

STATE OF LOUISIANA IN THE INTEREST
OF H.N.

NO. 15-KA-97

FIFTH CIRCUIT

COURT OF APPEAL

STATE OF LOUISIANA

ON APPEAL FROM THE JEFFERSON PARISH JUVENILE COURT
PARISH OF JEFFERSON, STATE OF LOUISIANA
NO. 12-JU-25,
DIVISION "C" HONORABLE BARRON C. BURMASTER AND
DIVISION "A" HONORABLE ANN MURRY KELLER, JUDGE PRESIDING

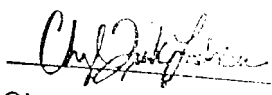
MARCH 11, 2015

COURT OF APPEAL
FIFTH CIRCUIT

STEPHEN J. WINDHORST

FILED MAR 11 2015

JUDGE


CLERK
Cheryl Quirk Landrieu

Panel composed of Judges Fredericka Homberg Wicker,
Jude G. Gravois and Stephen J. Windhorst

PAUL D. CONNICK, JR.

DISTRICT ATTORNEY

TERRY M. BOUDREAUX

ASSISTANT DISTRICT ATTORNEY

Twenty-Fourth Judicial District

Parish of Jefferson

200 Derbigny Street

Gretna, Louisiana 70053

AMANDA L. CALOGERO

ASSISTANT DISTRICT ATTORNEY

Juvenile Court

1546 Gretna Boulevard

Harvey, Louisiana 70058

COUNSEL FOR PLAINTIFF/APPELLEE

KATHERINE FRANKS

ATTORNEY AT LAW

Louisiana Appellate Project

P.O. Box 1677

Abita Springs, Louisiana 70420

COUNSEL FOR DEFENDANT/APPELLANT

APPEAL DISMISSED

ASW
JHW
JHY

Defendant, H.N., appeals his misdemeanor adjudications for simple criminal damage to property in an amount under \$500 and theft valued at under \$500, and the denial of his “Motion to Correct Illegal Disposition.” For the following reasons, we find that defendant’s appeal is not properly before this Court, and accordingly dismiss this appeal.

Appellate jurisdiction over criminal cases extends only to cases that are triable by a jury. State v. Lyons, 13-180, 13-181, 13-182, 13-183, 13-184, 13-185, 13-186 (La. App. 5 Cir. 10/9/13), 128 So.3d 407, 411 (citing La. Const. Art. 5 § 10; La. C.Cr.P. art. 912.1). “Unless the punishment that may be imposed exceeds six months imprisonment, a misdemeanor is not triable by a jury.” Id. (citing La. Const. Art. I § 17; La. C.Cr.P. art. 779).

On April 30, 2014, defendant entered an admission that he committed simple criminal damage to property and theft on March 17, 2014. Defendant was sentenced on May 13, 2014. La. R.S. 14:56B(1) states, “Whoever commits the

crime of simple criminal damage to property where the damage is less than five hundred dollars shall be fined not more than one thousand dollars or imprisoned for not more than six months, or both.” When the offense was committed, La. R.S. 14:67B(3) provided in pertinent part, “When the misappropriation or taking amounts to less than a value of five hundred dollars, the offender shall be imprisoned from not more than six months, or may be fined not more than one thousand dollars, or both.” Because defendant was adjudicated for two misdemeanor offenses not triable by jury, this judgment is not an appealable judgment. See La. C.Cr.P. art. 779B; State v. Flowers, 11-376 (La. App. 5 Cir. 12/13/11), 81 So.3d 910. Pursuant to La. C.Cr.P. art. 912.1C(1), an application for a writ of review is the proper mechanism for seeking judicial review of an adjudication on an offense not triable by jury. See Flowers, *supra*; La. Const. Art. V § 10.

To the extent defendant is seeking review of the revocation of his probation, the revocation of a defendant’s probation is also subject to review in the appellate court by an application for supervisory writ.

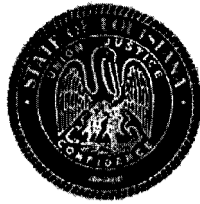
Accordingly, we dismiss this appeal and reserve defendant’s right to file a proper application for supervisory writ, in compliance with U.R.C.A. 4-3, within thirty days from the date of this opinion. Further, we hereby construe defendant’s notice of appeal as a notice of intent to seek a supervisory writ, so defendant is not required to file a notice of intent or to obtain an order setting a return date pursuant to U.R.C.A. 4-3.

APPEAL DISMISSED

SUSAN M. CHEHARDY
CHIEF JUDGE

FREDERICKA H. WICKER
JUDE G. GRAVOIS
MARC E. JOHNSON
ROBERT A. CHAISSON
ROBERT M. MURPHY
STEPHEN J. WINDHORST
HANS J. LILJEBERG

JUDGES



FIFTH CIRCUIT
101 DERBIGNY STREET (70053)
POST OFFICE BOX 489
GRETNA, LOUISIANA 70054
www.fifthcircuit.org

CHERYL Q. LANDRIEU
CLERK OF COURT

MARY E. LEGNON
CHIEF DEPUTY CLERK

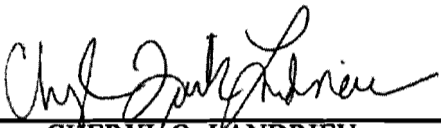
SUSAN BUCHHOLZ
FIRST DEPUTY CLERK

MELISSA C. LEDET
DIRECTOR OF CENTRAL STAFF

(504) 376-1400
(504) 376-1498 FAX

**NOTICE OF JUDGMENT AND
CERTIFICATE OF DELIVERY**

I CERTIFY THAT A COPY OF THE OPINION IN THE BELOW-NUMBERED MATTER HAS BEEN DELIVERED IN ACCORDANCE WITH **Uniform Rules - Court of Appeal, Rule 2-20** THIS DAY **MARCH 11, 2015** TO THE TRIAL JUDGE, COUNSEL OF RECORD AND ALL PARTIES NOT REPRESENTED BY COUNSEL, AS LISTED BELOW:



CHERYL Q. LANDRIEU
CLERK OF COURT

15-KA-97

E-NOTIFIED

TERRY M. BOUDREAUX

MAILED

HON. PAUL D. CONNICK, JR.
DISTRICT ATTORNEY
TWENTY-FOURTH JUDICIAL DISTRICT
200 DERBIGNY STREET
GRETNA, LA 70053

KATHERINE M. FRANKS
ATTORNEY AT LAW
LOUISIANA APPELLATE PROJECT
P. O. BOX 1677
ABITA SPRINGS, LA 70420

AMANDA L. CALOGERO
ASSISTANT DISTRICT ATTORNEY
JUVENILE COURT
1546 GRETNA BOULEVARD
HARVEY, LA 70058