

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

2012 KA 1149

STATE OF LOUISIANA

VERSUS

DARRELL BATES

Judgment Rendered: APR 26 2013

On Appeal from the Nineteenth Judicial District Court
In and for the Parish of East Baton Rouge
State of Louisiana
No. 07-10-0259

Honorable Donald R. Johnson, Judge Presiding

Hillar C. Moore
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State of Louisiana

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New Orleans, Louisiana

Counsel for Defendant/Appellant
Darrell Bates

BEFORE: WHIPPLE, C.J., McCLENDON, AND HIGGINBOTHAM, JJ.

Handwritten initials and signature:
FMC
[Signature]

McCLENDON, J.

Defendant, Darrell Bates, was charged by bill of information with one count of failure to register as a sex offender, a violation of LSA-R.S. 15:542.1.4. He initially entered a plea of not guilty. The state subsequently amended the bill of information to correct the dates of defendant's offense, and defendant withdrew his former plea of not guilty and pled guilty as charged. He waived his sentencing delays, and the trial court sentenced defendant to two years at hard labor, without benefit of parole, probation, or suspension of sentence. For the following reasons, we affirm defendant's conviction and sentence. Additionally, we grant defense counsel's motion to withdraw.

FACTS

According to the factual basis offered by the state at the time of his plea and sentencing, defendant had previously been convicted in Texas of aggravated sexual assault of a child under fourteen and sexual assault. He then moved to Louisiana in 2000, but he failed to respond to address verification cards sent to his address between 2001 and 2007. Defendant was arrested in July 2007, but he was subsequently released. However, he again failed to comply with registration and notification requirements between his release and 2010, leading to his re-arrest. On February 4, 2010, defendant was again released from prison and ordered to register by the court. At that time, he listed an address in Ohio as his residence. When sheriff's deputies called defendant's purported residence in Ohio on February 24, 2010, he had not reported there. Defendant was arrested for the final time in May 2010.

ISSUES PRESENTED

The defense brief contains no assignments of error and sets forth that it is filed to conform with **State v. Jyles**, 96-2669 (La. 12/12/97), 704 So.2d 241 (per curiam), wherein the Louisiana Supreme Court approved the procedures outlined in **State v. Benjamin**, 573 So.2d 528 (La.App. 4 Cir. 1990). **Benjamin** set forth a procedure to comply with **Anders v. California**, 386 U.S. 738, 744, 87 S.Ct. 1396, 1400, 18 L.Ed.2d 493 (1967), in which the United

States Supreme Court discussed how appellate counsel should proceed when, upon conscientious review of a case, counsel found the appeal would be wholly frivolous. **Benjamin** has repeatedly been cited with approval by the Louisiana Supreme Court. See **Jyles**, 704 So.2d at 241; **State v. Mouton**, 95-0981 (La. 4/28/95), 653 So.2d 1176, 1177 (per curiam); **State v. Royals**, 600 So.2d 653 (La. 1992).

In the instant case, defense counsel reviewed the procedural history of the case in her brief. She set forth that, after a conscientious and thorough review of the record in this case, she has found no non-frivolous issues to present on appeal. Accordingly, defense counsel requested that she be relieved from further briefing and has moved to withdraw as counsel of record. Defendant, who represented himself before the trial court, has been informed of his right to file a pro se brief in this matter, but he has made no such filing with this Court.

We have conducted an independent review of the entire record in this case and have found no reversible errors under LSA-C.Cr.P. art. 920(2). Furthermore, we conclude that there are no non-frivolous issues or trial court rulings that arguably support this appeal. Accordingly, defendant's conviction and sentence are hereby affirmed. Defense counsel's motion to withdraw, which has been held in abeyance pending the disposition of this matter, is hereby granted.

CONVICTION AND SENTENCE AFFIRMED; MOTION TO WITHDRAW GRANTED.