

STATE OF LOUISIANA
COURT OF APPEAL, FIRST CIRCUIT

STATE OF LOUISIANA

NUMBER 2013 KW 0600

VERSUS

TOMMY GREEN

JUN 03 2013

In Re: Tommy Green, applying for supervisory writs, 19th
Judicial District Court, Parish of East Baton
Rouge, No. 04-91-1558.

BEFORE: GUIDRY, CRAIN AND THERIOT, JJ.

WRIT DENIED. 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. **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. Moreover, if the defendant was convicted of the charged offense and is currently incarcerated, habeas relief is not available to him. See **State v. Obney**, 95-00439 (La. App. 3d Cir. 7/6/95), 663 So.2d 69, 70. If the defendant files a pleading that requests postconviction relief, the pleading should be treated as such, including the application of the time limit. See **State v. Jarrow**, 2004-0483 (La. 9/24/04), 882 So.2d 1160. Defendant's request for postconviction relief was untimely. See La. Code Crim. P. art. 930.8(A). Furthermore, see the action of this Court in **State v. Green**, 2007 KW 1949 (La. App. 1st Cir. 11/28/07), writ denied, 2008-0487 (La. 11/14/08), 996 So.2d 1085, wherein this Court denied defendant's writ seeking similar relief.

JMG
MRT

Crain, J., concurs.

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