defendant is conclusive, in any subsequent action between them, with respect to any issue actually litigated and determined if its determination was essential to that judgment.

During the criminal proceedings, including the post-conviction relief applications, writs, and appeals, Mr. Poupart questioned the constitutionality of the multiple offender statute under which he was adjudicated and sentenced, and his claims were rejected.[6] Mr. Poupart's conviction and sentence under the multiple offender statute as a fourth felony offender have been fully litigated in the criminal proceeding and are now final. The parties—Mr. Poupart and the State—are the same in both actions, the current cause of action existed at the time of the prior final judgment, and it arises from the same underlying facts. Consequently, he is now barred from relitigating this matter by claiming the multiple offender statute is unconstitutional through this civil action. *See Hughes, supra.*

Accordingly, for the foregoing reasons, we affirm the trial court's judgment granting the State's peremptory exceptions of lack of subject matter jurisdiction, no right of action, no cause of action, and *res judicata*.

AFFIRMED

[6] Louisiana court have held that a constitutional challenge not raised during criminal proceedings cannot later be brought in a civil suit. *See Hughes*, 942 So.2d at 1080.

PLAINTIFF/APPELLANT,
PAUL M. POUPART
In Proper Person

COUNSEL FOR DEFENDANT/APPELLEE,
STATE OF LOUISIANA
Elizabeth B. Murrill
David J. Smith, Jr.
Terrel T. Kent
Jennifer W. Moroux

TWENTY FOURTH JUDICIAL DISTRICT COURT

PARISH OF JEFFERSON

STATE OF LOUISIANA

NO. 856-442 DIVISION: O

PAUL M. POUPART

VERSUS

STATE OF LOUISIANA

FILED: _____ _____

DEPUTY CLERK

JUDGMENT

This matter came before the Court on January 9, 2025, on: Peremptory Exceptions of Lack of Subject Matter Jurisdiction, Res Judicata, No Right of Action, and No Cause of Action; Dilatory Exceptions of Prematurity and Unauthorized Use of a Summary Proceeding; and Declinatory Exceptions of Insufficiency of Service of Process and Insufficiency of Citation, filed by Defendant, the State of Louisiana through Liz Murrill in her official capacity as the Attorney General of the State of Louisiana. Present in court *via zoom* was Plaintiff, Paul M. Poupart, in proper person, and Olivia Boudreaux, for the Defendant, the State of Louisiana. Considering the exceptions, memorandum, evidence, arguments, and applicable law;

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the Peremptory Exception of Lack of Subject Matter Jurisdiction is hereby **SUSTAINED** in favor of the Defendant, the State of Louisiana, and against Plaintiff, Paul M. Poupart.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the Peremptory Exception of Lack of Res Judicata is hereby **SUSTAINED** in favor of the Defendant, the State of Louisiana, and against Plaintiff, Paul M. Poupart.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the Peremptory Exception of No Right of Action is hereby **SUSTAINED** in favor of the Defendant, the State of Louisiana, and against Plaintiff, Paul M. Poupart.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the Peremptory Exception of Lack of No Cause of Action is hereby **SUSTAINED** in favor of the Defendant, the State of Louisiana, and against Plaintiff, Paul M. Poupart.

IT IS HEREBY FURTHER ORDERED that: Dilatory Exceptions of Prematurity and Unauthorized Use of a Summary Proceeding; and Declinatory Exceptions of Insufficiency of Service of Process and Insufficiency of Citation are declared to be **MOOT**.

IT IS HEREBY FURTHER ORDERED that this matter is **DISMISSED** with prejudice, at Plaintiff's sole cost.

Gretna, Louisiana this 12 day of Feb, 2025.

Judge Danyelle M. Taylor
Twenty-Fourth Judicial District Court, Division O

Defendant Owes

Paul M. Poupart

Paul M. Poupart # 357073

1/27/25
Date

Please notify all parties.

