

SUPREME COURT OF LOUISIANA

State ex rel. Mays v. State

239 So. 3d 281 (La. 2018) · Decided April 6, 2018

SUMMARY

The Louisiana Supreme Court denied Terry Wayne Mays's application for post-conviction relief as untimely under Louisiana Code of Criminal Procedure article 930.8. The court held that Mays failed to establish an exception to the limitations period and noted that he had fully litigated at least six state post-conviction applications. The attached district court ruling addressed Mays's claims of racial bias concerning jury selection, prosecutorial practices, and a courthouse Confederate flag monument.

CASE DETAILS

COURT	Supreme Court of Louisiana
WRITING FOR THE COURT	Per Curiam
JURISDICTION	Louisiana
DECIDED	April 6, 2018
DISPOSITION	writ_denied
PROCEDURAL POSTURE	The Louisiana Supreme Court reviewed relator's application for post-conviction relief after the First Judicial District Court denied his application as untimely.
PRECEDENTIAL VALUE	Published Louisiana Supreme Court opinion; precedential.
PARTIES	Terry Wayne Mays v. State

TOPICS

- state post-conviction relief
- successive petitions
- post-conviction relief
- appellate procedure
- criminal procedure

PRACTICE AREAS

- Louisiana criminal procedure
- post-conviction relief
- successive applications

QUESTIONS PRESENTED

1. Whether Mays's 2016 application for post-conviction relief was timely under Louisiana Code of Criminal Procedure article 930.8.

2. Whether Mays established an exception to the limitations period or the restrictions on successive post-conviction applications.

HOLDINGS

1. Mays's application was untimely because his conviction and sentence became final in 1993 and he filed the application in 2016, well beyond Louisiana's two-year limitations period.
2. Louisiana post-conviction procedure permits a second or successive application only under the narrow circumstances specified by article 930.4 and within the limitations period in article 930.8; after Mays's claims had been fully litigated, the denial was final and he had exhausted his right to state collateral review absent a qualifying exception.

KEY QUOTATIONS

“Similar to federal habeas relief, see 28 U.S.C. § 2244, Louisiana post-conviction procedure envisions the filing of a second or successive application only under the narrow circumstances provided in La.C.Cr.P. art. 930.4 and within the limitations period as set out in La.C.Cr.P. art. 930.8.” (281-282)

“Hereafter, unless he can show that one of the narrow exceptions authorizing the filing of a successive application applies, relator has exhausted his right to state collateral review.” (282)

FACTUAL BACKGROUND

Mays was convicted by a jury of second-degree murder and armed robbery and received a life sentence for murder and a fifty-year sentence for armed robbery. His convictions and sentences became final in 1993. In 2016, he filed a post-conviction application asserting five claims involving alleged racial bias in juror identification, jury administration, the district attorney's office, Louisiana Code of Criminal Procedure article 795, and a Confederate flag monument outside the courthouse.

PROCEDURAL HISTORY

Mays was convicted in 1991 of second-degree murder and armed robbery and sentenced in 1992. The Louisiana Second Circuit affirmed his conviction and sentences, and the Louisiana Supreme Court denied writs in 1993. Mays filed a Uniform Application for Post-Conviction Relief on September 15, 2016, alleging claims involving racial bias and jury selection; the district court denied the application as untimely, and the Louisiana Supreme Court denied relief.

DISPOSITION

writ_denied

REMAND INSTRUCTIONS

The district court was ordered to record a minute entry consistent with the Louisiana Supreme Court's per curiam denial.

CASES CITED

- State ex rel. Glover v. State, 93-2330 (La. 9/5/95), 660 So. 2d 1189
- State v. Mays, 24,468 (La. App. 2 Cir. 1/20/93), 612 So. 2d 1040

OPINION

PER CURIAM.

PER CURIAM: Denied. The application was not timely filed in the district court, and relator fails to carry his burden to show that an exception applies. La.C.Cr.P. art. 930.8; State ex rel. Glover v. State, 93-2330 (La. 9/5/95), 660 So.2d 1189.

