

10/08/04 “See News Release 078 for any concurrences and/or dissents.”

SUPREME COURT OF LOUISIANA

No. 04-KP-0382

STATE OF LOUISIANA

v.

MELVIN SMITH

On Writ of Certiorari to the  
Fourth Circuit Court of Appeal

PER CURIAM:

Writ granted in part; denied in part; sentence reinstated. The court of appeal lacked jurisdiction to grant the state's writ. La. Const. art. V, § 5(E). Its judgment is therefore void. However, the district court erred in granting relief on a claim, raised by a motion properly considered an application for post-conviction relief no matter how captioned, that is: (1) time-barred, see La.C.Cr.P. art. 930.8; State ex rel. Glover v. State, 93-2330 (La. 9/5/95), 660 So.2d 1189; State ex rel. Stepter v. Whitley, 93-2346 (La. 10/13/95), 661 So.2d 480; and (2) not cognizable on collateral review, see La.C.Cr.P. art. 930.3; State ex rel. Melinie v. State, 93-1380 (La. 1/12/96), 665 So.2d 1172.