

Judgment rendered September 30, 2026.
Application for rehearing may be filed
within the delay allowed by Art. 922,
La. C. Cr. P.

No. 56,878-KW

COURT OF APPEAL
SECOND CIRCUIT
STATE OF LOUISIANA

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STATE OF LOUISIANA	Respondent
versus	
GREG MAX LAWSON	Applicant

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On Application for Writs from the
Second Judicial District Court for the
Parish of Claiborne, Louisiana
Trial Court No. 16838

Honorable William R. “Rick” Warren, Judge

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* * * * *

Before PITMAN, STONE, and STEPHENS, JJ.

STEPHENS, J.,

This appeal arises out of the Second Judicial District Court, Parish of Claiborne, State of Louisiana, the Honorable Warren “Rick” Warren, Judge, presiding. The defendant, Gregory M. Lawson, filed a supervisory writ seeking review of the trial court’s denial of his post-conviction relief (“PCR”) application seeking an out-of-time appeal. Lawson’s writ was granted to docket by this Court on April 16, 2026. For the reasons set forth below, we grant the writ, reverse the ruling of the trial court denying Lawson’s PCR application, and remand the matter for further proceedings consistent with this opinion.

FACTS/PROCEDURAL BACKGROUND

On May 2, 1990, a Bienville Parish grand jury charged Lawson with attempted second degree murder in connection with the shooting of Seth Garlington which occurred on April 24, 1990. A motion for change of venue filed by Lawson was granted, and the trial was moved from Bienville to Claiborne Parish. On February 4, 1991, the Bienville Parish District Attorney recused himself from the case due to a conflict of interest, and the Attorney General’s Office assumed prosecution of the case. Trial began on May 13, 1991. Lawson, who remained free on bond, left the courthouse during jury deliberations on May 16, 1991, and the jury found him guilty as charged *in absentia*.

The trial court granted a request by the State to issue a bench warrant for Lawson’s arrest and ordered that, if arrested, Lawson be held without bond. The trial court then scheduled a hearing for Lawson’s sentencing, as well as hearings for the State’s firearm enhancement penalty motion, motions for bond forfeiture, and a motion for post-verdict judgment of

acquittal filed on behalf of Lawson. The defendant failed to appear at these hearings, and the trial court signed a judgment forfeiting Lawson's bond. Because of Lawson's flight from trial and failure to appear for sentencing, the trial court determined it was unable to move forward with the case and continued all pending issues without date. Lawson's counsel sought supervisory writs with this Court from the trial court's decision not to rule on the motion for post-verdict judgment of acquittal. Writs were denied by this Court and the Supreme Court. *See, State v. Lawson*, 584 So. 2d 684 (La. 1991).

In September 2023, more than 32 years later, Lawson was found in Mexico which, according to the defendant, is where he absconded to when he fled the courtroom. He was arrested, extradited to the United States, and returned to Claiborne Parish for sentencing. New counsel enrolled on behalf of Lawson and moved for a new trial. The State responded by opposing Lawson's motions for post-verdict judgment of acquittal and new trial. Both motions were denied by the trial court in July 2024.

On July 18, 2024, the trial court held a sentencing hearing. The victim's written impact statement was read aloud by the State's victim's assistance coordinator, and Lawson and his brother made statements as well. The trial court sentenced Lawson to 45 years at hard labor without the benefit of parole, probation, or suspension of sentence. The sentencing transcript shows that the trial court did not advise Lawson of his right to file a motion to reconsider sentence or a motion to appeal his conviction and sentence within 30 days of his sentence. The trial court did, however, advise Lawson at the sentencing hearing that he had two years after his conviction and sentence had become final within which to file an application for PCR.

No motion for reconsideration of sentence was filed, and Lawson's attorney did not file a motion for appeal or designation of record following sentencing.

Lawson's right to appeal his conviction and sentence expired on August 18, 2024, and his conviction and sentence became final. La. C. Cr. P. art. 914. Six months later, on January 21, 2025, Lawson filed an application for PCR seeking an out-of-time appeal, alleging that his attorney failed to timely file a motion for appeal on his behalf and he filed the PCR application to "exercise his right to appeal after the appropriate time has expired." The State was ordered by the trial court to file a response pursuant to La. C. Cr. P. art. 927 by February 28, 2025. However, because of a "ministerial oversight," on July 17, 2025, the Attorney General's office requested the first of several extensions within which to file its response.

