

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA * **NO. 2001-KA-0525**
VERSUS * **COURT OF APPEAL**
LAMONT PHILLIPS * **FOURTH CIRCUIT**
* **STATE OF LOUISIANA**
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APPEAL FROM
CRIMINAL DISTRICT COURT ORLEANS PARISH
NO. 416-704, SECTION "J"
HONORABLE LEON CANNIZZARO, JUDGE
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JUDGE MAX N. TOBIAS, JR.
* * * * *

(Court composed of Judge Michael E. Kirby, Judge Terri F. Love, Judge Max N. Tobias, Jr.)

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CONVICTION AND SENTENCE AFFIRMED;
MOTION TO WITHDRAW GRANTED

Lamont L. Phillips (“Phillips”) was charged by bill of information on 14 September 2000, with distribution of cocaine, a violation of La. R.S. 40:967(A). He pled not guilty at his arraignment on 19 September 2000. After trial on 4 October 2000, a twelve-member jury found him guilty as charged. The State filed a multiple bill charging Phillips as a second offender. After being advised of his rights, he pleaded guilty to the bill and was sentenced on 4 December 2000 to serve fifteen years at hard labor under La. R.S. 15:529.1 with the first five years served without benefit of parole, probation, or suspension of sentence. Phillips’s motion for reconsideration of sentence was denied, and his motion for an appeal was granted.

At trial Sergeant Eddie Selby testified that on 24 August 2000, he was supervising ten people in a buy-bust operation in which one officer would work undercover to buy drugs and the other members of the team would protect him and arrest the seller. The undercover officer was in an unmarked vehicle that was wired for video and audio. The sergeant had photocopied currency to use in the buys, and such a ten-dollar bill previously photocopied was recovered from Phillips when he was arrested. Sergeant Selby controlled a “kel set” with a special antenna mounted on the back of his vehicle so he could monitor the undercover activity.

Detective Lawrence Jones testified that he participated in the buy-bust operation, which resulted in the arrest of Phillips. He also monitored the “kel” equipment.

Detective Ricky Jackson testified that he wore plain clothes and drove an unconventional police vehicle while following the undercover officer during the buy-bust operation. Detective Jackson observed the undercover officer and Phillips, and heard their conversation because he had a transmitter. After the buy, the undercover officer left the area, and Detective Jackson remained to watch the seller and radio the take-down officers of his movements. He observed the arrest of Phillips, and he radioed the officers that they had the right man.

Detective Tommy Mercadel testified that he was working undercover with Sergeant Eddie Selby’s Task Force. At about 2:00 p.m., Detective Mercadel was driving at the intersection of North Tonti Street and Almonaster Avenue when a man walked in front of his vehicle and flagged him down. The man, later identified as Phillips, tried to get into his vehicle on the passenger’s side, but Detective Mercadel kept the door locked and window closed and motioned for Phillips to come to the driver’s side of the vehicle. As Phillips crossed in front of the vehicle, he removed an object from his mouth. Phillips asked Detective Mercadel who he was, and he

answered that people on the other side of the street had directed him to Phillips. They negotiated the purchase of a ten-dollar rock of crack cocaine, and Phillips handed him a white powdered substance in a clear plastic bag. Detective Mercadel paid him with a ten-dollar bill that had been previously photocopied. Detective Mercadel identified the video that was taken of the exchange, and the video was played for the jury.

Detective Dan Anderson testified that he arrested Phillips. He was given a description of a man wearing a blue button-down shirt and blue shorts. When he saw Phillips walking toward his car, he apprehended him and found the ten-dollar bill previously photocopied in his front left pocket. Phillips had no drugs in his possession.

The parties stipulated that the powdered substance was tested and proved to be crack cocaine.

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 has moved to withdraw because she believes, after a conscientious review of the record, that no non-frivolous issue for appeal exists. Counsel reviewed

available transcripts and found no trial court ruling which arguably supports the appeal. A copy of the brief was forwarded to Phillips, and this Court informed Phillips 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 record. Phillips was properly charged by bill of information with a violation of La. R.S. 40:967(A), and the bill was signed by an assistant district attorney. Phillips 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 support the appeal.

Accordingly, Phillips's conviction and sentence are affirmed. Appellate counsel's motion to withdraw is granted.

CONVICTION AND SENTENCE AFFIRMED;
MOTION TO WITHDRAW GRANTED