

Fifth Circuit Court of Appeal State of Louisiana

No. 25-KH-501

STATE OF LOUISIANA

versus

BRANDON BARNES

IN RE BRANDON BARNES

APPLYING FOR SUPERVISORY WRIT FROM THE TWENTY-FOURTH JUDICIAL DISTRICT COURT, PARISH OF JEFFERSON, STATE OF LOUISIANA, DIRECTED TO THE HONORABLE LEE V. FAULKNER, JR., DIVISION "P", No. 12-4458

TRUE COPY

January 21, 2026



LINDA TRAN
DEPUTY CLERK

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

WRIT DENIED

Relator, Brandon Barnes, seeks supervisory review of the denial, by the 24th Judicial District Court, of his *Motion to Correct Illegal Sentence Pursuant to Basis for Valid Sentence LSA-C.Cr.P. Arts. 882 & 872*.¹ Therein, he alleged that his twenty-five-year sentence on Count 3 of the Bill of Information, on which he was convicted of being a convicted felon in possession of a firearm, a violation of La. R.S. 40:981.3, is illegal. The basis of Relator's claim of illegality is that he was never convicted of the predicate felony offense of possession of Alprazolam Within 1000 Feet of a School and, as a result, the bill of information was defective.

¹ This is the second such motion filed by Relator within a period of three months, as discussed below.

He further alleged that he disclosed to his attorney that “he had never been arrested, tried, or pled guilty to the predicate, possession of Alprazolam, within a thousand feet of a school zone.” According to Relator, his “only prior felony was PWID [possession with intent to distribute] marijuana [and he] believes had the true facts surrounding his criminal history been presented to the trial court, it would have resulted in a reduced term of imprisonment below the twenty-five (25) years he received.” In support of his contention that he had never been convicted of this predicate offense, Relator attached his arrest record, which does not show that he was arrested for possession of Alprazolam within 1000 feet of a school.²

The district court denied the Relator’s Motion on August 5, 2025, finding that, although a motion to correct an illegal sentence may be raised at any time, “the petitioner does not point to any illegal terms in his sentence. Rather, he contests the bill of information as to count #2 (sic), felon in possession of a firearm, and specifically contests the predicate offense listed as to that charge.” The district court ruled that there was “no illegality in the petitioner’s sentences, as the terms of the sentences imposed are clearly within the statutory parameters [and that] on the showing made, the petitioner is not entitled to relief.”

We find no error in the district court’s ruling. To have a cognizable claim under La. C.Cr.P. art. 882(A), a defendant must point to an illegal term in his sentence. *State v. Parker*, 98-256 (La. 5/8/98), 711 So.2d 694, 695. In other words, a defendant may only raise claims relating to the legality of the sentence itself under the applicable sentencing statutes in a motion to correct an illegal

² The predicate offense charged in Count 3 of the Bill of Information references 24th JDC case no. 08-0607. A review of the official record of that case on JeffNet website (ssl.jpclerkofcourt.us/JeffnetService) reveals that a Brandon Barnes, DOB, March 11, 1987, pled guilty to possession of Alprazolam within 1000 feet of an elementary school on February 6, 2009. The plea was entered under Article 893, and the offender was sentenced to three (3) years’ probation. Relator’s date of birth is December 10, 1986. It would appear, then, that the Brandon Barnes convicted of violating La. R.S. 14:981.3 is a different person than Relator. As set forth above, two predicate offenses were included in the Bill of Information. The other was possession with intent to distribute marijuana, a violation of La. R.S. 14:966, which Relator has admitted.

sentence. Relator does not point to any illegal term in his sentence; he challenges the Bill of Information as to Count 3, to which he freely, knowingly and voluntarily pled guilty, after being properly informed of his rights and the effect of his waiver of them, as we held in Relator’s out-of-time appeal. *See State v. Barnes*, 15-236 (La. App. 5 Cir. 12/22/15), 179 So.3d 874, 876-77, *writ denied*, 16-181 (La. 1/23/17), 215 So.3d 682.

