

STATE OF LOUISIANA
COURT OF APPEAL, FIRST CIRCUIT

STATE OF LOUISIANA

NO. 2017 KW 0350

VERSUS

MAY 25 2017

JERRY LEWIS

In Re: Jerry Lewis, applying for supervisory writs, 19th Judicial District Court, Parish of East Baton Rouge, No. 08-83-0151.

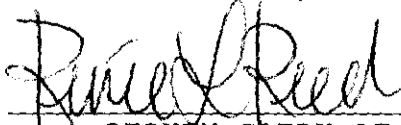
BEFORE: WHIPPLE, C.J., GUIDRY AND McCLENDON, JJ.

WRIT DENIED. If an application for postconviction relief is untimely, it should not be considered on the merits. See **State v. LeBlanc**, 2006-0169 (La. 9/15/06), 937 So.2d 844 (*per curiam*). Furthermore, **Lafler v. Cooper**, 566 U.S. 156, 132 S.Ct. 1376, 182 L.Ed.2d 398 (2012), and **Missouri v. Frye**, 566 U.S. 133, 132 S.Ct. 1399, 182 L.Ed.2d 379 (2012) did not announce a new rule of constitutional law because they merely applied the Sixth Amendment's right to counsel to a specific factual context. See **In re King**, 697 F.3d 1189 (5th Cir. 2012) (*per curiam*). Therefore, relator's claim of an exception to the Article 930.8 time limitation is without merit. Accordingly, the district court did not err in denying relator's successive and repetitive application for postconviction relief.

Relator has now fully litigated seven applications for postconviction relief in state court. Similar to federal habeas relief, see 28 U.S.C. § 2244, Louisiana post-conviction procedure envisions the filing of a second or successive application only under the narrow circumstances provided in La. Code Crim. P. art. 930.4 and within the limitations period as set out in La. Code Crim. P. art. 930.8. Notably, the Legislature in 2013 La. Acts 251 amended La. Code Crim. P. art. 930.4 to make the procedural bars against successive filings mandatory. Relator's claims have now been fully litigated in state collateral proceedings in accord with La. Code Crim. P. art. 930.6, and this denial is final. Hereafter, unless he can show that one of the narrow exceptions authorizing the filing of a successive application applies, relator has exhausted his right to state collateral review.

VGW
JMG
PMc

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