

The Supreme Court of the State of Louisiana

STATE OF LOUISIANA

No. 2021-KH-01470

VS.

DERRICK BROUSSARD

IN RE: Derrick Broussard - Applicant Defendant; Applying For Supervisory Writ, Parish of Acadia, 15th Judicial District Court Number(s) 80489, Court of Appeal, Third Circuit, Number(s) KH 21-00386;

January 12, 2022

Writ application granted. See per curiam.

JDH

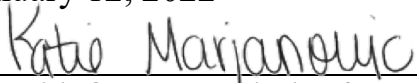
SJC

JTG

PDG

Weimer, C.J., dissents and would deny.
Crain, J., dissents and would deny.
McCallum, J., dissents and would deny.

Supreme Court of Louisiana
January 12, 2022



Chief Deputy Clerk of Court
For the Court

SUPREME COURT OF LOUISIANA

No. 21-KH-1470

STATE OF LOUISIANA

v.

DERRICK BROUSSARD

**ON SUPERVISORY WRITS TO THE FIFTEENTH
JUDICIAL DISTRICT COURT, PARISH OF ACADIA**

PER CURIAM:

Writ granted.

The district court revoked applicant's probation in December 2019. Though applicant failed to seek supervisory review of that ruling, an inmate may still seek review of the probation revocation via an application for post-conviction relief, filed within two years of the revocation. La.C.Cr.P. art. 930.8; *State v. Clavelle*, 02-1244, p. 2 (La. 12/12/03), 861 So.2d 186, 187 (citing *State ex rel. Ratcliff v. State*, 565 So.2d 923 (La. 1990)). Applicant filed a motion to correct an illegal sentence in 2021, within two years of his probation revocation, in which he argued that the State failed to prove a probation violation. Construing that motion as an application for post-conviction relief, see *Smith v. Cajun Insulation*, 392 So.2d 398, 402 n.2 (La. 1980) (“[C]ourts should look through the caption of pleadings in order to ascertain their substance and to do substantial justice.”), applicant timely sought review of his probation revocation. As such, the court of appeal erred in evaluating the timeliness of the writ application in relation to the probation revocation in 2019 instead of the district court's denial of his motion to correct an illegal sentence.

Accordingly, this case is remanded to the court of appeal for review of the district court's denial of applicant's motion to correct illegal sentence. The court of appeal should request any relevant materials necessary for review from the district court.