

**STATE OF LOUISIANA**

\*

**NO. 2001-K-0816**

**VERSUS**

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**COURT OF APPEAL**

**ANTOINE CARROLL**

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**FOURTH CIRCUIT**

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**STATE OF LOUISIANA**

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ON SUPERVISORY WRITS FROM THE  
CRIMINAL DISTRICT COURT ORLEANS PARISH  
NO. 380-956, SECTION "J"

Honorable Leon Cannizzaro, Judge

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**JOAN BERNARD ARMSTRONG**

**JUDGE**

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(Court composed of Judge Joan Bernard Armstrong, Judge Michael E.  
Kirby, and Judge Terri F. Love)

**ANTOINE CARROLL**  
CAMP D, RAVEN 4-L-1  
LOUISIANA STATE PRISON  
ANGOLA LA 70712

PLAINTIFF/RELATOR

**WRIT DENIED**

Defendant-relator seeks review of the district court's judgment denying his application for post-conviction relief.

By bill of information filed January 26, 1996, relator was charged with two counts of attempted first degree murder of a police officer and one count of possession of a firearm as a convicted felon. Following a jury trial on May 24, 1996, he was found guilty as charged. Relator was sentenced on August 2, 1996, to serve fifty years at hard labor without benefit of parole on each count, to run consecutively. Relator was then adjudicated a fourth felony offender. After vacating the sentence on count one, the district court resentenced him to serve life imprisonment at hard labor without benefit of parole, to run consecutively. This court affirmed both convictions and the life sentence. The fifty-year sentence was amended to delete the denial of parole eligibility, and as amended, affirmed. State v. Carroll, unpub., 96-2366 (La. App. 4 Cir. 12/9/98).

On January 26, 2001, the district court denied relator's application for post-conviction relief. In writ 2001-K-0428, relator sought additional time in which to supplement his arguments and to provide additional documents in support of his claims. This court denied the writ application by noting only that the motion for extension of time was denied. This denial was issued on April 11, 2001. However, a review of the record reveals that on

April 4, 2000, relator filed his supplement, and he now seeks review of the district court's judgment.

By his first claim, relator asserts that the state withheld Brady material. Specifically, he asserts that the state failed to disclose the existence of at least seven other suspects, and it failed to disclose the identity of eyewitnesses to the offense. Here, he has only listed the names of people, who gave statements to police, and he only partially indicates the statements made by Barbara Sacrite, Valerie Hughes, Debra Barrow, and Roger Lagarde. Yet, he does not present any arguments as to how any of this would have affected the outcome of his case. Therefore, this claim is denied on the showing made. La. C.Cr.P. art. 930.2.

By his second claim, relator asserts that he was subjected to an illegal search and seizure. Therefore, any evidence seized must be suppressed. Notably, nothing was seized from relator in this case, which could be suppressed. Accordingly, this claim is without merit.

By his third claim, relator asserts that appellate counsel was ineffective because he failed to obtain a complete transcript for review. He notes that the record on appeal did not contain the voir dire, opening statements, closing arguments or jury instruction transcripts. However, he has not referred to any particular errors that occurred during these

proceedings; nor, does he represent that his trial attorney lodged any objections to errors. Therefore, this claim is denied on the showing made.

La. C.Cr.P. art. 930.2.

By his fourth claim, relator asserts that he was denied the right to be present during critical stages of the trial, namely, bench conferences. Side-bar conferences out of the presence of the jury can hardly be considered critical stages of the trial in which a defendant must be allowed to participate. At any rate, relator has made no specific allegations of prejudice because of his absence at the conferences. Accordingly, this claim is without merit.

By his fifth claim, relator asserts that the appellate record is incomplete because it does not include transcription of the bench conferences. Other than the general allegation of a failure to record the bench conferences, he has not specifically alleged that any objection by his counsel was omitted from the appellate record or that the failure to record any particular bench conference resulted in prejudice to his case. This claim is without merit.

By his sixth claim, relator asserts that other crimes evidence was improperly solicited by the State during the questioning of Dion Austin. During his testimony, Austin stated that he had personally witnessed relator

selling drugs.

Even assuming that the evidence was improperly admitted, any error was harmless in light of the evidence presented in this case. Both officers identified relator; one of the officers saw him remove the gun from his waistband. Both officers were shot more than once.

By his seventh claim, relator asserts that his multiple offender adjudication is illegal because it was not instituted by grand jury indictment, which is without merit because only sentence enhancement is involved. Likewise, relator's eighth claim is without merit. In it, he asserts that the jury should make the determination as to whether a defendant is a multiple offender.

By his ninth claim, relator asserts that trial counsel was ineffective. This claim is based on claims number 1-8. Because the underlying claims are without merit, so too is his ineffective assistance of counsel claim.

Accordingly, we find no error in the judgment of the district court denying relator's application for post-conviction relief.

**WRIT DENIED**