

The Supreme Court of the State of Louisiana

STATE OF

No.2020-KH-01478

LOUISIANA VS.

WILBERT KELLY, JR.

IN RE: Wilbert Kelly, Jr. - Applicant Defendant; Applying For Supervisory Writ,
Parish of West Feliciana, 20th Judicial District Court Number(s) 07-WFLN-177, 1st
Circuit Court of Appeal, Number(s) 2020 KW 0610;

April 07, 2021

Writ application denied. See per curiam.

JDH

JLW

SJC

JTG

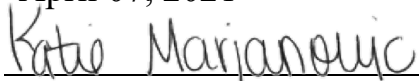
WJC

JBM

PDG

Supreme Court of Louisiana

April 07, 2021



Chief Deputy Clerk of Court
For the Court

04/07/21

SUPREME COURT OF LOUISIANA

No. 20-KH-1478

STATE OF LOUISIANA

v.

WILBERT KELLY, JR.

**ON SUPERVISORY WRITS TO THE TWENTIETH
JUDICIAL DISTRICT COURT, PARISH OF WEST FELICIANA**

PER CURIAM:

Denied. Applicant does not identify an illegal term in his sentence, and therefore, his filing is properly construed as an application for post-conviction relief. *See State v. Parker*, 98-0256 (La. 5/8/98), 711 So.2d 694. As such, it is subject to the time limitation set forth in La.C.Cr.P. art. 930.8. The application was not timely filed in the district court, and applicant fails to carry his burden to show that an exception applies. La.C.Cr.P. art. 930.8; *State ex rel. Glover v. State*, 93-2330 (La. 9/5/95), 660 So.2d 1189.

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.