

STATE OF LOUISIANA
COURT OF APPEAL, FIRST CIRCUIT

STATE OF LOUISIANA

NO. 2015 KW 0496

VERSUS

TRAVIS RICHARDSON

MAY 04 2015

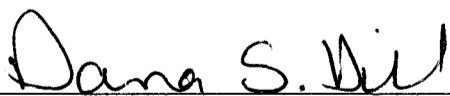
In Re: Travis Richardson, applying for supervisory writs,
18th Judicial District Court, Parish of Iberville, No.
74474.

BEFORE: GUIDRY, THERIOT AND DRAKE, JJ.

WRIT DENIED. A pleading's nature is determined by its substance and not its caption. See State ex rel. Daley v. State, 97-2612 (La. 11/7/97), 703 So.2d 32. Habeas corpus and postconviction complaints are fundamentally different. If the inmate has been convicted of the charged offense and is currently incarcerated, habeas relief is not available to him. State v. Obney, 95-0439 (La. App. 3d Cir. 7/6/95), 663 So.2d 69, 70. Relator's postconviction claim that his custody is unlawful because he was not convicted of any crime is factually without merit. On October 29, 2004, when this Court vacated relator's sentence and remanded the case to the district court to rule on the post trial motions, this Court did not vacate relator's first degree robbery conviction in docket number 10-02-0394. See State v. Richardson, 2004-0365 (La. App. 1st Cir. 10/29/04) (unpublished). Accordingly, because relator was convicted of first degree robbery, and the conviction and sentence were affirmed on appeal, he may not seek relief pursuant to a writ of habeas corpus. See State v. Richardson, 2006-0250 (La. App. 1st Cir. 11/3/06), 941 So.2d 198, 2006 WL 3113056 (unpublished). Furthermore, any claim for postconviction relief at this point would be untimely. See La. Code Crim. P. art. 930.8(A).

EGD
JMG
MRT

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FOR THE COURT