SUPREME COURT OF THE UNITED STATES
(Term: October 2025-2026)

CASE NO. _____

AFFIDAVIT UNDER 28 U.S.C. § 1746

I, Paul M. Poupart, declare under the penality of perjury that I did not seek a rehearing of my application to the Louisiana Supreme Court because only one justice would grant my application. I also declare under the penality of perjury that the State of Louisiana and its judicial officers are committing fraud upon the court for not entertaining the doctrines of law.

Executed on: 6/ /26

Paul M. Poupart

Mr. Paul Michael Poupart # 357073
LDPS&C – Elayn Hunt Correctional Center
6925 Highway 74, Unit 2, Golf 3-11
St. Gabriel, LA 70776-0174

CONSTITUTIONAL PROVISIONS

(Appendix Attached under U.S. Supreme Court Rules)

United States Constitution, Article III, § 2:

Section 2. ***The judicial power shall extend to all cases, in law and equity, arising under this Constitution****, the laws of the United States, and the treaties made, or which shall be made, under this authority; – to all cases affecting ambassadors, other public ministers and counsels; – to all cases of admiralty and maritime jurisdictions; – to controversies to which the United States shall be a party; – to controversies between two or more states; – between a state and citizen of another state; – between citizens of different states, – between citizens of the same state claiming lands under grants of different states, and* ***between a state, or the citizen therefore****, and foreign states' citizens or subject.*

In all cases affecting ambassadors, other public ministers and counsels, ***and those in which a state shall be a party, the Supreme Court shall have original jurisdiction****. In all other cases before mentioned, the Supreme Court shall have appellant jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make.*

The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the state where the said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places as the Congress may by law have directed. (1789)

First Amendment to the United States Constitution:

Congress shall make no law *respecting an establishment of religion, or prohibiting the free exercise thereof;* ***or abridging*** *the freedom of speech, or of the press; or* ***the right*** *of the people peaceably to assemble, and* ***to petition the Government for a redress of grievances****.* (1789)

Eighth Amendment to the United States Constitution:

Excessive bail shall not be required, nor excessive fines imposed, ***nor cruel and unusual punishments inflicted****.* (1791)

Fourteenth Amendment to the United States Constitution:

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 whereas 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 and 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****.* (1868)

Pro se, Mr. Paul M. Poupart

PLEADINGS RELATED TO THE U.S. SUPREME COURT RULE 14.1 (g)(i)

PAUL M. POUPART # 357073 **24TH JUDICIAL DISTRICT COURT**

VERSUS **PARISH OF JEFFERSON**

STATE OF LOUISISNA **CASE NUMBER: 856442**

SECTION: " O "

****

MOTION FOR DECLARATORY JUDGMENT

****

NOW INTO COURT, comes, **Paul M. Poupart**, *Pro se*, respectfully moves this Honorable Court pursuant to consider the matter herein for reversal and remand for the following reasons:

JURISDICTION

Venue is vested in this Court pursuant to La. Constitution, Article I § 2; I § 5 of the Louisiana Constitution of 1974; La. C.C.P. Article(s) 1871, 1872 *et seq*. And the La. C.C.P. Article(s) 1871 and 1872 for a Declaratory Judgment.

1.

The plaintiff, **Paul M. Poupart # 357073**, is presently in custody of the Louisiana Department of Public Safety and Corrections at Elayn Hunt Correctional Center.

2.

Plaintiff, Mr. Poupart is held by the Secretary of the Louisiana Department of Corrections, James LeBlanc, and Warden of Elayn Hunt Correctional, Donnie Borderlon.

3.

On September 7, 2009, Mr. Poupart, was arrested for **LSA-R.S.14:122**, Public Intimidation, see Exhibit " I ".[1] Convicted at trial on January 12, 2011, and sentenced on February 12, 2011, to 5 years.[2] Then on April 29, 2011, Mr. Poupart was subject to the Habitual Offender Statute of **LSA-R.S.15:529.1**, contrary to the law in that said statute had been REPEALED prior to the hearing, on July 13, 1956.

1 See Exhibit " I " – Mr. Poupart's Bill of Information.

2 See Exhibit " O " – Man Gets 5 Years.

4.

