

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

STATE OF LOUISIANA

NO. 2014 KW 0838

VERSUS

RICHARD ALLEN LABIT

**JUL 14 2014**

---

In Re: State of Louisiana, applying for supervisory writs,  
16th Judicial District Court, Parish of St. Mary, No.  
2009-181610.

---

**BEFORE: KUHN, PETTIGREW AND McCLENDON, JJ.**

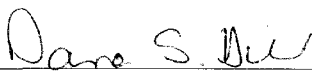
**WRIT GRANTED.** The district court improperly denied the State's motion to dismiss, and erred by granting an evidentiary hearing on the defendant's application for postconviction relief. The criminal court minutes dated January 5, 2010, reflect that relator was arraigned on one count of attempted second degree murder, and pled not guilty. Therefore, relator was aware that he was not facing multiple charges before he entered his guilty plea, and before he received the bills of information from defense counsel in 2013. Furthermore, relator's own statement in his memorandum in support of the application for postconviction relief reflects that he was also aware of the fact that defense counsel did not file pretrial motions on his behalf. Since the facts-not-known exception is inapplicable, the defendant's application for postconviction relief, which was filed in 2013, is untimely. See La. Code Crim. P. art. 930.8(A). The ruling of the district court denying the State's motion to dismiss defendant's application for postconviction relief is reversed, the state's procedural objection of untimeliness is granted, and defendant's application for postconviction relief is dismissed.

**JTP**

**PMc**

**JEK**

COURT OF APPEAL, FIRST CIRCUIT



---

DEPUTY CLERK OF COURT  
FOR THE COURT