We attach hereto and make a part hereof the district court's written reasons denying relief. Relator has now fully litigated at least six applications for post-conviction relief in state court. Similar to federal habeas relief, see 28 U.S.C. § 2244, Louisiana post-conviction procedure envisions the filing of a second or successive application only under the narrow circumstances provided in La.C.Cr.P. art. 930.4 and within the limitations period as set out in La.C.Cr.P. art. 930.8.

Notably, the Legislature in 2013 La. Acts 251 amended that article to make the procedural bars against successive filings mandatory. Relator's claims have now been fully litigated in accord with La.C.Cr.P. art. 930.6, and this denial is final. Hereafter, unless he can show that one of the narrow exceptions authorizing the filing of a successive application applies, relator *282has exhausted his right to state collateral review.

The district court is ordered to record a minute entry consistent with this per curiam. Attachment
STATE OF LOUISIANA NUMBER: 155,463 SECTION 4 VERSUS FIRST JUDICIAL
DISTRICT COURT TERRY WAYNE MAYS CADDO PARISH, LOUISIANA RULING On
August 15, 1991, Petitioner, TERRY WAYNE MAYS, was found guilty by a jury of one (1) count
of Second Degree Murder and one (1) count of Armed Robbery.

On February 14, 1992, Petitioner was sentenced as to the charge of Second Degree Murder to life imprisonment at hard labor, without the benefit of probation, parole or suspension of sentence, and committed to the Louisiana Department of Corrections, subject to the conditions provided by law.

As to the charge of Armed Robbery, Petitioner was sentenced to be confined at hard labor for a period of fifty (50) years, without benefit of probation, parole or suspension of sentence, and committed to the Louisiana Department of Corrections, subject to the conditions provided by Law.

The Court informed Petitioner of his right to post-conviction relief proceedings. On appeal, Petitioner's conviction and sentence were affirmed. State v. Mays, 24,468 (La. App. 2 Cir. 1/20/93); 612 So.2d 1040; writ denied, 93-0578 (La. 6/18/93); 619 So.2d 576.

The subject of this Opinion is Petitioner's "Uniform Application for Post-Conviction Relief" filed September 15, 2016. In said Application, Petitioner seeks to reverse his conviction by alleging 5

claims all alluding to racial bias as it relates to his trial and selection. Specifically Petitioner argues: 1) racial bias by the clerk's office in identifying the race of the jurors leading him to not know the true identity of each seated prospective juror, 2) racial bias became in the jury coordinators duties, 3) a history of racial bias by the Caddo Parish District Attorney's office, 4) La. C. Cr.

Pro. Art 795 is unconstitutional, 5) the presentence of the confederate flag monument outside of the courthouse is racially bias. *283Petitioner's application is still untimely. As previously noted, Petitioner's sentence and conviction became final in 1993.State v. Mays, 24,468 (La. App. 2 Cir. 1/20/93); 612 So.2d 1040;writ denied, 93-0578 (La. 6/18/93); 619 So.213 576.

It is well beyond the two-year limit according to La. C. Cr. P. Art. 930.8. Petitioner has only made general conclusory allegations. Petitioner has yet to set forth any facts to substantiate his claims that would entitle him to the exceptions set forth in La. C. Cr. P. Art. 930.8 (C) (1-4).

For the foregoing reasons, Petitioner's "Uniform Application for Post-Conviction Relief" filed September 15, 2016 is DENIED. The Clerk of Court is directed to provide a copy of this Opinion to the Petitioner, his custodian and the District Attorney. RULING RENDERED, READ AND SIGNED this 27 th day of October, 2016. RAMONA L. EMANUEL DISTRICT JUDGE
SERVICE INFORMATION: Mr. Terry W. Mays, DOC # 108167 Louisiana State Penitentiary
General Delivery Angola, LA 70712 Caddo Parish District Attorney's Office