

STATE OF LOUISIANA
COURT OF APPEAL, FIRST CIRCUIT

STATE OF LOUISIANA

NO. 2015 KW 1439

VERSUS

ROBERT EMMETT HUEN

NOV 18 2015

In Re: Robert Emmett Huen, applying for supervisory writs,
32nd Judicial District Court, Parish of Terrebonne,
No. 558261.

BEFORE: GUIDRY, HOLDRIDGE AND CHUTZ, 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. Although relator styled his filing as a motion to vacate an illegal sentence, the remedy relator seeks is in the nature of a request to withdraw the no contest plea. Such a request, filed after sentencing, is in the nature of a request for postconviction relief, and it must be filed timely under La. Code Crim. P. art. 930.8. **State ex rel. Chauvin v. State**, 99-2456 (La. App. 1st Cir. 1/28/00), 814 So.2d 1 (per curiam). The time delay to seek postconviction relief has expired in this case. See La. Code Crim. P. art. 930.8(A). Additionally, the claims in the motion are similar to those presented in a prior writ application which was denied by this Court. **State v. Huen**, 2013-0742 (La. App. 1st Cir. 7/15/13) (unpublished writ action), writ denied, 2013-1847 (La. 2/28/14), 134 So.3d 1169.

JMG
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WRC

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