

The Supreme Court of the State of Louisiana

STATE OF LOUISIANA

No.2021-KH-00263

VS.

DESMOND KIBBY

IN RE: Desmond Kibby - Applicant Defendant; Applying For Supervisory Writ,
Parish of East Baton Rouge, 19th Judicial District Court Number(s) 07-00-0532, 1st
Circuit Court of Appeal, Number(s) 2020 KW 1021;

April 20, 2021

Writ application denied. See per curiam.

JTG

JLW

JDH

SJC

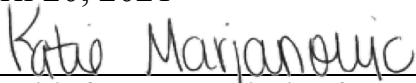
WJC

JBM

PDG

Supreme Court of Louisiana

April 20, 2021



Chief Deputy Clerk of Court
For the Court

04/20/21

SUPREME COURT OF LOUISIANA

No. 21-KH-0263

STATE OF LOUISIANA

v.

DESMOND KIBBY

**ON SUPERVISORY WRITS TO THE NINETEENTH
JUDICIAL DISTRICT COURT, PARISH OF EAST BATON ROUGE**

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.