

STATE OF LOUISIANA
COURT OF APPEAL, FIRST CIRCUIT

STATE OF LOUISIANA

NO. 2019 KW 1343

VERSUS

JUSTIN DAVIS

NOV 25 2019

In Re: State of Louisiana, applying for supervisory writs,
19th Judicial District Court, Parish of East Baton
Rouge, No. 10-11-0644.

BEFORE: McDONALD, THERIOT, AND CHUTZ, JJ.

WRIT GRANTED. The district court's ruling overruling the state's procedural objection to the defendant's filing of his application for postconviction relief is reversed. The defendant untimely filed his writ application with the district court on March 8, 2018. Pursuant to La. Code Crim. P. art. 922(D), the defendant's conviction and sentence were final on March 4, 2016, which was the day the Louisiana Supreme Court denied the defendant's writ of certiorari. The time limit was not extended for the defendant to file a rehearing, as the defendant did not have the right to file for a rehearing. See La. Sup. Ct. Rule IX, § 6 (An application for rehearing will not be considered when the court has merely granted or denied an application for a writ of certiorari.). Accordingly, an application for postconviction relief shall not be considered if it is filed more than two years after the judgment of conviction and sentence has become final. See La. Code Crim. P. art. 930.8.

JMM
WRC

Theriot, J., dissents and would deny the writ application.

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DEPUTY CLERK OF COURT
FOR THE COURT