

STATE OF LOUISIANA
COURT OF APPEAL, FIRST CIRCUIT

STATE OF LOUISIANA

NO. 2015 KW 0302

VERSUS

MAY 15 2015

KIRT K. HALL

In Re: Kirt K. Hall, applying for supervisory writs, 19th
Judicial District Court, Parish of East Baton Rouge,
No. 02-92-1099.

BEFORE: WHIPPLE, C.J., McCLENDON AND HIGGINBOTHAM, JJ.

WRIT DENIED. The district court did not err in applying the procedural bars of La. Code Crim. P. arts. 930.4 & 930.8 to the untimely and repetitive application for postconviction relief, filed on August 6, 2014. Relator's murder conviction and sentence became final in 1997, and relator raised a similar claim concerning the insanity issue in his two prior applications for postconviction relief. Furthermore, relator's reliance upon the decision in **State v. Gowan**, 28,033 (La. App. 2d Cir. 1/24/96), 666 So.2d 1325, 1326-27 is misplaced. The issue in **Gowan** was the defendant's mental incapacity to proceed, which is governed by La. Code Crim. P. art. 641 et seq. In the instant case, relator withdrew his not guilty plea and entered a plea of not guilty and not guilty by reason of insanity, which is governed by La. Code Crim. P. arts. 650 through 653. Following relator's dual plea, the trial court appointed a sanity commission to make an examination as to his mental condition at the time of the commission of the offense. There is no indication that the sanity commission was also appointed to determine relator's mental capacity to proceed to trial and, as noted by former Commissioner Allen J. Bergeron, Jr. in his report, this issue was never raised by the defense. Thus, there was no need for a formal ruling. Following the submission of the sanity commission's medical reports, relator abandoned his defense that he was insane at the time of the commission of the underlying offense. Accordingly, contrary to relator's claims, the issue of his sanity was addressed prior to this matter proceeding to trial.

PMc
TMH
VGW

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DEPUTY CLERK OF COURT

FOR THE COURT