

STATE OF LOUISIANA
COURT OF APPEAL, FIRST CIRCUIT

STATE OF LOUISIANA

NO. 2014 KW 0968

VERSUS

BARRY DIGGS

SEP 08 2014

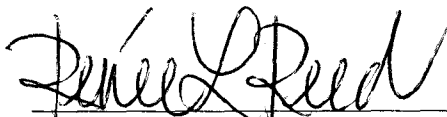
In Re: Barry Diggs, applying for supervisory writs, 22nd
Judicial District Court, Parish of St. Tammany, No.
359887.

BEFORE: KUHN, PETTIGREW AND WELCH, JJ.

WRIT DENIED. A pleading's nature is determined by its substance and not its caption. See **State ex rel. Daley v. State**, 97-2612 (La. 11/7/97), 703 So.2d 32; **State ex rel. Lay v. Cain**, 96-1247 (La. App. 1st Cir. 2/14/97), 691 So.2d 135, 137. Although relator styled his filing as a writ of habeas corpus, the remedy he seeks is in the nature of postconviction relief. Habeas corpus is not available to contest the validity of a conviction or to have the sentence set aside; such claims are considered requests for postconviction relief. See **Sinclair v. Kennedy**, 96-1510 (La. App. 1st Cir. 9/19/97), 701 So.2d 457, 460, writ denied, 97-2495 (La. 4/3/98), 717 So.2d 645. The claims presented in the writ of habeas corpus are untimely for purposes of postconviction relief. See La. Code Crim. P. art. 930.8(A). Furthermore, relator's claims regarding the habitual offender adjudication and sentence are not cognizable in an application for postconviction relief, and the claims are repetitive. See **State v. Cotton**, 2009-2397 (La. 10/15/10), 45 So.3d 1030 (per curiam). See also **State v. Diggs**, 2012 KW 2028 (La. App. 1st Cir. 1/15/13) (unpublished writ action), writ denied, 2013-0432 (La. 6/21/13), 118 So.3d 415.

JEK
JTP
JEW

COURT OF APPEAL, FIRST CIRCUIT



DEPUTY CLERK OF COURT
FOR THE COURT