

STATE OF LOUISIANA

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NO. 2000-KA-1130

VERSUS

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COURT OF APPEAL

DOUGLAS MIX, JR.

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FOURTH CIRCUIT

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STATE OF LOUISIANA

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APPEAL FROM  
CRIMINAL DISTRICT COURT ORLEANS PARISH  
NO. 405-555, SECTION "J"  
Honorable Leon Cannizzaro, Judge

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**Charles R. Jones**  
**Judge**

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(Court composed of Judge Joan Bernard Armstrong, Judge Charles R. Jones,  
and Judge James F. McKay, III)

Laura Pavy  
LOUISIANA APPELLATE PROJECT  
P.O. Box 750602  
New Orleans, LA 701750602  
**COUNSEL FOR DOUGLAS MIX, JR.**

**AFFIRMED;**  
**MOTION TO WITDRAW GRANTED**

Douglas Mix, Jr., appeals his conviction for possession of heroin, and his sentence as a multiple offender. We affirm.

At trial Detective Patrick Joseph testified that he established a narcotics surveillance of a residence at 1914 Dumaine Street on February 25, 1999, and he saw Mix leave that address with another man and get into the passenger side of a Ford van that was registered to him. The other man got into the driver's side and drove about two blocks to a grocery store at 2127 Orleans Avenue. The detective radioed his support team of Mix's position, and Detective Joe Lainez began the observation. Detective Joseph applied for and obtained an arrest warrant for Mix and a search warrant for the residence at 1914 Dumaine Street and for the Ford van. While searching the premises on Dumaine Street, the detective noticed a shed in the back yard. A large, menacing dog was loose in the fenced back yard, and Mix was asked to control the dog. After the officer threatened to call the SPCA, Mix controlled the animal. In the shed the detective found three syringes, ziploc bags, two pieces of tin foil containing a residue, and a spoon containing a residue. Within the house, a gun was discovered.

Detective Lainez also testified that after he began surveillance of Mix at the intersection of North Galvez Street and Orleans Avenue, he watched the "people who made contact" with Mix. Later at the residence, the detective

went into the shed where he found the tin foil, spoon, and syringes.

Sergeant Mark Mornay testified that he also participated in the execution of the search warrant at 1914 Dumaine Street. The sergeant arrested and detained Mix at the store on Orleans Avenue. While Mix was detained, he told the sergeant that everything at the Dumaine Street address belonged to him and not to his wife.

There was a stipulation that the residue on two pieces of tin foil, on the syringes, and on the spoon tested positive for heroin.

Mix testified that he was convicted of distribution of heroin in 1961, simple burglary in 1965, and two counts of distribution of heroin in 1976. He received two life sentences for the 1976 convictions, but after serving sixteen years, he was released from prison in 1991 and placed on five years of probation, which he successfully completed. Mix denied saying that anything found in the house was his rather than his wife's. He maintains that he said that there was nothing in the shed, and if the police found anything there it was only because they planted it. He denied owning the gun. Mix testified that on February 25 when he went to his neighborhood store, the police came in and knocked him to the floor, put a pistol to his head, a foot into his back and took his keys away from him. After a few hours, during which the police brought dogs into the grocery store, Mix was

transported to his house. Once there, he put his dog on a leash and tied him to the fence; then he got back into the police car where he remained during the search. He denied having ever seen the syringes and spoon before; he claimed to have seen his wife use tin foil in the kitchen but having no use for it himself. He said the shed was used simply to store old furniture and trash.

Anna Lee Mix, Paula Williams, Gwendolyn Thibodeaux, and Tara Williams testified as to what happened when the police arrived at the Mix house. Anna Lee Mix, the defendant's wife, would not give the police permission to search the house. As a consequence, she and her nieces remained outside the house for hours while the police got a search warrant.

Counsel filed a brief requesting a review for errors patent. Counsel complied with the procedures outlined by Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967), as interpreted by this Court in State v. Benjamin, 573 So. 2d 528 (La. App. 4th Cir. 1990). Counsel filed a brief complying with State v. Jyles, 96-2669 (La. 12/12/97), 704 So. 2d 241. Counsel's detailed review of the procedural history of the case and the facts of the case indicate a thorough review of the record. Counsel moved to withdraw because she believes, after a conscientious review of the record, that there is no non-frivolous issue for appeal. Counsel reviewed available transcripts and found no trial court ruling which arguably supports the appeal. A copy

of the brief was forwarded to Mix, and this Court informed him that he had the right to file a brief in his own behalf. He has not done so.

As per State v. Benjamin, this Court performed an independent, thorough review of the pleadings, minute entries, bill of information, and transcripts in the appeal record. Mix was properly charged by bill of information with a violation of La. R.S. 40:966(C), and the bill was signed by an assistant district attorney. Mix was present and represented by counsel at arraignment, motion hearings, jury selection, trial, and sentencing. A review of the trial transcript reveals that the State proved the offense beyond a reasonable doubt. The sentence is legal in all respects. Our independent review reveals no non-frivolous issue and no trial court ruling which arguably supports the appeal. Douglas Mix, Jr.'s conviction and sentence are affirmed. Appellate counsel's motion to withdraw is granted.

**AFFIRMED;**  
**MOTION TO WITHDRAW GRANTED**