

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA * **NO. 2001-KA-2335**
VERSUS * **COURT OF APPEAL**
RALPH Q. PAZE * **FOURTH CIRCUIT**
* **STATE OF LOUISIANA**
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APPEAL FROM
CRIMINAL DISTRICT COURT ORLEANS PARISH
NO. 420-666, SECTION "C"
Honorable Sharon K. Hunter, Judge
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Chief Judge William H. Byrnes III
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(Court composed of Chief Judge William H. Byrnes III, Judge Charles R. Jones, Judge Patricia Rivet Murray)

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**CONVICTION AND SENTENCE AFFIRMED;
COUNSEL'S MOTION TO WITHDRAW GRANTED**

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. Defendant was properly charged by bill of information with a violation of La. R.S. 14:62.2, and the bill was signed by an assistant district attorney. Defendant was present and represented by counsel at arraignment, the motion hearing and sentencing.

Our review of the record reveals a potential error patent. When the defendant was sentenced, the trial court did not restrict the benefits of parole, probation, or suspension of sentence for one year as mandated under La. R.S.14:62.2. However, under La. R.S. 15:529.1(G), the defendant's sentence is imposed without benefit of probation or suspension of sentence. Thus, the sentence appears to be illegally lenient because parole was not restricted. However, in instances where the statutory restrictions are not recited at sentencing, they are contained in the sentence, whether or not imposed by the sentencing court. La. R.S. 15:301.1A. Moreover, in State v. Williams, 00-1725 (La. 11/29/01), 800 So.2d 790, the Supreme Court has

ruled that paragraph A self-activates the correction and eliminates the need to remand for a ministerial correction of an illegally lenient sentence, which may result from the failure of the sentencing court to impose punishment in conformity with that provided in the statute. The 180-day time period referred to in La. R.S.15:301.1D is not applicable to La. R.S. 15:301.1A. Id. Hence, this Court need take no action to correct the trial court's failure to specify that the defendant's sentence be served without benefit of parole for one year, or without probation or suspension of sentence. The correction is statutorily effected. La. R.S. 15:301.1A.

Our independent review reveals no non-frivolous issue and no trial court ruling, which arguably supports the appeal. Defendant's conviction and sentence are affirmed. Appellate counsel's motion to withdraw is granted.

**CONVICTION AND SENTENCE AFFIRMED;
COUNSEL'S MOTION TO WITHDRAW GRANTED**