

The Supreme Court of the State of Louisiana

STATE OF LOUISIANA

No. 2020-KH-00904

VS.

LARRY MCKITHERN

IN RE: Larry McKithern - Applicant Defendant; Larry McKithern - Applicant Defendant; Applying for Reconsideration, Parish of Calcasieu, 14th Judicial District Court Number(s) 25391-09, Court of Appeal, Third Circuit, Number(s) KH 19-00030;

April 27, 2021

Application for reconsideration granted. Writ application denied. See per curiam.

WJC

JLW

JDH

SJC

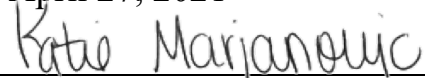
JBM

PDG

Genovese, J., recused.

Supreme Court of Louisiana

April 27, 2021



Chief Deputy Clerk of Court
For the Court

04/27/21

SUPREME COURT OF LOUISIANA

No. 20-KH-0904

STATE OF LOUISIANA

v.

LARRY McKITHERN

**ON SUPERVISORY WRITS TO THE FOURTEENTH
JUDICIAL DISTRICT COURT, PARISH OF CALCASIEU**

PER CURIAM:*

Reconsideration granted; writ denied. Applicant fails to show that he received ineffective assistance of counsel under the standard of *Strickland v. Washington*, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984). A portion of the application is repetitive. La.C.Cr.P. art. 930.4. As to his remaining claims, applicant fails to satisfy his post-conviction burden of proof. La.C.Cr.P. art. 930.2.

Applicant has now fully litigated his application for post-conviction relief in state court. Similar to federal habeas relief, *see* 28 U.S.C. § 2244, Louisiana post-conviction procedure envisions the filing of a second or successive application only under the narrow circumstances provided in La.C.Cr.P. art. 930.4 and within the limitations period as set out in La.C.Cr.P. art. 930.8. Notably, the legislature in 2013 La. Acts 251 amended that article to make the procedural bars against successive filings mandatory. Applicant's claims have now been fully litigated in accord with La.C.Cr.P. art. 930.6, and this denial is final. Hereafter, unless he can show that one of the narrow exceptions authorizing the filing of a successive application applies, applicant has exhausted his right to state collateral review. The district court is ordered to record a minute entry consistent with this per curiam.

* Genovese, Justice, recused