

The Supreme Court of the State of Louisiana

STATE OF LOUISIANA

No. 2024-KP-00285

VS.

KYRON THEOPHILE

IN RE: State of Louisiana - Applicant Plaintiff; Applying For Writ Of Certiorari,
Parish of Orleans Criminal, Criminal District Court Number(s) 528-690, Court of
Appeal, Fourth Circuit, Number(s) 2024-K-0019;

September 04, 2024

Writ application granted. See per curiam.

PDG
JLW
JDH
SJC
JTK
WJC
JBM

Supreme Court of Louisiana
September 04, 2024

Katja Marjanovic
Chief Deputy Clerk of Court
For the Court

SUPREME COURT OF LOUISIANA

No. 24-KP-0285

STATE OF LOUISIANA

v.

KYRON THEOPHILE

**ON SUPERVISORY WRITS TO THE CRIMINAL
DISTRICT COURT, PARISH OF ORLEANS**

PER CURIAM:

Granted. The court of appeal's ruling of February 20, 2024, is vacated, and the sentence affirmed by *State v. Theophile*, 19-0467 (La. App. 4 Cir. 12/11/19), 287 So.3d 53, writ denied, 20-0075 (La. 11/10/20), 303 So.3d 1047, is reinstated. Applicant fails to show he was denied the effective assistance of counsel during plea negotiations under the standard of *Strickland v. Washington*, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984).

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.