

STATE OF LOUISIANA
COURT OF APPEAL, FIRST CIRCUIT

STATE OF LOUISIANA

NO. 2014 KW 0780

VERSUS

JOSHUA M. BEALL

AUGUST 11, 2014

In Re: State of Louisiana, applying for supervisory writs,
21st Judicial District Court, Parish of Tangipahoa,
No. 92181.

BEFORE: CRAIN, THERIOT AND DRAKE, JJ.

**WRIT GRANTED; NOLO CONTENDRE PLEA IN DOCKET NUMBER 92181
AND GUILTY PLEA IN DOCKET NUMBER 803195 REINSTATED.**

Respondent's motion to withdraw his *nolo contendere* plea to contributing to the delinquency of a minor in docket number 92181, filed fourteen years after the plea was entered, was untimely because it was not filed within two years after his conviction and sentence were final and does not allege facts that were not known to Respondent and his attorney at the time of his conviction. La. Code Crim. Pro. art. 930.8; *State ex rel. Chauvin v. State*, 99-2456 (La. App. 1 Cir. 1/28/00), 814 So. 2d 1 (*per curiam*). The transcript reflects that the trial court, at the time of sentencing, did not defer imposition of sentence as claimed by Respondent. Further, the trial court, at the time of sentencing, stated on the record that Respondent would not be required to report as a sex offender, therefore this fact was known to Respondent and his attorney at the time sentence was imposed. Although Respondent claims that the State now takes the position that he is required to register as a sex offender, the record in this matter contains no evidence to support that contention. For these reasons, the trial court's current ruling granting Respondent's motion to withdraw his plea is reversed and the *nolo contendere* plea entered in docket number 92181 is reinstated.

The trial court further erred when, in considering the motion to withdraw Relator's *nolo contendere* plea in docket number 92181, it *sua sponte* withdrew Respondent's guilty plea to felon in possession of a firearm in docket number 803195, which was based on the predicate conviction in docket number 92181. That ruling is also reversed and the guilty plea entered in docket number 803195 is reinstated.

**MRT
EGD
WJC**

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DEPUTY CLERK OF COURT
FOR THE COURT