

Fifth Circuit Court of Appeal State of Louisiana

No. 26-KH-437

STATE OF LOUISIANA
versus
CADE FUXAN

IN RE CADE FUXAN
APPLYING FOR SUPERVISORY WRIT FROM THE TWENTY-FOURTH JUDICIAL DISTRICT
COURT, PARISH OF JEFFERSON, STATE OF LOUISIANA, DIRECTED TO THE HONORABLE
STEPHEN D. ENRIGHT, JR., DIVISION "N", NUMBER 22-2490

TRUE COPY

October 05, 2026



SUSAN BUCHHOLZ
DEPUTY CLERK

Panel composed of Judges Fredericka Homberg Wicker,
John J. Molaison, Jr., and Scott U. Schlegel

WRIT DENIED

The relator, Cade Fuxan, seeks review of the trial court's July 9, 2026 judgment denying his Application for Post-Conviction Relief (APCR). We deny relief for the following reasons.

On March 13, 2024, the trial court sentenced the relator to life imprisonment for his February 1, 2024 conviction of second-degree murder. This Court affirmed the relator's conviction and sentence on May 14, 2025. *State v. Fuxan*, 24-302 (La. App. 5 Cir. 5/14/25), 415 So.3d 387. The relator did not file a writ application with the Louisiana Supreme Court.

On June 15, 2026, the relator filed an APCR in the district court, claiming that the trial court denied him his right to present a defense and that he received

ineffective assistance of counsel. He re-urges these claims in this timely filed writ application.

In his first assignment of error, the relator argues that the district court erred in failing to conduct an evidentiary hearing to address the ineffective assistance of counsel claims raised in his APCR. However, the district court may dispose of an APCR summarily if the factual and legal issues can be resolved based upon the application and answer, and supporting documents, including relevant transcripts, depositions, and other reliable documents submitted by either party or available to the court. La. C.Cr.P. art. 929(A). Our review of the claims raised by the relator indicates that the district court did not abuse its discretion when it resolved the relator's claims without conducting an evidentiary hearing. *See State ex rel. Tassin v. Whitley*, 602 So.2d 721, 722 (La. 1992).

In his second assignment of error, the relator claims the district court erred in "failing to find that trial counsel's failure to investigate, subpoena, and prepare witnesses, and failure to retain a crime scene reconstruction expert, constituted deficient performance that prejudiced the defense, warranting a new trial."

Under the Sixth Amendment to the United States Constitution and Article I, § 13 of the Louisiana Constitution, a defendant is entitled to effective assistance of counsel. *State v. Casimer*, 12-678 (La. App. 5 Cir. 3/13/13), 113 So.3d 1129, 1141. To prove ineffective assistance of counsel, a defendant must satisfy the two-prong test set forth in *Strickland v. Washington*, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984). *Casimer*, 113 So.3d at 1141. Under the *Strickland* test, the defendant must show: (1) that counsel's performance was deficient, that is, that the performance fell below an objective standard of reasonableness under prevailing professional norms; and (2) that the deficient performance prejudiced the defense. *Id.* An error is prejudicial if it is so serious as to deprive the defendant of a fair trial, or "a trial whose result is reliable." *Id.* (quotations omitted). To prove

prejudice, the defendant must demonstrate that, but for counsel's unprofessional conduct, the outcome of the trial would have been different. *Id.* (citing *Strickland v. Washington*).

The relator argues that the trial court improperly excluded Lauren Chisholm as a witness for the defense. The relator raised this claim on appeal. Ms. Chisholm, who testified at the relator's trial as a witness for the State, was the best friend of the relator's live-in girlfriend, Ms. Lowery, and worked with the victim, Mr. Parker. Ms. Chisholm testified that she gave a statement to police; she specifically denied that Mr. Parker had anger issues or that she told the police he had anger issues. *Fuxan*, 415 So.3d at 397. Ms. Chisholm further testified that Ms. Lowery did not tell her that Mr. Parker had anger issues or that he "would go off about anything." *Id.*

In this writ application, the relator continues to argue that the trial court erred in refusing to allow the defense to call Ms. Chisholm in his case-in-chief as a witness to show that Mr. Parker had prior anger issues as she had told the Kenner Police Department in her statement. However, this Court fully addressed this issue on appeal, stating:

Upon review, we find that the trial judge did not err by refusing to allow Ms. Chisholm to be re-called. Nevertheless, even if erroneous, we find that the error was harmless beyond a reasonable doubt. We do not find that there is a reasonable possibility that the admission or exclusion of this certain evidence might have contributed to the conviction. *See Reed, supra*, --- So.3d at ---, 2024 WL 5244752, * at 16. Any evidence of the victim's anger issues, dangerous character, and/or violent propensities was presented to the jury in the form of testimony and photographs. Defendant and Ms. Lowery testified that two days prior to the shooting, they heard Mr. Parker speaking in a loud and angry tone and making threatening remarks indicating his possible intent to harm defendant and his parents. Additionally, both the photographs and the testimony established that defendant was severely beaten by Mr. Parker, causing him a black eye, as well as numerous scratches and marks on his face and body. Therefore, if any error existed in the trial judge refusing to allow Ms. Chisholm to testify again, such error was harmless.

