STATE OF LOUISIANA

VERSUS

KEVIN MUTH

NO. 17-KA-135

FIFTH CIRCUIT

COURT OF APPEAL

STATE OF LOUISIANA

ON APPEAL FROM THE TWENTY-FOURTH JUDICIAL DISTRICT COURT
PARISH OF JEFFERSON, STATE OF LOUISIANA
NO. 13-3831, DIVISION "L"
HONORABLE DONALD A. ROWAN, JR., JUDGE PRESIDING

October 25, 2017

FREDERICKA HOMBERG WICKER
JUDGE

Panel composed of Judges Susan M. Chehardy,
Fredericka Homberg Wicker, and Hans J. Liljeberg

CONVICTIONS AND SENTENCES AFFIRMED; MOTION TO WITHDRAW GRANTED; REMANDED FOR CORRECTION OF THE COMMITMENT

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DEFENDANT/APPELLANT,
KEVIN MUTH
In Proper Person

WICKER, J.

Defendant, Kevin Muth, appeals his convictions and sentences for four counts of sexual battery of a known juvenile under the age of thirteen years in violation of La. R.S. 14:43.1, two counts of indecent behavior with a juvenile under thirteen years in violation of La. R.S. 14:81, and possession of pornography involving juveniles under the age of thirteen in violation of La. R.S. 14:81.1. Defendant's appointed appellate counsel has filed an appellate brief pursuant to *Anders v. California*[1] and has further filed a motion to withdraw as counsel of record. Defendant has additionally filed a *pro se* brief, asserting an ineffective assistance of counsel claim. For the following reasons, we affirm defendant's convictions and sentences and grant counsel's motion to withdraw.

STATEMENT OF THE CASE

On August 1, 2013, a Jefferson Parish Grand Jury returned a true bill of indictment charging defendant with one count of aggravated rape of a known juvenile under the age of thirteen years, in violation of La. R.S. 14:42 (count one); one count of sexual battery upon a known juvenile under the age of thirteen years, in violation of La. R.S. 14:43.1 (count two); and one count of possession of pornography involving juveniles under the age of thirteen, in violation of La. R.S. 14:81.1 (count three). Defendant pled not guilty at his arraignment. On September 26, 2013, a superseding indictment charged defendant with four additional counts: an additional count of aggravated rape of a known juvenile under the age of thirteen years, in violation of La. R.S. 14:42 (count four); an additional count of sexual battery of a known juvenile under the age of thirteen years, in violation of La. R.S. 14:43.1 (count five); and two counts of indecent behavior with a juvenile under the age of thirteen years, violations of La. R.S. 14:81 (counts six and seven). Defendant was rearraigned on October 1, 2013, and pled not guilty to the charges.

[1] 386 U.S. 738, 87 S.Ct. 1396, 18 L.Ed.2d 493 (1967).

On January 6, 2015, pursuant to a plea agreement, the State amended the two counts of aggravated rape (counts one and four) to two counts of sexual battery of a juvenile under the age of thirteen years, in violation of La. R.S. 14:43.1. Immediately following the amendment, defendant withdrew his pleas of not guilty and, after being advised of his *Boykin*[2] rights, pled guilty as charged in the amended superseding indictment. In accordance with the plea agreement, the trial court sentenced defendant to forty years imprisonment at hard labor without benefit of probation, parole, or suspension of sentence on counts one, two, three[3], four, and five. As to counts six and seven, the trial court sentenced defendant to twenty-five years imprisonment at hard labor on each count, with the first two years to be served without benefit of probation, parole, or suspension of sentence. The trial court ordered that defendant's sentences be served concurrently, and further advised defendant of the sex offender notification and registration requirements. This appeal follows.

FACTUAL BACKGROUND

Defendant pled guilty without proceeding to trial. The factual basis set forth in the amended superseding indictment alleges that defendant, on or between March 1, 2013, and April 7, 2013, "violated La. R.S. 14:43.1 in that he did commit sexual battery upon [a] known male juvenile (DOB 12/20/2006) wherein the child was under the age of thirteen;" further, as to count two, that defendant, on or between March 1, 2013, and April 7, 2013, "violated La. R.S. 14:43.1 in that he did commit sexual battery upon [a] known male juvenile (DOB 12/20/2006)

[2] *Boykin v. Alabama*, 395 U.S. 238, 89 S.Ct. 1709, 23 L.Ed.2d 274 (1969).

