

STATE OF LOUISIANA

NO. 21-KH-643

VERSUS

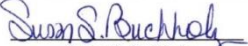
FIFTH CIRCUIT

HAROLD BROWN

COURT OF APPEAL

STATE OF LOUISIANA

FIFTH CIRCUIT COURT OF APPEAL
A TRUE COPY OF DOCUMENTS AS
SAME APPEARS IN OUR RECORDS


Susan S. Buchholz
First Deputy, Clerk of Court

October 22, 2021

Susan Buchholz
First Deputy Clerk

IN RE HAROLD BROWN

APPLYING FOR SUPERVISORY WRIT FROM THE TWENTY-FOURTH JUDICIAL DISTRICT COURT,
PARISH OF JEFFERSON, STATE OF LOUISIANA, DIRECTED TO THE HONORABLE JUNE B.
DARENSBURG, DIVISION "C", NUMBERS 15-2369 & 15-2370

Panel composed of Judges Fredericka Homberg Wicker,
Marc E. Johnson, and Robert A. Chaisson

**WRIT GRANTED FOR LIMITED PURPOSE; MATTER
REMANDED FOR FURTHER PROCEEDINGS**

Relator, Harold Brown, seeks review of the district court's August 18, 2021 denial of his application for post-conviction relief ("APCR") as untimely pursuant to La. C.Cr.P. art. 930.8.

On April 6, 2016, relator pled guilty to various narcotics and weapons charges and was thereafter sentenced pursuant to the applicable sentencing provisions. Relator also stipulated to being a multiple offender on one of the counts and was sentenced in accordance with the provisions of La. R.S. 15:529.1. On February 21, 2018, this Court affirmed relator's convictions and sentences. *State v. Brown*, 17-420 (La. App. 5 Cir. 2/21/18), 239 So.3d 455. On January 18, 2019, the Louisiana Supreme Court denied relator's writ application. *State v. Brown*, 18-480 (La. 1/18/19), 262 So.3d 281.

On January 7, 2021, relator filed a "Motion for an Extension of Sixty Days and/or Motion to Stay Post-Conviction Application," along with a uniform APCR, in which he listed his claims. On February 3, 2021, the district court gave relator forty-five days in which to supplement his APCR. Relator thereafter filed a memorandum in support of his APCR on March 29, 2021, and a supplement to his APCR on May 11, 2021, both of which were filed prior to the State's response. On August 18, 2021, the district court denied relator's APCR as untimely pursuant to La. C.Cr.P. art. 930.8.

Relator now contends that the district court erred in denying his APCR as untimely, pointing out that he filed his APCR on January 7, 2021, which is within the time delays set forth in La. C.Cr.P. art. 930.8. He requests that this Court reverse the denial of his APCR on procedural grounds and remand the matter to the district court for a ruling on the merits of his claims.

In the present case, it appears from the district court's August 18, 2021 Order denying relator's APCR as untimely, that the district court used March 26, 2021,¹ the date relator filed his memorandum in support of his APCR, instead of January 7, 2021, the date relator filed an APCR along with a motion for extension, when calculating the time delays for filing post-conviction relief. As such, relator's argument has merit.

Accordingly, we grant relator's writ application and remand the matter to the district court for the limited purpose of determining whether relator's writ application was in fact timely, and if so, we direct the district court to rule on the merits of the application.

Gretna, Louisiana, this 22nd day of October, 2021.

RAC
FHW
MEJ

¹ The official court record indicates that the memorandum in support of relator's APCR was filed on March 29, 2021, but was mailed on March 18, 2021, within the forty-five day extension granted by the district court on February 3, 2021.

SUSAN M. CHEHARDY
CHIEF JUDGE

FREDERICKA H. WICKER
JUDE G. GRAVOIS
MARC E. JOHNSON
ROBERT A. CHAISSON
STEPHEN J. WINDHORST
HANS J. LILJEBERG
JOHN J. MOLAISSON, JR.

JUDGES



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CURTIS B. PURSELL
CLERK OF COURT
NANCY F. VEGA
CHIEF DEPUTY CLERK

SUSAN S. BUCHHOLZ
FIRST DEPUTY CLERK

MELISSA C. LEDET
DIRECTOR OF CENTRAL STAFF

(504) 376-1400
(504) 376-1498 FAX

NOTICE OF DISPOSITION CERTIFICATE OF DELIVERY

I CERTIFY THAT A COPY OF THE DISPOSITION IN THE FOREGOING MATTER HAS BEEN TRANSMITTED IN ACCORDANCE WITH **UNIFORM RULES - COURT OF APPEAL, RULE 4-6** THIS DAY **10/22/2021** TO THE TRIAL JUDGE, THE TRIAL COURT CLERK OF COURT, AND AT LEAST ONE OF THE COUNSEL OF RECORD FOR EACH PARTY, AND TO EACH PARTY NOT REPRESENTED BY COUNSEL, AS LISTED BELOW:

CURTIS B. PURSELL
CLERK OF COURT

21-KH-643

E-NOTIFIED

24th Judicial District Court (Clerk)
Honorable June B. Darensburg (DISTRICT JUDGE)
Thomas J. Butler (Respondent)

MAILED

Harold Brown #415699 (Relator)
Plaquemine Parish Detention Center
Post Office Box 67
Pointe à la Hache, LA 70082