On April 29, 2011, a statute was brought against Mr. Poupart, that statute was **LSA-R.S. 15:529.1**, under Docket No. 09-4796, in the Twenty-Fourth Judicial District Court.[3] In relevant to enhancement of sentence for third and subsequent felony offenses. See (Exhibit " A ") On April 29, 2011, Mr. Poupart was sentenced to a term of " 20 " years for Public Intimidation, see Exhibits " M & L".[4]

5.

In 1942, prior to the Court's adjudication and sentencing and prior to the repeal of **LSA-R.S.15:529.1**, such statute underwent changes by the Louisiana Legislature in its *Title* of the bill stated:

> "Specifically, in relation to second and subsequent offenses convicted of felony violations their sentence and re-sentence and prescribing the penalties and specifically, repealing **LSA-R.S.15:529.1**, and all laws on parts of law in conflict herewith."

Also, a repealing clause was provided in § 5 of La. Act. 312 of 1956 (Senate Bill 225) that further states:

> "**LSA-R.S.15:529.1**, and all laws are parts of laws in conflict herein are hereby *repealed*"

By virtue of Legislature Act No. 312 of 1956, **LSA-R.S.15:529.1**,. It was expressly repealed, see (Exhibit " B "). The Louisiana Constitution vest legislative power exclusively in the branch, and determination and definition of acts which are punishable as crimes are properly functions of the Legislature. Moreover, Legislative power to create and define offenses against the State cannot be delegated. See ***State v. Domangue***, 649 So.2d at 1038; ***State v. Maitrejean***, 192 So.2d at 363, 193 La. at 830; citing ***State v. Gaster***, 45 La. Ann. 636 So.2d 739, 740.

In ***State v. Gaster***, 45 La. Ann. 636 So.2d 739, 740, this Court stated:

> All crimes in Louisiana are statutory and there can be no crime which is not defined and denounced by statute. The determination and definition of acts which are punishable as crimes are purely legislative functions, which cannot be delegated to, or exercised by the judiciary.

Thus was done so they would be no misunderstandings. However, no saving clause was/is provided to retain any of the former law, nor was this statute amended and re-enacted (See Exhibit " A ") - Louisiana Act. 312 of 1956 (Senate Bill 225). Where creating an offense is *repealed* without a saving clause, it puts an end to the prosecution even after judgment in an inferior Court, and judgment must be reversed if not affirmed before *repeal*. ***State v. Whitebeck***, 136 La. 896, 67 So.2d 949; ***State v. Hagem***, 136 La,. 868, 869 So.2d 935.

3 See Exhibit " J " – Mr. Poupart's Multiple Offender Bill on March 10, 2011 (Supplemented).

4 See Exhibit "M" – Mr. Poupart's April 29, 2011, sentencing on the Multiple Offender Bill.
See Exhibit "L" – See Poupart's news paper article, sentencing to 20 years.

6.

Petitioner, Mr. Poupart, challenges the constitutionality of **LSA-R.S.15:529.1**, as being applied to enhance his sentence as a habitual offender, on April 29, 2011, as a result of the State of Louisiana utilizing this statute that was *repealed* years prior in 1956 to accomplish this endeavor. when the Constitutionality of a statute and/or legislature enacted is pleaded and the grounds for a claim particularized, as done in the instant proceeding, it must first be questioned, and a contradictory hearing must be held in the trial Court. See ***Williams v. State Dept. of Health and Hospitals***, 95-0713, Pgs. 4-6 (La. 1/26/96), 671 So.2d 899, 902 and ***Paradigm Ind. Co v. Louisiana Patient's Compensation Fund Oversight Bd.***, 95-1727, Pgs. 6-10 (La. App. 1st Cir. 9/27/96) 680 So.2d 783, 787. When a statute is *repealed* without a saving clause the statute loses its former power as law and the information based on such a *repeal* statute is ineffective and a sentence thereon unauthorized.[5] ***State v. Bienvenue***, 22 So.2d 196, 207 La. 859, (1945) Pages 199-200.

7.

