

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

No. 26-KH-138

STATE OF LOUISIANA

versus

JOSE CORNEJO-GARCIA

IN RE JOSE CORNEJO-GARCIA
APPLYING FOR SUPERVISORY WRIT FROM THE TWENTY-FOURTH JUDICIAL DISTRICT
COURT, PARISH OF JEFFERSON, STATE OF LOUISIANA, DIRECTED TO THE HONORABLE
FRANK A. BRINDISI, DIVISION "E", No. 08-5641

TRUE COPY

June 30, 2026



LINDA TRAN
DEPUTY CLERK

Panel composed of Judges Fredericka Homberg Wicker,
Jude G. Gravois, and Stephen J. Windhorst

WRIT DENIED

Relator Jose Cornejo-Garcia seeks review of the trial court's January 16, 2026 judgment denying his Petition for Writ of Habeas Corpus. For the following reasons, we deny the writ application.

PROCEDURAL BACKGROUND

On November 17, 2010, a jury found Relator guilty of three counts of second degree murder. On November 23, 2010, the trial court sentenced Relator to consecutive terms of life imprisonment at hard labor without benefit of parole, probation, or suspension of sentence on each count. On January 24, 2012, this Court affirmed Relator's convictions and sentences in *State v. Cornejo-Garcia*, 11-619 (La. App. 5 Cir. 1/24/12), 90 So.3d 458. Relator did not file a writ application with

the Louisiana Supreme Court. His convictions and sentences therefore became final in 2012.

On January 7, 2026, Relator filed a Petition for Writ of Habeas Corpus in the trial court, asserting that Louisiana’s grand jury concurrence laws, La. C.Cr.P. arts. 383, 435, and 444, are unconstitutional because they allow for the reduction of a grand jury quorum from twelve to nine members and violate the Equal Protection Clause of the Fourteenth Amendment due to their racially discriminatory origins in Louisiana’s 1898 Constitutional Convention. On January 16, 2026, the trial court denied relief, finding that Relator’s pleading was “in fact an application for post-conviction relief (APCR),” and, as such, was untimely and did not satisfy any exception under La. C.Cr.P. art. 930.8(A).

This timely writ application followed.

DISCUSSION

Relator re-urges his claim challenging the constitutionality of Louisiana’s grand jury concurrence laws, as codified in La. C.Cr.P. arts. 383, 435, and 444.¹ Generally, a writ of habeas corpus may not be used for complaints challenging a conviction. La. C.Cr.P. art. 351.² Despite the title of the pleading, we find—as the trial court did—that Relator actually seeks post-conviction relief, as set forth in La. C.Cr.P. art. 924(1) (defining an APCR as “a petition filed by a person in custody after sentence following conviction for the commission of an offense seeking to have the conviction and sentence set aside”).³ Consequently, given that Relator’s

¹ La. C.Cr.P. art. 383 provides, in pertinent part that “[a]n indictment is a written accusation of crime made by a grand jury. It must be concurred in by not less than nine of the grand jurors, indorsed ‘a true bill,’ and the indorsement must be signed by the foreman.” La. C.Cr.P. art. 435 provides, in pertinent part that “[n]ine grand jurors shall constitute a quorum, and nine grand jurors must concur to find an indictment.” La. C.Cr.P. art. 444 provides, in pertinent part that “[a]t least nine members of the grand jury must concur in returning ‘a true bill’ or ‘not a true bill.’”

² La. C.Cr.P. art. 351 provides, in pertinent part that the “provisions of this Title are not available to persons entitled to file an application for post conviction relief under Title XXXI-A.”

³ 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.*

convictions and sentences became final in 2012, we find that his claim is untimely under La. C.Cr.P. art. 930.8(A).⁴ Furthermore, none of La. C.Cr.P. art. 930.8(A)'s exceptions appear applicable to his claim. Accordingly, we find that Relator's claim is time-barred.⁵ *See Dunn v. State*, 24-547, 2025 WL 327367, at *1–2 (La. App. 5 Cir. 1/29/25), *reh'g denied*, 24-547 (La. App. 5 Cir. 2/24/25), *writ not considered*, 25-346 (La. 9/10/25), 415 So.3d 1269 (finding the relator's claim challenging Louisiana's grand jury concurrence laws on similar grounds was untimely under La. C.Cr.P. art. 930.8).

CONCLUSION

For the foregoing reasons, we deny the writ application.

Gretna, Louisiana, this 30th day of June, 2026.

FHW
JGG
SJW

Moses, 05-787 (La. App. 5 Cir. 5/9/06), 932 So.2d 701, 706 n.3, *writ denied*, 06-2171 (La. 4/5/07), 954 So.2d 140.

⁴ La. C.Cr.P. art. 930.8(A) provides in pertinent part that “[n]o 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.”

⁵ Relator also contends that the trial court erred in failing to conduct an evidentiary hearing; however, a trial court may summarily dispose of an application for relief when the issues can be resolved on the pleadings and any supporting documentation submitted by the parties or available to the court. La. C.Cr.P. art. 929(A). Considering the untimeliness of Relator's claim, the trial court did not abuse its discretion in denying relief without a hearing. *See State ex rel. Tassin v. Whitley*, 602 So.2d 721, 722 (La. 1992).

SUSAN M. CHEHARDY
CHIEF JUDGE

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

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 **06/30/2026** 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-138

E-NOTIFIED

24th Judicial District Court (Clerk)
Honorable Frank A. Brindisi (DISTRICT JUDGE)
Thomas J. Butler (Respondent)

MAILED

JOSE CORNEJO-GARCIA #576721
(Relator)
Louisiana State Penitentiary
Angola, LA 70712