NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA	*	**NO. 2001-KA-1911**
VERSUS	*	**COURT OF APPEAL**
KATIE R. ZENO	*	**FOURTH CIRCUIT**
	*	**STATE OF LOUISIANA**
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APPEAL FROM
CRIMINAL DISTRICT COURT ORLEANS PARISH
NO. 411-088, SECTION "C"
Honorable Sharon K. Hunter, Judge
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JUDGE MAX N. TOBIAS, JR.
* * * * * *

(COURT COMPOSED OF JUDGE CHARLES R. JONES, JUDGE MICHAEL E. KIRBY, AND JUDGE MAX N. TOBIAS, JR.)

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CONVICTION AND SENTENCE AFFIRMED; MOTION GRANTED

On 2 December 1999, Katie R. Zeno, defendant, was charged with solicitation of a crime against nature, a violation of La. R.S. 14:89(A)(2). At her arraignment on 6 December 1999 she pleaded not guilty. After a hearing on 24 July 2000, the trial court found probable cause and denied the motions to suppress the evidence and her statement. The defendant elected a judge trial after being apprised of her right to a trial by jury. Trial was held on 26 July 2000 and she was found to be guilty of attempted solicitation of a crime against nature. The state filed a multiple bill, and after a hearing on 1 September 2000, the court ruled that the state failed to prove Ms. Zeno a multiple offender; she was then sentenced to serve thirteen months in the Department of Corrections. The court denied her motion for reconsideration of sentence and granted her motion for an appeal.

At trial Detective W.A. Theodore of the Vice Squad testified that at about 11:25 p.m. on 25 September 1999, he was working undercover in the area of Oretha Castle Haley Boulevard when he noticed a woman standing on the corner. She made eye contact with him and smiled. The officer

drove another block and notified his backup team by radio that he was going to stop, and he described the woman. He turned around, returned to the corner of Felicity Street and Oretha Castle Haley Boulevard, and stopped. The woman walked across the street to his car and got into the passenger seat. She asked the officer what he wanted to do, and he answered, "I do anything and everything. Get what you want." The woman, later identified as Katie Zeno, told him her name was Brenda and suggested they relocate to the next block in front of an abandoned house. Once parked there, the defendant offered to give the officer "head," a street term for oral sex, for $20. The detective signaled to his backup team, and Detective Frank Young approached them and arrested the defendant.

The parties stipulated that if Detective Young were to testify he would tell the court that he was part of the take-down team and after receiving a pre-arranged signal from Detective Theodore, he arrested the defendant.

Ms. Zeno testified that she was walking home from a friend's house when she noticed a car passing slowly. When it stopped, she got into the car, and before she said anything, a police car came from behind them, and she was arrested. She stated that the car did not move to another location prior to her arrest. She did not know why she was being arrested until she arrived in Central Lockup. Ms. Zeno admitted to having a prior offense for

trespassing.

Before addressing the assignment of error, we note a possible error patent. The sentencing transcript indicates that the defendant was sentenced on the same day that the trial court denied the motion for new trial. La. C.Cr.P. art. 873 provides that sentence shall not be imposed until at least twenty-four hours after such a motion is overruled unless the defendant expressly waives the delay or pleads guilty. In this case, the defense attorney stated that his client was ready for sentencing and then pointed out that the Motion for a New Trial had not been addressed. The court immediately denied it. In State v. Collins, 584 So.2d 356 (La. App. 4 Cir. 1991), this Court held that the failure to observe the twenty-four hour delay would be deemed harmless error where the defendant did not challenge his sentence on appeal. In the present case where no error is raised as to the defendant's sentence, the failure of the trial court to observe the 24-hour delay period is considered harmless error.

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's brief complies 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 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 the defendant and this Court informed the defendant that she had the right to file a brief on her own behalf. She has not done so.

As per State v. Benjamin, supra, this Court performed an independent, thorough review of the pleadings, minute entries, bill of indictment, and transcripts in the appeal record. The defendant was properly charged by bill of information with a violation of La. R.S. 14:89, and the bill was signed by an assistant district attorney. The defendant was present and represented by counsel at arraignment, motion hearings, trial, and sentencing. A review of the trial transcript reveals that the State proved the offense beyond a reasonable doubt. The sentence is legal. Our independent review reveals no non-frivolous issue and no trial court ruling which arguably supports the appeal. The defendant's conviction and sentence are affirmed. Appellate counsel's motion to withdraw is granted.

CONVICTION AND SENTENCE AFFIRMED; MOTION GRANTED