Mr. Poupart contents that **LSA-R.S.15:529.1**, as used to enhance his penality is clearly a violation of La. Constitution Article I § 3 and § 5 in that statute was never amended and re-enacted by the Legislature. No where is it expressed in the *Title* that the aim and purpose was revival of the statute. To the contrary, both *Titles* and *repealing clause* of Act. No. 312 of 1956 express the specific, clear, and manifest intent of the Legislature to *repeal* **LSA-R.S.15:529.1**.

Therefore, the Louisiana State Law Institute has committed *usurpation* of the Constitution authority vested exclusively in the Legislature to create offenses and prescribe punishment. The Louisiana State Law Institute has clearly exceeded the authority given under **LSA-R.S. 24:253**, by altering the sense, meaning, and effect of Act No. 312 of 1956, thereby violating Article I § 1 and § 2 of the La. Constitution. The unconstitutionality of the statute must be specifically pleaded and the grounds for the claim particularized. ***Vallo v. Gayle Oil Co., Inc.***, 646 So.2d 856 (La. 1994); ***Johnson v. Welsh***, 334 So.2d 395 (La. 1976).

The Court stated in ***Vallo***, *supra*:

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5 However, "Court correlatively hold under the common law that when a pending action rests solely on a statutory basis, and when no rights have vested under the statute, a repeal of such a statute without a saving clause will terminate all pending actions based thereon. ***Mann***, 18 Cal. 3d at 829, 135 Cal. Rptr. 526, 558 P.2d 1 (citing ***S. Sery. Co. LTD. v. Los Angeleles Cnty.***, 15 Cal. 2d 1, 11-12, 97 P.2d 963 (1940); see also ***Younger v. Superior Court***, 21 Cal. 3d 102, 109, 145 Cal. Rptr. 674, 577 P.2d 1014 (1978) [noting] "the well settled rule that an action wholly dependent on statute abates if that statute is repealed without a saving clause before the judgment is final"

Governing ***Bd. Of Rialto Unified Sch. Dist. v. Mann***, 188 Cal. 3d 819, 135 Cal. Rptr. 526, 588 P.2d 1, 6 (1977); see ***S. Sery. Co. LTD. v. Los Angeleles Cnty.***, 15 Cal. 2d 1, 11-12, 97 P.2d 963 (1940) "The unconditional repeal of a special remedial statute without a saving clause stops all pending actions where the *repeal* finds them." ***Daghlian v. DeVry.***, 574 F.3d 1212, 1213 (9th Cir. 2009).

> Relying on **LSA-C.C.P. Art. 852**, in ***Vallo***, supra, this Court defined civil pleadings as petitions, exceptions, written motions and answers. We went on to state "When a claim of the unconstitutionality of a statute is specifically pleaded, the claim must be raised in a petition.... an exception, a motion or answer. It cannot be raised in a memorandum, opposition or brief as those documents do not constitute pleadings. ***Vallo***, at 865. Using this same analogy, we conclude that a letter likewise fails to equate to a legal pleading.

First of all, the pleading of unconstitutionality must first be made in the trial Court. *Lemire v. New Orleans Public Service, Inc.*, 485 So.2d 1308 (La. 1984); ***Vallo***, *supra*; ***Johnson***, *supra*. Next the plea of unconstitutionality must be particularized.

8.

Here, in support of the claim, he attaches exhibits consists of the "HISTORICAL AND STATUTORY NOTES" which shows all amendments made to the habitual offender statute from 1956 until 2017. At no time has **LSA-R.S. 15:529.1**, be re-enacted and/or amended and re-enacted between 1956 threw 2017.

9.

Act No. 312 of 1956 is complete revision of the subject to which **LSA-R.S. 15:529.1**. It relates, and is manifestly intended as a substitute for the former legislation. Therefore, **LSA-R.S. 15:529.1**, and all laws or parts of laws contrary to Act. 312 of 1956 must be considered as *repealed.* A *repealed* law cannot be re-enacted merely by reference thereto. ***Alrey v. Tugwell, Sup***. 1941, 197 La. 982, 3 So.2d 99; see also ***Jaryo v. Judge-Crim. Dist. Ct.***, 1885, 37 La. Ann. 587.

