

Judgment rendered April 10, 2013.  
Application for rehearing may be filed  
within the delay allowed by Art. 922,  
La. C.Cr.P.

NO. 47,795-KA

COURT OF APPEAL  
SECOND CIRCUIT  
STATE OF LOUISIANA

\* \* \* \* \*

STATE OF LOUISIANA

Appellee

versus

CHARLES DEWAYNE KENNEDY

Appellant

\* \* \* \* \*

Appealed from the  
Twenty-Sixth Judicial District Court for the  
Parish of Bossier, Louisiana  
Trial Court No. 188221

Honorable Jeffrey S. Cox, Judge

\* \* \* \* \*

DOUGLAS L. HARVILLE

Counsel for  
Appellant

J. SCHUYLER MARVIN  
District Attorney

Counsel for  
Appellee

EDWARD C. JACOBS  
JOHN M. LAWRENCE  
Assistant District Attorneys

\* \* \* \* \*

Before WILLIAMS, STEWART and SEXTON (Ad Hoc), JJ.

WILLIAMS, J.

The defendant, Charles Dewayne Kennedy, was charged by bill of information with simple burglary, in violation of LSA-R.S. 14:62. In exchange for a sentence recommendation of five years and the state's agreement not to file a habitual offender bill of information, the defendant pled guilty as charged. He was sentenced to serve five years in prison at hard labor, with credit for time served. For the following reasons, we affirm the defendant's conviction and sentence, and we grant appellate counsel's motion to withdraw.

#### FACTS

The defendant's guilty plea was made subject to a plea agreement with the state. In exchange for the defendant's guilty plea, the state agreed not to file a habitual offender bill of information. The state also agreed to recommend a sentence of five years at hard labor.

On September 27, 2011, the defendant, who was represented by counsel, pled guilty as charged. According to the facts recited by the state during the plea hearing, the defendant entered an apartment located at 1301 Owens Street in Bossier City and stole a power saw. The defendant was apprehended and confessed to the crime.

The defendant was advised of his rights pursuant to *Boykin v. Alabama*, 395 U.S. 238, 89 S.Ct. 1709, 23 L.Ed.2d 274 (1969). Once the defendant waived his rights, the trial court accepted the guilty plea. The defendant waived sentencing delays and was sentenced to the agreed-upon sentence of five years at hard labor.

On appeal, the defendant's appellate counsel has filed a motion to

withdraw, together with an *Anders* brief, alleging that there are no nonfrivolous issues to raise on appeal. See, *Anders v. California*, 386 U.S. 738, 87 S.Ct. 1396, 18 L.Ed.2d 493 (1967); *State v. Jyles*, 96-2669 (La. 12/12/97), 704 So.2d 241; *State v. Mouton*, 95-0981 (La. 4/28/95), 653 So.2d 1176; *State v. Benjamin*, 573 So.2d 528 (La.App. 4th Cir. 1990). The brief outlined the procedural history of the case and the agreement under which the defendant's guilty plea was entered. Appellate counsel also verified that a copy of the motion to withdraw and his brief had been mailed to the defendant, in accordance with *Anders*, *Jyles*, *Mouton* and *Benjamin*, *supra*.

The record shows that the defendant was properly advised of his *Boykin* rights before he pled guilty. There were no errors patent found in the guilty plea or during the sentencing proceeding. Additionally, pursuant to LSA-C.Cr.P. art. 881.2, the defendant is precluded from seeking review of his five-year sentence, as it was imposed in conformity with the plea agreement.

This court has reviewed the record for errors patent. We have found none.

#### CONCLUSION

For the foregoing reasons, the motion to withdraw is granted, and the defendant's conviction and sentence are affirmed.

CONVICTION AFFIRMED; SENTENCE AFFIRMED.