On November 17, 2025, the State filed a "Motion for Preliminary Review of Application for Post-Conviction Relief Seeking Out-of-Time Review" wherein the State asserted that Lawson's claims are subject to dismissal because they do not survive the list of preliminary criteria found in the newly amended version of La. C. Cr. P. art. 927; they are time-barred under La. C. Cr. P. art. 930.8; and the factual and legal grounds asserted in the claims are inadequate, not meritorious, and, as such, do not entitle Lawson to relief. Specifically, the State argued that Lawson's absence from the state for more than 30 years following his conviction has prejudiced the State's ability to respond to any future appeal under La. C. Cr. P. art. 930.8(C). The State also claimed the applicability of the fugitive disentitlement doctrine and urged that Lawson should be barred from seeking appellate review due to his 30-year absence.

Lawson filed a response on November 21, 2025, in which he claimed that his PCR application was timely because the two-year period under La. C. Cr. P. art. 930.8(A) began to run from the date of sentencing, which was July 18, 2024, not from the date of conviction in 1991. Lawson also argued that La. C. Cr. P. art. 930.8(C) was inapplicable because that provision addresses delays in pursuing PCR proceedings once they have been initiated, not delays in sentencing, and the State has failed to demonstrate any prejudice in its ability to respond to Lawson's "simple" request for an out-of-time appeal. Lastly, Lawson asserted that his right to judicial review is guaranteed by the Louisiana Constitution and, as such, cannot be abrogated by judicial doctrine.

On December 4, 2025, without holding a hearing, the trial court granted the State's motion and dismissed Lawson's PCR application seeking an out-of-time appeal. Lawson filed an application for supervisory writs that was opposed by the State. In the writ application, Lawson's counsel assigned as error that "[t]he trial court erred in denying Mr. Lawson's state constitutional right to direct appeal by dismissing [his] timely-filed application for post-conviction relief seeking an out-of-time appeal." In its opposition, the State urged that the trial court's ruling was not erroneous. According to the State, Lawson forfeited his rights to seek an appeal, based on untimeliness of his application for PCR. Alternatively, if the PCR application was timely, then Lawson's "decades of delay while on the run in Mexico have prejudiced the State." Finally, the State asserted that by escaping to Mexico for 30 years, Lawson forfeited his right to appeal under the fugitive disentitlement doctrine. Lawson's writ was granted to docket by this Court, the matter was briefed by both parties, and attorneys for Lawson

and the State argued their positions before the assigned panel at oral argument. The matter was then submitted for decision.

DISCUSSION

Failure of defense counsel to properly brief issue(s) before the Court

We must first address what was a serious misunderstanding on the part of defense counsel. After the defendant's writ to docket was granted, in preparing Lawson's brief, rather than addressing the issue upon which the trial court ruled and the writ application was based, i.e., whether the trial court erred in dismissing Lawson's PCR seeking an out-of-time appeal, the defendant's attorney apparently assumed that, by granting the writ to docket, this Court had granted Lawson an out-of-time appeal. Appellate counsel thus briefed and discussed six assignments of error attacking Lawson's 1991 conviction and 2023 sentence.

Even after this misunderstanding was specifically pointed out and expounded upon by the State in its appellee brief, Lawson's appellate attorney doubled down, dug in her heels, and asserted in a reply brief that once this Court granted the writ to docket, the procedural issues were foreclosed, and this Court was going to consider the merits of Lawson's claims. Counsel should have instead taken the opportunity to correctly assign as error and brief the actual issue before this Court as framed in Lawson's writ application.

Uniform Rules Courts of Appeal, Rule 2-12.4(B)(4) provides that "the court *may* consider as abandoned any assignment of error or issue which has not been briefed." (Emphasis added.) The general rule is that an assignment of error lodged in the trial court which is not briefed or orally argued is

considered abandoned. *State v. Blanton*, 325 So. 2d 586 (La. 1976); *State v. Carlisle*, 315 So. 2d 675 (La. 1975). See Uniform Rules—Courts of Appeal, Rule 2–12.4; *State v. Becnel*, 441 So. 2d 339 (La. App. 5 Cir.1983).

In *State v. Smith*, 452 So. 2d 251, 252-54 (La. App. 5 Cir. 1984), the appellate court noted that the sole assignment of error designated in the trial court record in that case was not consistent with defense counsel’s briefed assignment of error. Additionally, the assignment of error specified in the brief was not responsive to the offense for which defendant was charged. Nonetheless, in spite of the discrepancies, the Fifth Circuit decided to review the defendant’s sentence for excessiveness because, under the facts of that case, the obvious substance of these two assignments of error was a claim that the defendant’s sentence was excessive in violation of Article I, § 20, of the 1974 Louisiana Constitution. *Id.* at 253.

