

STATE OF LOUISIANA
COURT OF APPEAL, FIRST CIRCUIT

STATE OF LOUISIANA

NO. 2015 KW 1449

VERSUS

FREDERICK COOPER

DEC 07 2015

In Re: Frederick Cooper, applying for supervisory writs, 22nd
Judicial District Court, Parish of St. Tammany, No.
321551.

BEFORE: PETTIGREW, HIGGINBOTHAM AND CRAIN, JJ.

WRIT DENIED. Relator's claim that the habitual offender adjudication is invalid is not cognizable in a motion to correct an illegal sentence. See **State v. Gedric**, 99-1213 (La. App. 1st Cir. 6/3/99), 741 So.2d 849, 852 (per curiam), writ denied, 99-1830 (La. 11/5/99), 751 So.2d 239. 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 correct an illegal sentence, the remedy relator seeks is in the nature of postconviction relief as provided by La. Code Crim. P. art. 924 et seq., and the substance, rather than the caption, of the filing must be considered by this Court. The time delay to seek postconviction relief has expired in this case, and claims arising out of the habitual offender proceedings may not be considered in an application for postconviction relief. See La. Code Crim. P. art. 930.8(A). See also **State v. Cotton**, 2009-2397 (La. 10/15/10), 45 So.3d 1030 (per curiam).

JTP
TMH
WJC

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FOR THE COURT