STATE EX. REL. HAROLD BROWN

VERSUS

STATE OF LOUISIANA/PENAL CUSTODIAN

NO. 25-KH-425

FIFTH CIRCUIT

COURT OF APPEAL

STATE OF LOUISIANA

FIFTH CIRCUIT COURT OF APPEAL
A TRUE COPY OF DOCUMENTS AS
SAME APPEARS IN OUR RECORDS
Linda Tran
First Deputy, Clerk of Court

October 23, 2025

Linda Tran
First Deputy Clerk

IN RE HAROLD BROWN

APPLYING FOR SUPERVISORY WRIT FROM THE TWENTY-FOURTH JUDICIAL DISTRICT COURT, PARISH OF JEFFERSON, STATE OF LOUISIANA, DIRECTED TO THE HONORABLE JUNE B. DARENSBURG, DIVISION "C", NUMBER 15-2369, 15-2370

Panel composed of Judges Susan M. Chehardy,
Scott U. Schlegel, and Timothy S. Marcel

WRIT DENIED

In this *pro se* writ application, relator, Harold Brown, seeks review of the trial court's August 15, 2025 ruling denying his motion to correct illegal sentence. For the following reasons, this writ application is denied.

On April 6, 2016, relator pled guilty to possession with intent to distribute heroin, possession with intent to distribute marijuana, possession with intent to distribute cocaine, possession of a firearm by a convicted felon, illegal carrying of weapons, and possession of drug paraphernalia. The trial court sentenced relator pursuant to the plea agreement terms, as follows: for possession with intent to distribute heroin, to twenty years at hard labor with ten years to be served without the benefit of probation, parole, or suspension of sentence; for possession with intent to distribute marijuana, to twenty years at hard labor; for possession with intent to distribute cocaine, to twenty years at hard labor with two years to be served without the benefit of probation, parole, or suspension of sentence; for possession of a firearm by a convicted felon, to twenty years at hard labor with ten years to be served without the benefit of probation, parole, or suspension of sentence; and for illegal carrying of weapons, to ten years at hard labor with five years to be served without the benefit of probation, parole, or suspension of sentence. The sentences were ordered to run concurrently with each other and with any other sentence defendant was serving. In case number 15–2370, the trial court sentenced defendant to six months in parish prison with the sentence to run concurrently with the sentences in case number 15–2369 and with any other sentence defendant was serving. *State v. Brown*, 17-420 (La. App. 5 Cir. 2/21/18), 239 So. 3d 455, 457–58, *writ denied*, 18-0480 (La. 1/18/19), 262 So. 3d 281.

In addition, on April 6, 2016, the State filed a habitual offender bill of information, alleging that relator was a second-felony offender on the possession of a firearm by a convicted felon charge. Relator stipulated to the habitual offender bill. *Id.* The trial court vacated relator's original sentence for possession of a firearm by a convicted felon and imposed an enhanced sentence of twenty years imprisonment at hard labor without the benefit of probation or suspension of sentence and with the first ten years of the sentence to be served without the benefit of parole, probation, or suspension of sentence. *Id.* This Court affirmed his convictions and sentences on February 21, 2018. *Id.*[1]

On August 12, 2025, relator filed his current motion in the district court based on a claim of breached plea bargain. On August 15, 2025, the trial court denied relief stating:

> There is no basis in law to set aside the valid sentences and habitual offender adjudication. The sentences, imposed in a plea agreement, are legal in every respect. The court also notes that the defendant makes arguments previously rejected and further, that he fails to state what term is illegal in his sentences. The court finds nothing to correct in the sentences imposed, which the defendant agreed to accept.

Relator now seeks review and reversal of the trial court's ruling. As an initial matter, we find relator's application is deficient in that relator failed to provide documentation of a return date with his writ application as required by Uniform Rules-Courts of Appeal, Rule 4-3. Nevertheless, after a review of the writ application, we find no error in the trial court's denial of his motion to correct illegal sentence.

Louisiana Code of Criminal Procedure art. 882(A) states, "An illegal sentence may be corrected at any time by the court that imposed the sentence or by an appellate court on review." Here, because relator does not point to a claimed illegal term in his sentence in his filing, but rather has made a claim of a breached plea bargain, we find his filing does not raise a claim cognizable in a motion to correct an illegal sentence. Accordingly, the "at any time" language of La. C.Cr.P. art. 882 does not apply in this instance. Furthermore, relator entered a guilty plea and was sentenced in accordance with his plea agreement, review of his claim is precluded under La. C.Cr.P. art. 881.2(A)(2) which provides, "The defendant cannot appeal or 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."

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[1] A misdemeanor conviction for possession of drug paraphernalia is generally reviewed via an application for writ of review directed to this Court to exercise its supervisory jurisdiction. *See* La. C.Cr.P. art. 912.1(C)(1). However, in light of the "intertwined" nature of relator's misdemeanor and felony convictions, this Court reviewed all of relator's convictions on appeal. *See Brown*, 17-420, 239 So.3d at 458-59.

