

STATE OF LOUISIANA
COURT OF APPEAL, FIRST CIRCUIT

STATE OF LOUISIANA

NO. 2014 KW 1021

VERSUS

JOHN J. KENDALL

SEP 23 2014


In Re: John J. Kendall, applying for supervisory writs, 22nd
Judicial District Court, Parish of St. Tammany, No.
352580.

BEFORE: GUIDRY, THERIOT AND DRAKE, JJ.

WRIT DENIED. Although the "at hard labor" language was added to La. R.S. 15:529.1(G) by 2010 La. Acts No. 69, § 1, the addition of that condition to the habitual offender law did not modify the sentencing provisions of any underlying felony offense. The sentence conditions required by La. R.S. 15:529.1(G) are additions to, rather than replacements of, those conditions required by the sentencing provisions for the underlying offense. A sentence enhanced under the habitual offender statute is computed by referring to the underlying offense. See **State v. Douglas**, 2010-2039 (La. App. 1st Cir. 7/26/11), 72 So.3d 392, 398, writs denied, 2011-2307 (La. 5/25/12), 90 So.3d 406 & 2012-2508 (La. 5/3/13), 115 So.3d 474. Because relator's underlying felony conviction for producing and manufacturing methamphetamine allowed for a sentence at hard labor, that condition was a legal component of relator's sentence as a habitual offender. See La. R.S. 40:967(B)(3)(a). Furthermore, the penalty for violating La. R.S. 40:967(A) also provides for imprisonment without benefit of parole, probation, or suspension of sentence, and the trial court imposed a determinate sentence. Accordingly, the trial court did not err in denying relator's motion to correct an illegal habitual offender sentence.

JMG
MRT
EGD

COURT OF APPEAL, FIRST CIRCUIT



DEPUTY CLERK OF COURT
FOR THE COURT