

**Fifth Circuit Court of Appeal
State of Louisiana**

No. 26-KH-67

DEVIN BONILLA

versus

DARRELL VANNOY, ET AL

IN RE DEVIN BONILLA
APPLYING FOR SUPERVISORY WRIT FROM THE TWENTY-FOURTH JUDICIAL DISTRICT
COURT, PARISH OF JEFFERSON, STATE OF LOUISIANA, DIRECTED TO THE HONORABLE
ELLEN SHIRER KOVACH, DIVISION "K", No. 14-681

TRUE COPY

April 24, 2026



LINDA TRAN
DEPUTY CLERK

Panel composed of Judges Marc E. Johnson,
John J. Molaison, Jr., and Scott U. Schlegel

WRIT DENIED

Relator, Devin Bonilla, seeks review of the trial court's September 16, 2025 denial of his motion to reconsider. The motion requested consideration of the denial of his application for post-conviction relief ("APCR"). For the following reasons, we deny the writ application.

On April 10, 2014, a Jefferson Parish Grand Jury indicted Relator with second degree murder, in violation of La. R.S. 14:30.1. On December 10, 2014, Relator withdrew his plea of not guilty and entered a plea of not guilty by reason of insanity. A competency hearing was heard on January 7, 2015, where the trial court found Relator competent to stand trial based on Relator's stipulation to his competency and the recommendations of Dr. Rafael Salcedo and Dr. Richard Richoux that Relator was competent to proceed to trial. On January 28, 2015, in accordance with the

recommendation of Dr. Salcedo and Dr. Richoux, Relator was found to have been legally sane at the time of the alleged offense. On April 6, 7, and 8, 2015, the case was tried before a jury that found Relator guilty as charged. On April 16, 2015, the trial court sentenced him to life imprisonment at hard labor without benefit of probation, parole, or suspension of sentence.

On February 24, 2016, this Court affirmed relator's conviction and sentence. *State v. Bonilla*, 15-529 (La. App. 5 Cir. 2/24/16), 186 So.3d 1242. The Louisiana Supreme Court denied relator's writ application on May 2, 2016. *State v. Bonilla*, 16-567 (La. 5/2/16), 206 So.3d 881. On October 3, 2016, the United States Supreme Court denied relator's writ of certiorari. *Bonilla v. Louisiana*, 580 U.S. 901, 137 S.Ct. 239, 196 L.Ed.2d 183 (2016).

On February 27, 2025, Relator, through counsel, filed an APCR with the trial court based on newly discovered evidence regarding his post-traumatic stress disorder ("PTSD"), which he claims rendered him insane at the time of the instant offense. Specifically, Relator submitted: (1) an order from the Board of Veterans' Appeals ("BVA"), dated May 25, 2021, finding that Relator's PTSD warranted an increase of his disability rating to 100% for his entire service period from January 2009 to May 2009, and from January 2010 to January 2011; and (2) a report dated July 1, 2024, authored by Dr. Laura Brown, a forensic psychologist, in which she concluded that the experts who testified that Relator was not insane at the time of the instant offense based their opinions on unreliable and incomplete information. On May 1, 2025, the State filed its procedural objections, arguing that Relator's claim was untimely and successive.

On July 14, 2025, the trial court denied relief, first finding that Relator did "not provide or meet any of the exceptions for filing an untimely application, as provided under La. C.Cr.P. art. 930.8(A)." The trial court also found that Relator's APCR was procedurally barred as successive pursuant to La. C.Cr.P. art. 930.4(D), given that Relator raised a similar claim of newly discovered evidence based on his

PTSD in a prior APCR. In addition, the trial court pointed out that Relator had raised a claim of insufficient evidence based on his insanity defense that was fully litigated on appeal. In denying the APCR, the trial court further stated: “Pursuant to La. C.Cr.P. art. 930.4(G), all statutory limitations set forth shall be jurisdictional and shall not be waived or excused by the court. The court will not review the merits of Petitioner’s claims, as this APCR is procedurally barred from review.” The trial court subsequently re-issued its July 14, 2025 ruling on July 30, 2025, “for purposes of updating defense counsel’s address for proper service.” On August 27, 2025, Relator filed a Motion to Reconsider Ruling, which the trial court denied on September 16, 2025, stating: “Nothing in Petitioner’s present pleading affects or changes the court’s prior ruling denying relief.” The instant writ application followed.

At trial, in support of Relator’s insanity defense, John Muggivan, a social worker, testified that Relator suffered from PTSD as a result of his military service in Iraq. *Bonilla*, 186 So.3d at 1251. However, Mr. Muggivan “would not testify that defendant’s PTSD caused him to be unable to distinguish between right and wrong.” *Id.* at 1256. On rebuttal, the State presented the testimony of Dr. Salcedo, a clinical psychologist; Dr. Richoux, a forensic psychiatrist; and Dr. Blue, also a forensic psychiatrist. All three of the State’s expert witnesses testified that “even assuming defendant suffered from PTSD, there was no evidence that defendant was unable to distinguish right from wrong on the night in question.” *Id.* at 1251.

