

**STATE OF LOUISIANA**  
**COURT OF APPEAL, FIRST CIRCUIT**

STATE OF LOUISIANA

NO. 2014 KW 0063

VERSUS

KENNETH D. JONES

**APR 08 2014**

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In Re: Kenneth D. Jones, applying for supervisory writs, 21st  
Judicial District Court, Parish of Tangipahoa, No.  
601919.

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**BEFORE: PARRO, GUIDRY AND WELCH, JJ.**

**WRIT DENIED.** Relator was not convicted of simple possession of marijuana. Therefore, his reliance upon La. R.S. 40:966(E)(2) is misplaced. Relator was convicted of possession with intent to distribute marijuana. Presently and at the time of the commission of the offense in 2006, the penalty for possession with intent to distribute marijuana is contained at La. R.S. 40:966(B)(3). In 2006, the statute provided, in pertinent part: "A substance classified in Schedule I which is marijuana ... shall upon conviction be sentenced to a term of imprisonment at hard labor for not less than five nor more than thirty years, and pay a fine of not more than fifty thousand dollars." It is well-settled that the law in effect at the time of the commission of the offense is determinative of the penalty which the accused must suffer. See **State v. Sugasti**, 2001-3407 (La. 6/21/02), 820 So.2d 518, 520. Because relator's twenty-year sentence did not exceed the maximum sentence authorized under the applicable statute, the district court did not err in denying the motion to correct an illegal sentence. Furthermore, it was within the sentencing judge's discretion to order the possession of cocaine sentence to be served consecutively to the other sentence. See La. Code Crim. P. art. 883.

**JMG**  
**JEW**  
**RHP**

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