

STATE OF LOUISIANA

NO. 07-KA-947

VERSUS

FIFTH CIRCUIT

LARRY LEWIS

**COURT OF APPEAL,
FIFTH CIRCUIT**

COURT OF APPEAL

FILED MAR 25 2008

STATE OF LOUISIANA



ON APPEAL FROM THE TWENTY-FOURTH JUDICIAL DISTRICT COURT
PARISH OF JEFFERSON, STATE OF LOUISIANA
NO. 07-3501, DIVISION "G"
HONORABLE ROBERT A. PITRE, JR., JUDGE PRESIDING

March 25, 2008

**EDWARD A. DUFRESNE, JR.
CHIEF JUDGE**

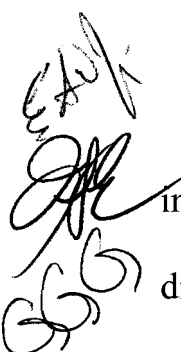
Panel composed of Judges Edward A. Dufresne, Jr., Marion F. Edwards,
and Greg G. Guidry

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CONVICTION AND SENTENCE
AFFIRMED.



On June 12, 2007, the Jefferson Parish District Attorney filed a bill of information charging defendant, Larry Lewis, with possession with intent to distribute cocaine, in violation of R.S. 40:967A. At the June 13, 2007 arraignment, defendant pled not guilty. On August 21, 2007, defendant withdrew his plea of not guilty and, after being advised of his constitutional rights, pled guilty as charged, reserving his right to appeal pursuant to State v. Crosby, 338 So.2d 584 (La. 1976). The trial judge thereafter sentenced defendant to fifteen years at hard labor, the first two years without benefit of probation, parole, or suspension of sentence, to run concurrently with sentences imposed for other offenses. Defendant now appeals.¹

¹ Defendant has two appeals pending that are companion cases to this one: 07-KA-944 and 07-KA-945. Those appeals stem from other guilty pleas that defendant entered on August 21, 2007.

FACTS

According to the probable cause affidavit contained in the record, narcotics agents from the Jefferson Parish Sheriff's Office executed a search warrant at defendant's residence on March 29, 2007. In the residence, they seized a plastic bag containing 14 grams of white rocks that tested positive for the presence of cocaine.

ANDERS BRIEF

On appeal, defendant's appellate counsel filed a brief pursuant to the procedure approved by the United States Supreme Court in Anders v. California, 386 U.S. 738, 87 S. Ct. 1396, 18 L. Ed. 2d 493 (1967), asserting that he has thoroughly reviewed the trial court record and cannot find any non-frivolous issues to raise on appeal.

The Anders procedure used in Louisiana was discussed in State v. Benjamin, 573 So.2d 528, 530 (La. App. 4 Cir. 1990), sanctioned by the Louisiana Supreme Court in State v. Mouton, 95-981 (La. 4/28/95), 653 So.2d 1176, 1177 (*per curiam*), adopted for use by this Court in State v. Bradford, 95-929 (La. App. 5 Cir. 6/25/96), 676 So.2d 1108, 1110, and expanded by the Louisiana Supreme Court in State v. Jyles, 96-2669 (La. 12/12/97), 704 So.2d 241, 242 (*per curiam*).

According to Anders, 386 U.S. at 744, 87 S.Ct. at 1400, "if counsel finds his case to be wholly frivolous, after a conscientious examination of it, he should so advise the court and request permission to withdraw." To comply with Jyles, appellate counsel must not only review the procedural history of the case and the evidence presented at trial, but his brief must also contain "a detailed and reviewable assessment for both the defendant and the appellate court of whether the appeal is worth pursuing in the first place." Jyles, 704 So.2d at 242 (quoting State v. Mouton, 653 So.2d at 1177).

When conducting a review for compliance with Anders, an appellate court must conduct an independent review of the record to determine whether the appeal is wholly frivolous. If, after an independent review, the reviewing court determines there are no non-frivolous issues for appeal, it may grant counsel's motion to withdraw and affirm defendant's conviction and sentence. State v. Bradford, 676 So.2d at 1110.

In this case, defense counsel has complied with all the requirements necessary to file an Anders brief. Specifically, counsel has reviewed the procedural history and the facts of the case. Counsel has also evaluated defendant's withdrawal of his plea of not guilty and has determined it to be constitutional. Counsel has likewise evaluated defendant's sentence and has determined it to be within the statutory range. Counsel therefore concludes in his brief that there are no non-frivolous issues for appeal.

In addition, defense counsel certifies that defendant was served with a copy of the Anders brief and his motion to withdraw as counsel of record. While there is no indication that counsel actually sent defendant a letter to notify him of his right to file a pro se supplemental brief, the Clerk of this Court, by way of certified letter dated December 17, 2008, has notified defendant that he would have until January 17, 2007 to file a supplemental brief. To date, defendant has not filed a supplemental brief.

Moreover, our independent review of the record has disclosed no non-frivolous issues and no rulings which arguably support an appeal. We have also conducted an error patent review pursuant to LSA-C.Cr.P. art. 920. Our review reveals no errors patent.

Accordingly, appellate defense counsel's motion to withdraw is granted and defendant's conviction and sentence are hereby affirmed.

**CONVICTION AND SENTENCE
AFFIRMED.**

EDWARD A. DUFRESNE, JR.
CHIEF JUDGE

THOMAS F. DALEY
MARION F. EDWARDS
SUSAN M. CHEHARDY
CLARENCE E. McMANUS
WALTER J. ROTHSCHILD
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CLERK OF COURT

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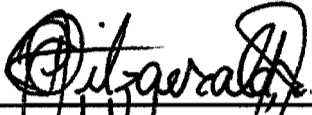
MARY E. LEGNON
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**NOTICE OF JUDGMENT AND
CERTIFICATE OF MAILING**

I CERTIFY THAT A COPY OF THE OPINION IN THE BELOW-NUMBERED MATTER HAS BEEN MAILED ON OR DELIVERED THIS DAY **MARCH 25, 2008** TO THE TRIAL JUDGE, COUNSEL OF RECORD AND ALL PARTIES NOT REPRESENTED BY COUNSEL, AS LISTED BELOW:



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CLERK OF COURT

07-KA-947

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