Additionally, this Court amended the sentence on the heroin count to delete the restriction on parole. This Court also found that La. R.S. 15:529.1(G) and La. R.S. 14:95.1(B) required that relator's entire twenty-year enhanced sentence be imposed without benefit of parole, probation, or suspension of sentence. However, this Court noted that the trial court's failure to state this requirement at sentencing need not be corrected on remand because under *State v. Williams*, 2000-1725 (La. 11/28/01), 800 So.2d 790, 799, and La. R.S. 15:301.1(A), the "without benefits" provision is self-activating. Nevertheless, this Court remanded for correction of the uniform commitment order. *See Brown*, 17-420, 239 So.3d at 464.

Next, to the extent that relator is seeking post-conviction relief in his current motion,[2] Louisiana Code of Criminal Procedure art. 930.8(A), provides in pertinent part: "No application for post-conviction relief, including applications which seek an out-of-time appeal, shall be considered if it is filed more than two years after the judgment of conviction and sentence has become final."[3] Here, relator's convictions and sentences became final in 2019. Considering his most recent filing was not filed until August, 2025, some six years after his conviction, we find this claim untimely. In addition, given that relator failed to include any documentation in support of his claim, such as the minute entry and transcript from his guilty plea hearing and sentencing or a copy of his plea agreement, we also find relator failed to meet his post-conviction burden of proof under La. C.Cr.P. art. 930.2 on the showing made.[4]

Finally, we find relator's claim is repetitive and successive. Relator has filed previous claims for post-conviction relief . In *Brown v. Boldelon*, 23-290 (La. App. 5 Cir. 6/19/23), *writ denied*, 23-1019 (La. 12/5/23), 373 So.3d 977, relator sought review of the denial of his Motion to Amend Sentence based on his claim challenging the validity of his plea bargain. This Court denied relator's writ application, pointing out the repetitive nature of his claim, stating:

> To the extent relator claims his enhanced sentence should be amended because he was induced to plead guilty by a promise of parole eligibility after ten years, this Court, in a prior writ application, found relator's guilty plea valid, noting that relator "failed to satisfy his burden to establish parole eligibility after ten years was a negotiated term of the plea agreement or that he relied on a belief that he would receive parole eligibility after ten years in deciding to enter a plea agreement." *See State v. Brown*, 22-KH-109 (La. App. 5 Cir. 5/27/22) (unpublished writ disposition).

Brown, 23-290. In his most recent filing, relator adds nothing new to an underlying argument previously deemed meritless by this Court. *See* La. C.Cr.P. art. 930.4(E) ("A successive application shall be dismissed if it fails to raise a new or different claim.").

Accordingly, we find no error in the district court's denial of relator's motion to correct illegal sentence. This writ application is denied.

Gretna, Louisiana, this 23rd day of October, 2025.

TSM
SMC
SUS

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[2] The Louisiana Supreme Court has recognized that courts should "look through the caption of the pleadings in order to ascertain their substance and to do substantial justice." *See State v. Moses*, 05-787 (La. App. 5 Cir. 5/9/06), 932 So.2d 701, 706 n.3, *writ denied*, 2006-2171 (La. 4/5/07), 954 So.2d 140.

[3] Relator's convictions and sentences became final in 2019. *See State v. Brown*, 18-480 (La. 1/18/19), 262 So.3d 281.

[4] La. C.Cr.P. art. 930.2 states: "The petitioner in an application for post-conviction relief shall have the burden of proving that relief should be granted."

SUSAN M. CHEHARDY
CHIEF JUDGE

FREDERICKA H. WICKER
JUDE G. GRAVOIS
MARC E. JOHNSON
STEPHEN J. WINDHORST
JOHN J. MOLAISON, JR.
SCOTT U. SCHLEGEL
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NOTICE OF DISPOSITION CERTIFICATE OF DELIVERY

I CERTIFY THAT A COPY OF THE DISPOSITION IN THE FOREGOING MATTER HAS BEEN TRANSMITTED IN ACCORDANCE WITH **UNIFORM RULES - COURT OF APPEAL, RULE 4-6** THIS DAY **10/23/2025** TO THE TRIAL JUDGE, THE TRIAL COURT CLERK OF COURT, AND AT LEAST ONE OF THE COUNSEL OF RECORD FOR EACH PARTY, AND TO EACH PARTY NOT REPRESENTED BY COUNSEL, AS LISTED BELOW:

Curtis B. Pursell

CURTIS B. PURSELL
CLERK OF COURT

25-KH-425

E-NOTIFIED
24th Judicial District Court (Clerk)
Honorable June B. Darensburg (DISTRICT JUDGE)
Thomas J. Butler (Respondent)

MAILED
Harold Brown #415699 (Relator)
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