Fuxan, 415 So.3d at 409.

La. C.Cr.P. art. 930.4(A) provides: “Any claim for relief which was fully litigated in an appeal from the proceedings leading to the judgment of conviction and sentence shall not be considered.” Accordingly, because the relator fully litigated this claim on appeal, La. C.Cr.P. art. 930.4(A) precludes it from post-conviction review.

The relator argues that trial counsel was ineffective for failing to corroborate relator’s injuries by introducing his medical records. The relator attached medical records dated June 2, 2022 to his writ application as exhibit number 15. In these records, the relator reported he was punched in the left eye “three days ago,” punched in the right eye “last night,” and was in “mild pain.” The report states he is “not in acute distress.” The CT report shows no bone injury and “no significant soft tissue swelling.”

At trial, the court admitted into evidence photographs of the relator’s injuries taken at the time of arrest. A detective testified that the relator had scratches on his neck, face, chest, arms, shoulder area, and back, as well as a black eye, an injury to one hand, and scratches on the other hand. *Fuxan*, 415 So.3d at 395. Ms. Lowery, the relator’s live-in girlfriend, testified that he had bruises all over his face and that blood was in the apartment. *Id.* at 396. The court also admitted text messages between the relator and his parents, dated May 31 and June 1, 2022, that discussed the injuries the relator sustained in the fight. The relator testified extensively about his injuries and said that the correctional facility could not admit him because of his injuries, so he went to the hospital. *Id.* at 399.

The June 2, 2022 medical report is cumulative of the photographs and testimony at trial that described the injuries in much greater detail. Thus, trial counsel was not ineffective for failing to introduce this report into evidence at trial.

Next, the relator contends that counsel was ineffective for failing to call a crime scene reconstruction expert to rebut the State’s expert, Dr. Scanlan.

However, the decision to call or not to call a particular witness is a matter of trial strategy and not, per se, evidence of ineffective assistance of counsel. *State v. Allen*, 06-778 (La. App. 5 Cir. 4/24/07), 955 So.2d 742, 751, *writ denied sub nom. State ex rel. Allen v. State*, 08-2432 (La. 1/30/09), 999 So.2d 754. At trial, counsel made the strategic choice to challenge the State’s evidence through an extensive cross-examination of Dr. Scanlan that included questioning him about possible shortcomings in how the casings were secured at the crime scene. Thus, we find the relator has not “overcome the presumption that, under the circumstances [counsel’s decisions] ‘might be considered sound trial strategy.’” *Strickland*, 466 U.S. at 689, 104 S.Ct. at 2065 (quoting *Michel v. Louisiana*, 350 U.S. 91, 101, 76 S.Ct. 158, 164, 100 L.Ed. 83 (1955)).

Finally, the relator’s claim that the cumulative effect of counsel’s ineffectiveness denied him a fair trial is not cognizable for review in an APCR pursuant to La. C.Cr.P. art. 930.3. The combined effect of assignments of error, none of which warrant reversal on its own, does not deprive a defendant of his constitutional right to a fair trial. *State v. Seals*, 09-1089 (La. App. 5 Cir. 12/29/11), 83 So.3d 285, 354, *writ denied*, 12-293 (La. 10/26/12), 99 So.3d 53, *cert. denied*, 569 U.S. 1031, 133 S.Ct. 2796, 186 L.Ed.2d 863 (2013). *See also State v. Holliday*, 17-1921 (La. 1/29/20), 340 So.3d 648, 714, *cert. denied*, 592 U.S. 1236, 141 S.Ct. 1271, 209 L.Ed.2d 10 (2021).

For the preceding reasons, we deny this writ application.

Gretna, Louisiana, this 5th day of October, 2026.

JJM
FHW
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 **10/05/2026** 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:

CURTIS B. PURSELL
CLERK OF COURT

26-KH-437

E-NOTIFIED

24th Judicial District Court (Clerk)	
Honorable Stephen D. Enright, Jr. (DISTRICT JUDGE)	
Kathryn J. Burke (Relator)	Darren A. Allemand (Respondent)
Jennifer C. Cameron (Relator)	J. Taylor Gray (Respondent)
Jacob G. Longman (Relator)	