Relator’s claim is not cognizable in a motion to correct an illegal sentence. Should Relator’s claim be considered as an application for post-conviction relief (“APCR”), it would be time-barred. An APCR must be filed within two years of the date the petitioner’s conviction and sentence became final. La. C.Cr.P. art. 930.8(A). In 2015, Relator timely filed an APCR seeking an out-of-time appeal, which the district court granted. In that appeal, we affirmed Relator’s convictions and sentences, which became final when the Louisiana Supreme Court denied writs in 2017. Relator did not file this claim until 2025, more than two years after his convictions and sentences became final.

This Court has recently found a similar claim filed by Relator challenging his sentences would be time-barred under La. C.Cr.P. art. 930.8, if considered as an APCR. In *State v. Barnes*, 25-307 (La. App. 5 Cir. 8/29/25), (unpub’d), 2025 WL 2491447, we reviewed the district court’s denial of a previous *Motion to Correct Illegal Sentence Pursuant to Basis for Valid Sentence LSA-C.Cr.P. Arts. 882 & 872*, filed by Relator (the “First Motion to Correct”). In his First Motion to Correct, Relator claimed his sentences were illegal because the district court informed him of the maximum sentences that could be imposed for each offense to which he pled guilty, but failed to inform him of the minimum sentences that could be imposed for each offense, and that, had the district court so informed him, he would not have agreed to plead guilty.

We found no error in the district court's denial of the First Motion to Correct because, as in the instant matter, Relator failed to point to any illegal term in his sentences. We went on to state that:

We recognize that courts should 'look through the caption of the pleadings in order to ascertain their substance and to do substantial justice.' *State v. Moses*, 05-7887 (La. App. 5 Cir. 5/9/06), 932 So.2d 701, 706, *writ denied*, 06-2171 (La. 4/5/07), 954 So.2d 140. But even construing relator's motion as an application for post-conviction relief, it would be time-barred because an APCR must be filed within two years of the judgment of conviction and sentence becoming final under La. C.Cr.P. art. 930.8 A. Relator's convictions and sentences became final in 2017, and he filed this motion in 2025. In addition, none of the exceptions enumerated in La. C.Cr.P. art. 930.8 A(1), (2), (3), and/or (4) apply to relator's case because his claim does not rest on newly discovered evidence or an unknown interpretation of constitutional law; his application was filed after October 1, 2001; and he was not sentenced to death. See *Carlin v. Cain*, 97-2390 (La. 3/13/98), 706 So.2d 968 (appellate courts may raise the time bar of La. C.Cr.P. art. 930.8 *sua sponte*).

2025 WL 2491447, at **1.

The same is true here. Further, La. C.Cr.P. 930.4 prohibits the filing of successive and repetitive APCRs, such as the one before us. Finally, Relator's claim has no merit. Even if he is not the same Brandon Barnes who pled guilty to possession of Alprazolam within 1000 feet of a school, Relator has admitted that he is the same Brandon Barnes who was convicted of the felony offense of possession of marijuana with intent to distribute, a violation of La. R.S. 14:966. Two predicate offenses were contained in Count 3 of the Bill of Information – "Possession of Alprazolam Within 1000 Feet of School, in violation of R.S. 40:981.3 . . . and/or Possession With Intent to Distribute Marijuana, in violation of R.S. 40:966(A) . . ." Relator's sentence on the offense of being a convicted felon in possession of a firearm is not an illegal sentence. He was previously convicted of a predicate offense and the term of his sentence on that offense is clearly within the statutory parameters.

For all of these reasons, we find no error in the trial court's denial of Relator's motion and deny this writ application.

Gretna, Louisiana, this 21st day of January, 2026.

FHW
JJM
SUS

SUSAN M. CHEHARDY

CHIEF JUDGE

FREDERICKA H. WICKER
JUDE G. GRAVOIS
MARC E. JOHNSON
STEPHEN J. WINDHORST
JOHN J. MOLAISON, 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 01/21/2026 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:

A handwritten signature in blue ink that reads "Curtis B. Pursell".

CURTIS B. PURSELL
CLERK OF COURT

25-KH-501

E-NOTIFIED

24th Judicial District Court (Clerk)
Hon. Lee V. Faulkner, Jr. (DISTRICT JUDGE)
Thomas J. Butler (Respondent)

MAILED

Brandon Barnes #569821 (Relator)
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