

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NO. 2013 KA 0725

STATE OF LOUISIANA

VERSUS

RONDALE SIMPSON

Judgment Rendered: DEC 27 2013

TMH
MA
JEK by TMH

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On Appeal from the
19th Judicial District Court,
In and for the Parish of East Baton Rouge,
State of Louisiana
Trial Court No. 08-09-0432

Honorable Richard D. Anderson, Judge Presiding

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Hillar C. Moore III
District Attorney
Monisa L. Thompson
Assistant District Attorney
Baton Rouge, LA

Attorneys for Plaintiff-Appellee,
State of Louisiana

Bertha M. Hillman
Thibodaux, LA

Attorney for Defendant-Appellant,
Rondale Simpson

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BEFORE: KUHN, HIGGINBOTHAM, AND THERIOT, JJ.

HIGGINBOTHAM, J.

The defendant, Rondale Simpson, was charged by grand jury indictment with armed robbery, a violation of Louisiana Revised Statutes section 14:64 (Count 1) and second degree murder, a violation of Louisiana Revised Statutes section 14:30.1 (Count 2). He initially entered a plea of not guilty, but he later withdrew this plea and pled guilty as charged to Count 1 and no contest to the responsive offense of manslaughter, a violation of Louisiana Revised Statutes section 14:31, on Count 2 pursuant to a plea agreement with the State. Under this agreement, the defendant was sentenced to twenty years at hard labor without the benefit of probation, parole, or suspension of sentence on Count 1 and twenty years at hard labor on Count 2. The district court ordered that the sentences run concurrently. The defendant did not appeal in a timely manner, but was granted an out-of-time appeal. For the following reasons, we affirm the defendant's convictions and sentences, and we grant defense counsel's motion to withdraw.

FACTS

The facts surrounding the defendant's instant offenses were not fully developed in this case because the defendant pled guilty and no contest to the charged offenses. According to the indictment and the **Boykin** colloquy, on April 24, 2009, the defendant and two other individuals approached one of the victims, Frederick Wright, near the Brandywine Apartment Complex in Baton Rouge, Louisiana. While armed, the defendant and the two other individuals took Wright's wallet, removed the money it contained, and threw the wallet into a dumpster nearby. Shortly after the robbery of Wright, the three individuals approached the vehicle of another victim, Theodore Lange, during an attempted drug transaction. One of them stood at the driver's side of the vehicle, fired a gun, and killed Lange while the defendant entered the vehicle on the passenger's side and put it into neutral.

DISCUSSION

Defense counsel has filed a brief containing no assignments of error and a motion to withdraw from this case. In her brief and motion to withdraw, referring to the procedures outlined in **State v. Jyles**, 96-2669 (La. 12/12/97), 704 So.2d 241, 241-42 (per curiam) and **Anders v. California**, 386 U.S. 738, 744-45, 87 S.Ct. 1396, 1400, 18 L.Ed.2d 493 (1967), defense counsel indicated that after a conscientious and thorough review of the district court record, she could find no non-frivolous issues to raise on appeal. See also **State v. Mouton**, 95-0981 (La. 4/28/95), 653 So.2d 1176, 1177 (per curiam); **State v. Benjamin**, 573 So.2d 528 (La. App. 4th Cir. 1990).

The **Anders** procedure followed in Louisiana was discussed in **Benjamin**, 573 So.2d at 529-31, sanctioned by the Louisiana Supreme Court in **Mouton**, 653 So.2d at 1177, and expanded by the Louisiana Supreme Court in **Jyles**. According to **Anders**, 386 U.S. at 744, 87 S.Ct. at 1400, "if counsel finds his case to be wholly frivolous, after a conscientious examination of it, he should so advise the court and request permission to withdraw." To comply with **Jyles**, appellate counsel must not only review the procedural history of the case and the evidence, but his brief also must contain "a detailed and reviewable assessment for both the defendant and the appellate court of whether the appeal is worth pursuing in the first place." **Jyles**, 704 So.2d at 242 (quoting **Mouton**, 653 So.2d at 1177). When conducting a review for compliance with **Anders**, an appellate court must conduct an independent review of the record to determine whether the appeal is wholly frivolous.

Herein, the brief filed on behalf of the defendant by defense counsel complied with all of the requirements necessary for an **Anders** brief. Defense counsel reviewed the procedural history and record of the case. Defense counsel noted that the guilty plea colloquy in this case reflects that the defendant was

informed of and agreed to the imposed sentences prior to entering his guilty plea. Citing Louisiana Code of Criminal Procedure article 881.2A(2), defense counsel noted that a defendant cannot appeal or seek review of a sentence imposed in conformity with a plea agreement set forth in the record at the time of the plea. Defense counsel concluded in her brief and motion to withdraw that there were no non-frivolous issues for appeal. Further, in her motion to withdraw, defense counsel certified that the defendant was served with a copy of her motion to withdraw as counsel of record, and was notified of his right to file a pro se brief. The defendant has not filed a pro se brief.

This Court has conducted an independent review of the entire record in this matter, including a review for error under Louisiana Code of Criminal Procedure article 920(2). We have found no reversible errors in this case. See State v. Price, 2005-2514 (La. App. 1st Cir. 12/28/06), 952 So.2d 112, 123-25 (en banc), writ denied, 2007-0130 (La. 2/22/08), 976 So.2d 1277. Furthermore, our review revealed no non-frivolous issues or district court rulings that arguably support this appeal. Accordingly, the defendant's convictions and sentences are affirmed. Further, defense counsel's motion to withdraw is hereby granted.

CONVICTIONS AND SENTENCES AFFIRMED; MOTION TO WITHDRAW GRANTED.