When a statute creating an offense is repealed without a saving clause, it puts an end to the prosecution even after judgment in the District Court, and the judgment must be reversed. A for ***fortiori***, where a statute creating offenses has been *repealed* without a saving clause the statute loses its force as law. A bill of information based on such a *repeal* statute is ineffective to charge any crime, and conviction/sentence is therefore unauthorized and not constitutionally valid. Judgment must be reversed if not affirmed before *repeal*. Our jurisprudence mandates that an attack upon the constitutionality of a statute must first be presented in the trial Court.

10.

As a direct result La. Act. 312 of 1956 repealing **LSA-R.S. 15:529.1**, the Petitioner's enhanced sentence of 20 years on Public Intimidation is, was, and always has been illegal. As a result, Mr. Poupart's sentence is in violation of the Eight Amendment prohibited against cruel and unusual punishment. The Eight Amendment to the Constitution prohibits cruel and unusual punishments, including not just barbaric punishments, but also those that are disproportionate to the crime

committed. ***Weems v. United States***, 217 U.S. 349 (1920). A review of whether a criteria including, (1) "the gravity of the offense and the harshness of the penality; (2) the sentence imposed on other criminal in the same jurisdiction; and (3) the sentence imposed for commissions of the same crime in other jurisdictions." ***Solem v. Helm***, 463 U.S. 277, 292 (1993).

CONCLUSION

WHEREFORE, Paul M. Poupart in this matter seek a Declaratory Judgment to be made as to the existence and Constitutionality of **LSA-15:529.1**.

The Bill of Information filed against Poupart is predicated on **LSA-15:529.1**, in which expressly repealed by Act. 312 of 1956. It follows that the Bill is so defected that it charges no violation of the law, and that the enhancement is without force or effect. See ***State v. Bienvenue***, 22 So.2d 196, 207 La. 859 (La. 1945).

1. This Honorable Court to exercise it's conferred power in **La. C. Civ. Pro. Art. 1871** to render Declaratory judgment-decree which will terminate any controversy or remove an uncertainty where one exists pertaining to the validity and constitutionality of the statute.

Poupart comes in the interest of justice fairness for the Court to make this decision based on the documents/exhibits entered into evidence and his assertion that **LSA-15:529.1**, is a repealed law.

The Louisiana Attorney General's Office in concert with the District Attorney's Office of the 24th Judicial District Court shall show proof of the existence of **LSA-15:529.1**, in response to the foregoing questions of law.

WHEREFORE, Petitioner sincerely prays that this Court will grant this Petition and make declaratory / decree declaring an unconstitutional law as applied to Mr. Poupart's case.

Thus done on this 25 day of July, 2024.

Respectfully Submitted,

Paul M Poupart

Paul M. Poupart # 357073
E.H.C.C. Golf 3A-31
P.O. Box 174
St. Gaberial, LA 70776

CERTIFICATION OF SERVICE

I do hereby swear that a copy of the foregoing has been served via postal mail, this 25 day of July, 2024.

Paul M Poupart

Paul M. Poupart

PAUL M. POUPART # 357073 | 24TH JUDICIAL DISTRICT COURT

VERSUS | PARISH OF JEFFERSON

STATE OF LOUISIANA, ET AL. | CASE NUMBER: 856-442

SECTION: " O "

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ORDER

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CONSIDERING THE ABOVE AND FOREGOING:

IT IS HEREBY ORDERED, and decreed, that a show cause hearing be set for the _____ day of _____, 20___, at ___ O'clock A.M. To show cause as to why relief should not be issued;

IT IS ALSO ORDERED and decreed, that the State produce authenticated copies of the original draft of **LSA-15:529.1**, and Act. No. 312 of 1956; or allow the Court to consider the lack of showing that the State has concluded, and rendered judgment in Mr. Poupart's favor and;

IT IS FURTHER ORDERED that such other relief as is appropriate and necessary in light of the evidence presented at a hearing as set forth above, with the presence of Petition, Poupart be granted.

_____, Louisiana, this ___ day of _____, 2024.

_____

District Court Judge

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