

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

2009 CA 0876

MICHEL DIXON

VERSUS

**JAMES LEBLANC, SECRETARY OF
THE LOUISIANA DEPARTMENT OF
PUBLIC SAFETY AND CORRECTIONS**

Judgment Rendered: December 23, 2009

On Appeal from the 19th Judicial District Court
In and For the Parish of East Baton Rouge
Trial Court No. 573,072, Division "M(26)"

Honorable Kay Bates, Judge Presiding

Michel J. Dixon
Newellton, LA

Plaintiff/Appellant
In Proper Person

William Kline
Baton Rouge, LA

Counsel for Defendant/Appellee
Louisiana Department of Public
Safety and Corrections

BEFORE: WHIPPLE, HUGHES, AND WELCH, JJ.

HUGHES, J.

This is an appeal of a judgment of the 19th JDC, dismissing Michel Dixon's petition for writ of habeas corpus. In 2002, Mr. Dixon pled nolo contendere in the 20th JDC to violations of LSA-R.S. 14:81.1(A)(3) and LSA-R.S. 14:93. Six years later, he filed a petition for writ of habeas corpus, alleging that his conviction and sentence are unlawful because he was not sworn in prior to the entry of his plea. However, the transcript of the proceedings of the 20th JDC evidences that Mr. Dixon was, in fact, sworn in:

Q. Before accepting your pleas, Mr. Dixon, I must make sure you understand your rights and the consequences of your plea. Would you please raise your right hand and be sworn.

(THE WITNESS IS SWORN AT THIS TIME.)

Mr. Dixon was represented by counsel and he entered his pleas knowingly and voluntarily. At the conclusion of the colloquy, the court advised him of the two-year time limitation for filing an application for post-conviction relief. No such application was filed.

Moreover, we agree with the trial court that Mr. Dixon does not properly seek habeas relief, but rather his claims are truly in the nature of post-conviction relief. Specifically, habeas corpus is a writ commanding a person who has another in his custody to produce him before the court and to state the authority for the custody. Habeas corpus is not the proper procedural device for petitioners who have already been convicted and are held in custody pursuant to that conviction. Once convicted and sentenced, a petitioner may file an application for post-conviction relief and seek to have the conviction and sentence set aside.

After a thorough review of the record and relevant jurisprudence, we find that statutory authority and case law precedent clearly controls the disposition of this case, and the issues raised involve no more than an application of well-settled rules to recurring fact situations. **State v. ex rel. James v. State**, 640 So.2d 259 (La. App. 1 Cir. 1993); see also **Madison v. Ward**, 00-2842 (La. App. 1 Cir. 7/3/02), 825 So.2d 1245; **Stevens v. Stalder**, 44,120 (La. App. 2 Cir. 10/22/08), 995 So.2d 66.

Mr. Dixon entered pleas regarding the commission of the crimes. He was then convicted and sentenced accordingly. He was advised of his right to file for post-conviction relief, but no such relief was requested. He is not entitled to file for habeas corpus relief. We find no error in the decision of the trial court. The trial court's judgment is affirmed in accordance with Uniform Court of Appeal Rule 2-16.2 A (2), (4), (5), (6), and (7). All costs of this appeal are to be borne by the appellant, Michel Dixon.

AFFIRMED.