

STATE OF LOUISIANA
COURT OF APPEAL, FIRST CIRCUIT

STATE OF LOUISIANA

NO. 2017 KW 1183

VERSUS

NOV 16 2017

ANTHONY ARMSTEAD

In Re: Anthony Armstead, applying for supervisory writs, 19th
Judicial District Court, Parish of East Baton Rouge,
No. 09-11-0014.

BEFORE: McCLENDON, WELCH, AND THERIOT, JJ.

WRIT GRANTED IN PART AND DENIED IN PART. The district court did not err in disallowing the benefits of suspension of sentence and probation. See La. Code Crim. P. art. 893(A). The district court did, however, commit error by ordering relator's manslaughter sentence served without the benefit of parole as the penalty provision does not contain this restriction. See La. R.S. 14:31(B). Accordingly, we amend the sentence on Count I to delete the restriction on parole eligibility, and the district court is instructed to record this amendment in the court minutes, and to revise the commitment order. This amendment does not implicate that relator is entitled to parole as that determination is solely a function of the Department of Corrections. See La. R.S. 15:574.4, et seq. In all other respects, this writ is denied. Relator failed to meet his burden of showing that he is entitled to relief on his claims of ineffective assistance of counsel. See La. Code Crim. P. art. 930.2; **Strickland v. Washington**, 466 U.S. 668, 687, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674 (1984). A defendant may not seek review of a sentence imposed in conformity with a plea agreement which was set forth in the record at the time of the plea. See La. Code Crim. P. art. 881.2(A)(2). Furthermore, claims of excessiveness and ineffective assistance of counsel at sentencing may not be raised in an application for postconviction relief. See **State v. Cotton**, 2009-2397 (La. 10/15/10), 45 So.3d 1030 (*per curiam*); **State ex rel. Melinie v. State**, 93-1380 (La. 1/12/96), 665 So.2d 1172 (*per curiam*).

MRT
PMc
JEW

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FOR THE COURT