

FILE FOR RECORD

STATE OF LOUISIANA 2012 FEB 14 AM 11:59

NO. 11-KA-775

VERSUS

DEPUTY CLERK
5TH CIRCUIT COURT OF APPEALS
STATE OF LOUISIANA

FIFTH CIRCUIT

DARWIN BUSTILLO

COURT OF APPEAL

STATE OF LOUISIANA

ON APPEAL FROM THE TWENTY-FOURTH JUDICIAL DISTRICT COURT
PARISH OF JEFFERSON, STATE OF LOUISIANA
NO. 07-1161, DIVISION "M"
HONORABLE HENRY G. SULLIVAN, JR., JUDGE PRESIDING

February 14, 2012

SUSAN M. CHEHARDY
JUDGE

Panel composed of Judges Susan M. Chehardy,
Walter J. Rothschild, and Fredericka Homberg Wicker

PAUL D. CONNICK, JR.
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Twenty-Fourth Judicial District
Parish of Jefferson

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DARWIN BUNTILLO

APPEAL DISMISSED

SMC
WAR
ZAW

Defendant, Darwin Bustillo, appeals the trial court's denial of his motion to set aside his misdemeanor convictions. Because this ruling is not reviewable under our appellate jurisdiction, we dismiss this appeal.

In this case, defendant pled guilty to two misdemeanor counts on May 3, 2007. After defendant waived sentencing delays, the trial court deferred imposition of sentence on either count pursuant to La. C.Cr.P. art 894, and placed defendant on inactive probation for one year.

On March 3, 2011, defendant filed a motion to set aside his convictions. On March 24, 2011, after a hearing, the trial judge denied defendant's motion. On appeal, defendant seeks review of that ruling.

In criminal matters, the appellate jurisdiction of this Court extends to judgments in those cases that are triable by a jury. La. Const. of 1974, art. V, § 10; La. C.Cr.P. art. 912.1(B)(1). "In all other cases not otherwise provided by law, the defendant has the right of judicial review by application to the court of appeal for a writ of review." La. C.Cr.P. art. 912.1(C)(1). This matter falls into the category of "other cases not otherwise provided by law."

Accordingly, we dismiss the present appeal. State v. Suthon, 99-661 (La.App. 5 Cir. 10/29/99), 746 So.2d 240, 242. We reserve, however, Mr. Bustillo's right to file a proper application for supervisory writs, in compliance with U.R.C.A. 4-3, within thirty days from the date of this decision. Further, we hereby construe the motion for appeal as a notice of intent to seek a supervisory writ so Mr. Bustillo is not required to file a notice of intent nor obtain an order setting a return date pursuant to U.R.C.A. Rule 4-3.

APPEAL DISMISSED.

MARION F. EDWARDS
CHIEF JUDGE

SUSAN M. CHEHARDY
CLARENCE E. McMANUS
WALTER J. ROTHSCHILD
FREDERICKA H. WICKER
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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 **FEBRUARY 14, 2012** TO THE TRIAL JUDGE, COUNSEL OF RECORD AND ALL PARTIES NOT REPRESENTED BY COUNSEL, AS LISTED BELOW:

A handwritten signature in black ink, appearing to read "Fitzgerald", written over a horizontal line.

PETER J. FITZGERALD, JR.
CLERK OF COURT

11-KA-775

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