

STATE OF LOUISIANA

NO. 14-KA-758

VERSUS

FIFTH CIRCUIT

BAMELA KOUSSANTA

COURT OF APPEAL

STATE OF LOUISIANA

ON APPEAL FROM THE TWENTY-FOURTH JUDICIAL DISTRICT COURT  
PARISH OF JEFFERSON, STATE OF LOUISIANA  
NO. 12-3544, DIVISION "H"  
HONORABLE GLENN B. ANSARDI, JUDGE PRESIDING

OCTOBER 29, 2014

COURT OF APPEAL  
FIFTH CIRCUIT

FILED OCT 29 2014

**ROBERT M. MURPHY**  
JUDGE

  
CLERK  
Cheryl Quirk Landrieu

Panel composed of Judges Susan M. Chehardy,  
Robert M. Murphy, and Stephen J. Windhorst

PAUL D. CONNICK, JR.  
DISTRICT ATTORNEY  
Twenty-Fourth Judicial District  
Parish of Jefferson

TERRY M. BOUDREAUX  
ASSISTANT DISTRICT ATTORNEY  
200 Derbigny Street  
Gretna, Louisiana 70053  
COUNSEL FOR PLAINTIFF/APPELLEE

ROLAND A. DITTA  
ATTORNEY AT LAW  
320 Huey P. Long Avenue  
Gretna, LA 70053  
COUNSEL FOR DEFENDANT/APPELLANT

**APPEAL DISMISSED**

Rmm  
Sme  
Dor

Defendant, Bamela Koussanta, appeals his convictions for two counts of the misdemeanor offense of simple battery in violation of La. R.S. 14:35. Because defendant seeks review of his misdemeanor convictions for a crime not triable by jury, we dismiss this appeal for lack of jurisdiction.

Appellate jurisdiction extends only to cases that are triable by a jury. *State v. Lyons*, 13-180, 13-181, 13-182, 13-183, 13-184, 13-185, 13-186 (La. App. 5 Cir. 10/9/13), 128 So.3d 407, 411 (citing La. Const. Art. 5 § 10; La. C.Cr. P. art. 912.1). “Unless the punishment that may be imposed exceeds six months imprisonment, a misdemeanor is not triable by a jury.” *Id.* (citing La. Const. Art. 1 § 17; La. C.Cr.P. art. 779).

Here, defendant was found guilty of simple battery, in violation of La. R.S. 14:35. La. R.S. 14:35(B) provides that, “[w]hoever commits a simple battery shall be fined not more than one thousand dollars or imprisoned for not more than six months, or both.” Because defendant was found guilty of a misdemeanor offense not triable by jury, this judgment is not an appealable judgment. *See* La.C.Cr.P. art. 779(B); *State v. Flowers*, 11-376 (La. App. 5 Cir. 12/13/11), 81 So.3d 910.

Under La.C.Cr.P. art. 912.1(C)(1), an application for a writ of review is the proper mechanism for seeking judicial review of a conviction on an offense not triable by jury, such as simple battery. *See Flowers, supra*; La. Const. Art. 5 § 10.

### **CONCLUSION**

Accordingly, we dismiss the present appeal. We reserve, however, defendant's right to file a proper application for supervisory writs, in compliance with U.R.C.A. Rule 4-3, within thirty days from the date of this opinion. Further, we hereby construe defendant's notice of appeal as a notice of intent to seek a supervisory writ, so defendant is not required to file a notice of intent or to obtain an order setting a return date pursuant to U.R.C.A. Rule 4-3.

**APPEAL DISMISSED**

SUSAN M. CHEHARDY  
CHIEF JUDGE

FREDERICKA H. WICKER  
JUDE G. GRAVOIS  
MARC E. JOHNSON  
ROBERT A. CHAISSON  
ROBERT M. MURPHY  
STEPHEN J. WINDHORST  
HANS J. LILJEBERG

JUDGES



FIFTH CIRCUIT  
101 DERBIGNY STREET (70053)  
POST OFFICE BOX 489  
GRETNA, LOUISIANA 70054  
www.fifthcircuit.org

CHERYL Q. LANDRIEU  
CLERK OF COURT

MARY E. LEGNON  
CHIEF DEPUTY CLERK

SUSAN BUCHHOLZ  
FIRST DEPUTY CLERK

MELISSA C. LEDET  
DIRECTOR OF CENTRAL STAFF

(504) 376-1400  
(504) 376-1498 FAX

**NOTICE OF JUDGMENT AND  
CERTIFICATE OF DELIVERY**

I CERTIFY THAT A COPY OF THE OPINION IN THE BELOW-NUMBERED MATTER HAS BEEN DELIVERED IN ACCORDANCE WITH **Uniform Rules - Court of Appeal, Rule 2-20** THIS DAY **OCTOBER 29, 2014** TO THE TRIAL JUDGE, COUNSEL OF RECORD AND ALL PARTIES NOT REPRESENTED BY COUNSEL, AS LISTED BELOW:

  
\_\_\_\_\_  
CHERYL Q. LANDRIEU  
CLERK OF COURT

**14-KA-758**

**E-NOTIFIED**

TERRY M. BOUDREAUX

**MAILED**

ROLAND A. DITTA  
ATTORNEY AT LAW  
320 HUEY P. LONG AVENUE  
GRETNA, LA 70053