

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

No. 55,842-KH

STATE OF LOUISIANA

VERSUS

MARK ANTHONY WIGGINS

FILED: 03/11/24

RECEIVED: PM 02/28/24

On application of Mark Anthony Wiggins for POST CONVICTION RELIEF in No. 272454 on the docket of the First Judicial District, Parish of CADDO, Judge Michael A. Pitman.

Pro se	Counsel for: Mark Anthony Wiggins
James Edward Stewart, Sr.	Counsel for: State of Louisiana

Before ROBINSON, HUNTER, and MARCOTTE, JJ.

WRIT DENIED.

Applicant Mark Anthony Wiggins seeks review of the trial court's denial of his "Motion to Correct Illegal Sentence, Pursuant to La. C. Cr. P. art. 882(A)." On the showing made, this writ is denied.

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

_____ com _____ JLR _____
MLH HUNTER, J. would grant. In 2008, applicant, Mark Anthony Wiggins was convicted of second-degree robbery. He was adjudicated a third-felony offender and was sentenced to life without benefits.

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.*

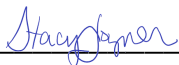
Johnson, 97-1906, p. 6 (La. 3/4/98), 709 So.2d 672, 676; *State v. Sepulvado*, 367 So.2d 762, 767 (La. 1979). In *State v. Dorthey*, 623 So.2d 1276, 1280-81 (La. 1993), we held that this extends to the minimum sentences mandated by the Habitual Offender Law and that the trial court must reduce a sentence 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.

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.*

In this case, there is no indication trial counsel objected to the life sentence, and the record indicates appellate counsel did not argue the sentence was excessive on appeal. I believe the life sentence 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.”

Consequently, I would vacate defendant’s sentence and remand to the trial court for resentencing to a term of imprisonment which is not excessive

FILED: _____ April 19, 2024 _____



DEPUTY CLERK