

Judgment rendered October 26, 2006.

No. 41,909-KH

COURT OF APPEAL
SECOND CIRCUIT
STATE OF LOUISIANA

* * * * *

STATE OF LOUISIANA

Appellee

versus

ALEXANDER SURRY, JR.

Appellant

* * * * *

Appealed from the
First Judicial District Court for the
Parish of Caddo, Louisiana
Trial Court No. 212,499

Honorable Michael R. Walker, Judge

* * * * *

ALEXANDER SURRY

Pro Se Petitioner

PAUL J. CARMOUCHE
District Attorney

Counsel for
Appellee

* * * * *

Before BROWN, MOORE and LOLLEY, JJ.

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

NO: 41909-KH

STATE OF LOUISIANA

VERSUS

ALEXANDER SURRY, JR.

FILED: 09/27/06

RECEIVED: PM 09/22/06

On application of Alexander Surry, Jr. for SUPERVISORY WRIT in No. 212,499 on the docket of the First Judicial District, Parish of CADDO, Judge Michael Robin Walker.

Pro se

Alexander Surry, Jr.

Hon. Paul Joseph Carmouche

Counsel for:
State of Louisiana

Before BROWN, MOORE and LOLLEY, JJ.

WRIT DENIED.

Applicant, Alexander Surry, seeks review of a district court judgment denying Surry's motion requesting a retroactive application of La. R.S. 15:308, and requesting resentencing under retroactive application of Act No. 403 of the 2001 Regular Session of the Legislature and Act No. 45 of the 2002 First Extraordinary Session of the Legislature.

After reviewing the newly enacted provisions of La. R.S. 15:308, we conclude that those provisions only entitle eligible persons to apply to the Louisiana Risk Review Panel pursuant to La. R.S. 15:574.22. The new provisions do not give such persons the right to file a motion in the sentencing court for amendment, modification, or reconsideration of their sentence. Although provisions allowing the filing of such a motion in the sentencing court were originally included in Senate Bill No. 126 of the 2006 regular session, those provisions were deleted and replaced with the provisions of La. R.S. 15:308(C) which entitle such persons to apply to the Louisiana Risk Review Panel instead. Accordingly, we agree with the First

Circuit Court of Appeal's opinion in *State v. Dick*, 2006-1381 (La. App. 1st Cir. 7/20/06), writ granted #2006-KP-2223 (La. 09/29/06), holding that a motion to correct an illegal sentence is not a proper vehicle for seeking the sentencing benefits provided in R.S. 15:308.

For these reasons, the writ application is hereby denied.

THIS WRIT ORDER IS DESIGNATED FOR PUBLICATION.

Shreveport, Louisiana, this _____ day of _____, 2006.

FILED: _____

CLERK