

**STATE OF LOUISIANA
COURT OF APPEAL, SECOND CIRCUIT
430 Fannin Street
Shreveport, LA 71101
(318) 227-3700**

No. 55,836-KW
No. 55,837-KW
(Consolidated Cases)

STATE OF LOUISIANA

VERSUS

JOSEPH D. BLUEFORD

FILED: 03/05/24

RECEIVED: EMAIL 03/01/24

On application of Joseph Dewayne Blueford for POST CONVICTION RELIEF in Nos. 201114F and 2012-467F on the docket of the Fourth Judicial District, Parish of MOREHOUSE, Judge Clarence Wendell Manning.

PROMISE OF JUSTICE INITIATIVE
Hardell Harachio Ward

Counsel for:
Joseph Dewayne Blueford

Robert Stephen Tew
Holly A. Chambers-Jones

Counsel for:
State of Louisiana

Before ROBINSON, HUNTER, and MARCOTTE, JJ.

WRIT DENIED.

The applicant, Joseph Blueford, seeks supervisory review of the trial's November 3, 2023, ruling denying Blueford's "Motion For [sic] To Set Unresolved "Harris" Post-Conviction Relief Application for Hearing." On the showing made, the writ is denied. La. C. Cr. P. art. 930.2.

Shreveport, Louisiana, this 19 day of April, 2024.

JLR Com

MLH HUNTER, J. would grant. In 2014, applicant, Joseph D. Blueford, was convicted of one count of aggravated battery and possession of a firearm by a convicted felon. He was adjudicated a fourth-felony offender and was sentenced to life without benefits for the aggravated battery conviction and 65 years without the benefit of parole (concurrent) for the firearm conviction.

In *State v. Allen*, 22-00508 (La. 11/1/22), 348 So. 3d 1274, the Louisiana Supreme Court stated:

A sentence may be excessive under Article I, Section 20 of the Louisiana Constitution, even if it falls within the statutory range established by the Legislature. *State v. Johnson*, 97-1906, p. 6 (La. 3/4/98), 709 So.2d 672, 676; *State v. Sepulvado*, 367 So.2d 762, 767 (La. 1979). In *State v. Dorthey*, 623 So.2d 1276, 1280-81 (La. 1993), we held that this extends to the minimum sentences mandated by the Habitual Offender Law and that the trial court must reduce a sentence to one not unconstitutionally excessive if the trial court finds that the sentence mandated by the Habitual Offender Law “makes no measurable contribution to acceptable goals of punishment” or is nothing more than “the purposeful imposition of pain and suffering” and “is grossly out of proportion to the severity of the crime.” *Id.* at 1276. The Court also found defense counsel was ineffective because he “failed to apprise the trial court of its duty [to] depart from the mandatory life sentence under *Dorthey* on the grounds it was excessive.” *Id.*

I believe the life sentenced mandated in this case “makes no measurable contribution to acceptable goals of punishment” or is nothing more than “the purposeful imposition of pain and suffering” and “is grossly out of proportion to the severity of the crime.”

Further, although trial counsel challenged the sentence by filing a motion to reconsider sentence and appellate counsel raised the issue of excessive sentence on appeal, counsel failed to request a downward departure pursuant to *Dorthey, supra*. Consequently, I would vacate defendant’s sentences and remand to the trial court for resentencing to a term of imprisonment which is not excessive.

FILED: April 19, 2024

