

STATE OF LOUISIANA
COURT OF APPEAL, FIRST CIRCUIT

STATE OF LOUISIANA

NO. 2017 KW 0394

VERSUS

SEP 18 2017

DARIEN P. HINKEL

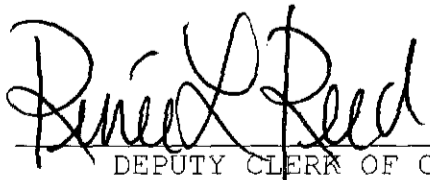
In Re: Darien P. Hinkel, applying for supervisory writs, 22nd
Judicial District Court, Parish of St. Tammany, No.
460590-1.

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

WRIT GRANTED WITH ORDER. Relator's contention that a guilty plea entered pursuant to La. R.S. 40:983 cannot be used as a predicate conviction for sentence enhancement under the Habitual Offender Law is correct. See **State v. Jones**, 99-0861 (La. App. 4th Cir. 6/21/00), 769 So.2d 28, 42-43, writ denied, 2000-2183 (La. 9/28/01), 797 So.2d 685. See also **State v. Scott**, 95-0880 (La. App. 1st Cir. 6/28/96), 677 So.2d 156. There is no time limit for seeking correction of an illegal sentence. A trial court or an appellate court on review may correct an illegal sentence at any time. See La. Code Crim. P. art. 882(A). Accordingly, the January 22, 2010 ruling adjudicating relator as a fourth-felony habitual offender is vacated, and this matter remanded to the district court for a reopened habitual offender hearing. The district court is instructed to conduct an evidentiary hearing with the State to determine relator's habitual offender status without the use of relator's conviction in case number 343691.

JMG
PMc
VGW

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FOR THE COURT