

NOT DESIGNATED FOR PUBLICATION

**STATE OF LOUISIANA
COURT OF APPEAL, THIRD CIRCUIT**

14-1081

STATE OF LOUISIANA

VERSUS

ROBERT PRESCOTT

**APPEAL FROM THE
SIXTEENTH JUDICIAL DISTRICT COURT
PARISH OF ST. MARTIN, NO. 09-237546
HONORABLE VINCENT BORNE, DISTRICT JUDGE**

**JOHN D. SAUNDERS
JUDGE**

Court composed of John D. Saunders, Marc T. Amy, and J. David Painter, Judges.

**APPEAL DISMISSED. DEFENDANT-APPELLANT IS
PERMITTED TO FILE AN APPLICATION FOR
SUPERVISORY WRITS WITHIN FIFTEEN DAYS FROM
THE DATE OF THIS DECISION.**

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Robert Prescott**

Saunders, Judge.

Defendant-Appellant, Robert Prescott, was convicted of possession of 400 or more grams of cocaine on March 11, 2011. On April 19, 2011, Relator was sentenced to serve twenty-two years at hard labor, the first fifteen years to be served without the benefit of probation, parole, or suspension of sentence and to pay a fine of \$250,000.00.

On April 16, 2013, Relator filed a “UNIFORM APPLICATION FOR PETITION FOR POST CONVICTION RELIEF” with the trial court. Relator alleged that he received ineffective assistance of counsel. On May 23, 2014, an evidentiary hearing was held; thereat, the trial court denied Relator’s application for post-conviction relief. Relator filed a “MOTION AND NOTICE OF APPEAL” with the trial court on May 30, 2014. The trial court granted Relator’s motion on June 9, 2014. On October 16, 2014, this court lodged the appeal in this case. On October 27, 2014, this court issued a rule to show cause why this matter should not be dismissed, as the judgment at issue is not an appealable judgment. La.Code Crim.P. art. 930.6.

On November 17, 2014, defense counsel filed a “BRIEF TO SHOW CAUSE WHY THE APPEAL IN THIS CASE SHOULD NOT BE DISMISSED ON BEHALF OF DEFENDANT, ROBERT PRESCOTT” with this court, asserting, “Mr. Prescott’s appeal should not be dismissed; rather it should be treated as an application for supervisory review.”

The appeal is dismissed, as the judgment at issue is not an appealable judgment. La.Code Crim.P. art. 930.6. Defendant-Appellant is hereby permitted to file a proper application for supervisory writs, in compliance with Uniform Rules—Courts of Appeal, Rule 4, no later than fifteen days from the date of this

decision. Defendant is not required to file a notice of intent to seek writs nor obtain an order setting a return date pursuant to Uniform Rules—Courts of Appeal, Rule 4-3, as we hereby construe the motion for appeal as a timely-filed notice of intent to seek a supervisory writ.

APPEAL DISMISSED. DEFENDANT-APPELLANT IS PERMITTED TO FILE AN APPLICATION FOR SUPERVISORY WRITS WITHIN FIFTEEN DAYS FROM THE DATE OF THIS DECISION.