La. C.C.P. art. 2164 provides in part that the appellate court shall render any judgment which is just, legal, and proper upon the record on appeal. Considering the totality of the circumstances, including that the trial judge did not advise the defendant of his right to direct appellate review or of the deadline for exercising that right, and that Lawson’s appellate brief, had it been properly prepared would have simply restated the issue, assignment of error, and argument set forth in his writ application, we will not consider as abandoned the defendant’s challenge to the trial court’s ruling on his PCR application.

Whether the trial court erred in dismissing Lawson’s application for PCR seeking an out-of-time appeal

Lawson first asserts that his PCR application was timely filed under La. C. Cr. P. art. 930.8. Although he was convicted in 1991, he was not

sentenced until July 18, 2024. A judgment is not final in a criminal case until the defendant has been sentenced, urges the defendant. His PCR application seeking an out-of-time appeal, filed on January 21, 2025, was well within the two-year limitation period established by art. 930.8(A). Lawson, who was not advised by the trial court at sentencing of his right to appeal or the 30-day time limitation for filing such an appeal, can *only* seek review of his conviction and sentence via an application for PCR. As noted by the Louisiana Supreme Court in *State v. Counterman*, 475 So. 2d 336, 339 (La. 1985), “[t]he appropriate procedural vehicle for a defendant to seek exercise of his right to appeal, after the delay provided in Article 914 has expired, is an application for post-conviction relief pursuant to Articles 924-930.7” filed in the district court.¹

According to the State, the trial court did not err in dismissing Lawson’s application for PCR pursuant to its preliminary review under La. C. Cr. P. art. 927 because it was time-barred under La. C. Cr. P. art. 930.8. The State contends that Lawson’s two-year time period for seeking PCR has lapsed because he filed it on January 21, 2025, decades after (a) he was convicted on May 16, 1991, and (b) his deadline for moving to appeal lapsed 30 days later. La. C. Cr. P. art. 914(B)(1).

A plain reading of the applicable code articles and jurisprudence establishes that Lawson’s application for PCR was timely filed. Because Lawson’s application was filed six months after his sentencing, there is no procedural bar to his request for PCR.

¹ Louisiana’s PCR statutes have been amended by the legislature since *Counterman* was rendered and are currently set forth in La. C. Cr. P. arts. 924-930.11.

Lawson next urges that the State's reliance on La. C. Cr. P. art. 930.8(C) as support for the trial court's dismissal of his PCR application is misplaced. According to the defendant, art. 930.8(C) requires the State to make a showing of prejudice to its ability to respond to, negate, or rebut the allegations of the petition *for PCR*, not to "speculative allegations that might be raised in a future appeal." Lawson notes that all he sought in his application was the reinstatement of his right to an out-of-time appeal. In fact, urges the defendant, the State responded to his petition for PCR by way of a detailed motion/memo in opposition. The State did not and could not show any prejudice in its ability to respond to his request for an out-of-time appeal, contends the defendant. If the trial court applied La. C. Cr. P. art. 938.8(C) to deny his PCR application, asserts Lawson, it committed error.

The State claims that even if Lawson's PCR application were timely, his escape to Mexico has prejudiced the State's ability to respond to his allegations. According to the State, the defendant's "three decade" failure to timely seek PCR since the date of his original conviction has prejudiced the State's "ability to respond to, negate, or rebut the allegations of [his] petition."

We agree with Lawson that the State has not been prejudiced by its ability to respond to his PCR application, as it in fact did file a detailed opposition. The State raises valid issues regarding the effect Lawson's long absence will have on the defense of his appeal, but these are not pertinent to the issue of whether the State can respond to the defendant's PCR application.

The last argument made by Lawson is that the fugitive disentitlement doctrine raised by the State cannot override his constitutional right to appeal.

The defendant points out that he lost his right to appeal through no fault of his own, but because the trial court did not advise him of his right to appeal his conviction and sentence within 30 days as noted previously. Lawson cites *State v. Clark*, 19-1077 (La. 5/1/20), 295 So. 3d 935; and *State v. Counterman, supra*. He further claims that the trial court had the authority to grant his timely request for an out-of-time appeal and that courts have recognized that a defense attorney's failure to timely file a motion for appeal constitutes a violation of the defendant's constitutional right to effective assistance of counsel and thus a denial of his constitutional right to due process. *State v. Clark, supra*.