In the instant case, Relator’s conviction and sentence became final in 2016. However, in seeking post-conviction relief, relator relies on the “facts not known” exception of La. C.Cr.P. art. 930.8(A)(1), which applies when the following requirement is met:

The application alleges, and the petitioner proves or the state admits, that the facts upon which the claim is predicated were not known to the petitioner or his prior attorneys. Further, the petitioner shall prove that he exercised diligence in attempting to discover any post conviction claims that may exist. “Diligence” for the purposes of

this Article is a subjective inquiry that shall take into account the circumstances of the petitioner. Those circumstances shall include but are not limited to the educational background of the petitioner, the petitioner's access to formally trained inmate counsel, the financial resources of the petitioner, the age of the petitioner, the mental abilities of the petitioner, or whether the interests of justice will be served by the consideration of new evidence. New facts discovered pursuant to this exception shall be submitted to the court within two years of discovery.

As discussed above, Relator's alleged newly discovered evidence rests on a 2021 BVA order, which adjusted the disability rating for his service period to 100% based on his PTSD. According to Relator, the State's experts who testified at his 2015 trial relied on Relator's 10% disability rating with respect to his PTSD in finding that Relator was not insane at the time of the offense. Thus, in Relator's view, the experts' testimony describing his PTSD as mild was unreliable given his "new and more accurate medical diagnosis correctly reflecting the symptoms and complaints Petitioner suffered from prior to the shooting." As further support for his claim of newly discovered evidence, Relator relies on Dr. Brown's July 1, 2024 report in which she concluded, based on her review of records provided by Relator's counsel, that "reliable, objective methods of assessing PTSD were available at the time of Mr. Bonilla's trial and should have been used to evaluate the presence and severity of PTSD."

As an initial matter, the BVA's 2021 disability finding resulted from Relator's 2013 appeal of his disability rating, with Relator's last examination occurring in 2019.¹ Thus, for all that appears, the increase in Relator's disability rating was based, in part, on symptoms Relator exhibited after his 2015 conviction. In any event, Relator did not file his APCR based on the BVA's disability rating until February 27, 2025, despite being in possession of the BVA's order since 2021. Additionally, Relator does not provide any reasons for the delay in submitting the

¹ According to the BVA order, "[d]isability evaluations are determined by comparing a veteran's present symptoms with the criteria set forth in the VA Schedule for Rating Disabilities, which is based upon average impairment in earning capacity." *Id.* at 107. Pursuant to 38 U.S.C.A. § 1155, "[t]he ratings shall be based, as far as practicable, upon the average impairments of earning capacity resulting from such injuries in civil occupations."

2021 BVA order in his APCR until last year. Under La. C.Cr.P. art. 930.8(A)(1), “[n]ew facts discovered pursuant to this exception shall be submitted to the court within two years of discovery.” As such, we find that La. C.Cr.P. art. 930.8(A)(1)’s diligence requirement was not met in this instance.

As for Dr. Brown’s 2024 report, the trial court also found that Relator “fail[ed] to establish any exercise of due diligence,” particularly when Dr. Brown did not “interview or have direct contact” with Relator. Instead, her findings critiqued the assessment of the State’s doctors who testified that “the evidence did not indicate [Relator] was suffering from a psychiatric disorder that caused him to be incapable of distinguishing between right and wrong with respect to the offense.” Thus, Dr. Brown’s findings raise credibility issues about the State’s experts, rather than present evidence not known at trial. In fact, Dr. Brown faulted the State’s experts for not relying on “reliable, objective methods of assessing PTSD [that] were available at the time of Mr. Bonilla’s trial[.]” In doing so, she also criticized the experts’ reliance on disability ratings conducted by the Veterans Administration, such as the disability rating now relied upon by Relator, stating: “Compensation and pension examinations are not reliable assessments of mental state at the time of the offense in criminal settings.” Finally, Dr. Brown made no assessment as to whether Relator met the criteria for insanity at the time of the instant offense. Thus, we find that Dr. Brown’s report, which only serves as a challenge to the conclusions of the State’s experts, does not qualify as newly discovered evidence under La. C.Cr.P. art. 930.8(A)(1). Consequently, we find that Relator’s claim is time-barred.

Accordingly, for the foregoing reasons, we deny the writ application.

Gretna, Louisiana, this 24th day of April, 2026.

MEJ
JJM
SUS

SUSAN M. CHEHARDY
CHIEF JUDGE

FREDERICKA H. WICKER
JUDE G. GRAVOIS
MARC E. JOHNSON
STEPHEN J. WINDHORST
JOHN J. MOLAISSON, JR.
SCOTT U. SCHLEGEL
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JUDGES



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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 **04/24/2026** 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:

26-KH-67

CURTIS B. PURSELL
CLERK OF COURT

E-NOTIFIED

24th Judicial District Court (Clerk)
Honorable Ellen Shirer Kovach (DISTRICT JUDGE)
Thomas J. Butler (Respondent) Stavros Panagouloupoulos (Relator)

MAILED