The State asks this Court to affirm the trial court's denial of Lawson's PCR application on the basis of the fugitive disentitlement doctrine, as he was a "fugitive from justice" who "has demonstrated such disrespect for the legal processes that he has no right to call upon the court to adjudicate his claim." *State v. Gonzales*, 95-0860, p. 7 (La. App. 4 Cir. 9/18/96), 680 So. 2d 1253, 1257, *writ denied*, 96-2490 (La. 3/14/97), 690 So. 2d 35 (citations omitted).²

According to the State, Lawson's 35-year escape to Mexico should constitute cause disentitling him from the ability "to call upon the resources of the Court for determination of his claims." *Molinaro v. New Jersey*, 396 U.S. 365, 366, 90 S. Ct. 498, 499, 24 L. Ed. 2d 586 (1970).³

² Ms. Gonzales escaped from custody after sentencing but before her appeal had been lodged. She was on the run for eight years, and upon her apprehension, her appeal ensued. Ms. Gonzales's complaint did not cause her to lose her right to appeal, but instead the loss of records and transcripts necessary to that appeal during her time on the run.

³ The defendant in *Molinaro* disappeared after his appeal was final at the state level and was pending with the U.S. Supreme Court.

The State complains, rightfully so, that Lawson’s conviction is 30 years old, and its ability to retry him (should an out-of-time appeal succeed) has been unduly prejudiced. For example, notes the State, three law enforcement witnesses are deceased, another officer is in his mid-80’s, and none of the litigators (including the defense attorney) or the judge is still living. Why should the defendant be allowed to benefit from his escape from justice, questions the State?⁴

Appeal is the exercise of the right of the State or a defendant to have a judgment or ruling reviewed by the proper appellate court. La. Const. art. V, § 10(A); La. C. Cr. P. art. 911. A defendant may appeal to the proper court of appeal from a judgment in a criminal case triable by jury. La. Const. art. V, § 10(A); La. C. Cr. P. art. 912.1(B)(1). A defendant generally may appeal only from a judgment which imposes sentence. La. C. Cr. P. art. 912(C)(1); *State v. Means*, 09-1716 (La. 4/9/10), 32 So. 3d 805. A defendant’s right to appeal a serious criminal conviction is of constitutional dimensions and can only be waived by the defendant himself in a knowing and intelligent manner. La. Const. art. I, § 19; *State v. Simmons*, 390 So. 2d 504 (La. 1980).

La. C. Cr. P. art. 914 provides that a motion for appeal, which can be made orally in open court or by filing a written motion with the clerk, must be made no later than “[t]hirty days after the rendition of the judgment or ruling from which the appeal is taken,” or “[t]hirty days from the ruling on a

⁴ Most of the authority cited by the State in support of application of the fugitive disentitlement doctrine is from other jurisdictions. Louisiana *had* a statutory provision that provided for the dismissal of appeals by fugitives. See, former La. R.S. 15:548 (“[I]f an appellant be a fugitive from justice on the return day or the day fixed for the hearing of his appeal, the appeal will be dismissed.”). However, this statute was repealed when Louisiana’s Code of Criminal Procedure went into effect in 1967.

motion to reconsider sentence filed pursuant to Article 881.1, should such a motion be filed.”

If a defendant fails to timely move for an appeal, his conviction and sentence become final, and the defendant loses his right to obtain an appeal by simply filing a motion for appeal in the trial court. Instead, a defendant whose time for appealing has run must seek reinstatement of his appeal rights by filing an application for PCR requesting an out-of-time appeal. This is not because the trial court has been divested of jurisdiction, but because the conviction and sentence became final when the time for appealing elapsed. La. C. Cr. P. art. 914; *State v. Counterman, supra*.

In the instant case, as noted above, the trial court did not inform the defendant of his 30-day period within which to appeal his conviction and sentence, and his attorney did not file a motion for appeal or designation of record. Therefore, his sole remedy for seeking review of his conviction and/or sentence is through an application for PCR seeking an out-of-time appeal. Unlike the cases from other jurisdictions cited by the State in its brief, this defendant was not at fault *for the loss of his right to appeal*. Lawson is entitled to appellate review of his conviction and sentence pursuant to Louisiana’s Constitution.

The fact that Lawson has the right to appeal despite a 30-plus years’ absence from the State of Louisiana is not a hall pass from justice, however, despite the prosecution’s argument to the contrary. Time will have taken its toll on the defendant’s ability to effectively appeal this more-than-three decades old conviction. As noted by the court in *State v. Gonzales*, 95-0860, p. 7, 680 So. 2d at 1256, “the loss of records and transcripts, over time must fall on [his] shoulders.”

CONCLUSION

For the reasons set forth above, the writ application filed by the defendant, Gregory M. Lawson, is granted. The order of the trial court granting the State's motion for review and dismissal of the post-conviction relief application denying the defendant an out-of-time appeal is reversed. This matter is remanded to the trial court with instructions to grant the defendant an out-of-time appeal.

WRIT GRANTED; REVERSED; REMANDED.