[3] The transcript indicates that, as to count three, the trial court did not order that defendant's sentence be served at hard labor. The commitment, however, reflects that the trial court ordered defendant's sentence on count three to be served at hard labor. The transcript prevails. *State v. Lynch*, 441 So.2d 732, 734 (1983). La. C.Cr.P. art. 879 requires a court to impose a determinate sentence. *State v. Horton*, 09-250 ((La. App. 5 Cir. 10/27/09), 28 So.3d 370, 376. If the applicable sentencing statute allows discretion, the failure to indicate whether the sentence is to be served at "hard labor" is an impermissible, indeterminate sentence. *State v. Adams*, 11-1052 (La. App. 5 Cir. 05/16/13), 119 So.3d 46, 58. In this case, the trial court imposed defendant's sentence pursuant to La. R.S. 14:81.1, which mandates the sentence to be at hard labor. Because the underlying statute, La. R.S. 14:81.1, requires the sentence be served at hard labor, allowing no discretion to the trial judge, the error was harmless and requires no corrective action. *State v. Stewart*, 10-389 (La. App. 5 Cir. 5/10/11), 65 So.3d 771, 783-84, *writ denied*, 11-1245 (La. 1/20/12), 78 So.3d 140.

wherein the child was under the age of thirteen by to wit: fondling the victim's genitals;" as to count three, that defendant "violated La. R.S. 14:81.1 in that he did commit pornography involving juveniles by intentional possession, of any photographs, films, video tapes, or other visual reproductions of any sexual performance involving a child under the age of 13;" as to count four, that defendant, on or between August 1, 2011, and January 31, 2013, "violated La. R.S. 14:43.1 in that he did commit sexual battery upon [a] known juvenile (DOB 08/09/02) wherein the child was under the age of thirteen;" as to count five, that defendant, on or between August 1, 2011, and January 31, 2013, "violated La. R.S. 14:43.1 in that he did commit sexual battery upon [a] known juvenile (DOB 08/09/02) wherein the child was under the age of thirteen by to wit: and/or touching the victim's anus;" as to count six, that defendant, on or between August 1, 2011, and January 31, 2013, "violated La. R.S. 14:81 in that he, being over the age of 17, and there being an age difference of greater than two years between the two persons, did commit a lewd and lascivious act upon, or in the presence of, a known juvenile (DOB 08/09/02) wherein the victim is under the age of thirteen by, displaying pornography involving juveniles, with the intention of arousing or gratifying the sexual desires of either person;" and as to count seven, that defendant, on or between March 1, 2013, and April 7, 2013, "violated La. R.S. 14:81 in that he, being over the age of 17, and there being an age difference of greater than two years between the two persons, did commit a lewd and lascivious act upon, or in the presence of, a known juvenile (DOB 12/20/06) wherein the victim is under the age of thirteen by displaying pornography involving juvenile[s] with the intention of arousing or gratifying the sexual desire of either person."

ANDERS BRIEF

Under the procedure set forth in *State v. Benjamin*, 573 So.2d 528, 530 (La. App. 4 Cir.1990), defendant's appointed appellate counsel has filed an *Anders*

brief pursuant to *Anders v. California*, *supra*, and *State v. Jyles*, 96-2669 (La.12/12/97), 704 So.2d 241, 242 (per curiam), asserting that she has thoroughly reviewed the trial court record and could find no non-frivolous issues to raise on appeal. Accordingly, appointed counsel requests to withdraw as counsel of record.

In *Anders*, the United States Supreme Court stated that appointed appellate counsel may request permission to withdraw if she finds the case to be wholly frivolous after a conscientious examination of it. In *State v. Jyles*, the Louisiana Supreme Court explained that an *Anders* brief must demonstrate by full discussion and analysis that appellate counsel "has cast an advocate's eye over the trial record and considered whether any ruling made by the trial court, subject to the contemporaneous objection rule, had a significant, adverse impact on shaping the evidence presented to the jury for its consideration." *Jyles*, 704 So.2d at 241.

An appellate court must conduct an independent review of the trial court record to determine whether the appeal is wholly frivolous. "When counsel files an *Anders* brief, an appellate court reviews several items: a) the Bill of Information to ensure that the charge is proper, b) all minute entries to ensure that defendant was present at all crucial stages of the prosecution, c) all pleadings in the record, and d) all transcripts to determine whether any ruling of the trial court provides a basis for appeal." *State v. Dufrene*, 07-823 (La. App. 5 Cir. 2/19/08), 980 So.2d 31, 33. 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 the defendant's conviction and sentence. However, if the court finds any legal point arguable on the merits, it may either deny the motion and order the court-appointed attorney to file a brief arguing the legal point(s) identified by the court, or grant the motion and appoint substitute appellate counsel. *Id.*

In this case, appointed appellate counsel's brief demonstrates that after a detailed review of the record, counsel could find no non-frivolous issues to raise on

appeal. The State agrees and urges this Court to grant appellate counsel's request to withdraw as counsel of record. An independent review of the record supports counsel's assertion that there are no non-frivolous issues to raise on appeal.

First, the amended superseding true bill of indictment properly charged defendant with four counts of sexual battery of a known juvenile under the age of thirteen years, in violation of La. R.S. 14:43.1 (counts one, two, four, and five); one count of possession of pornography involving juveniles under the age of thirteen, in violation of La. R.S. 14:81.1 (count three); and two counts of indecent behavior with a juvenile under the age of thirteen years, in violation of La. R.S. 14:81 (counts six and seven). As required, the superseding bill of indictment sufficiently identified defendant and the crimes charged and clearly, concisely, and definitely stated the essential facts constituting the crimes charged. *See* La. C.Cr.P. arts. 464-466. Second, the minute entries in the record reflect that defendant appeared at each stage of the proceedings against him. Defendant physically made an appearance in open court for his arraignments, his guilty plea proceeding, and his sentencing.

Third, defendant pled guilty to the charges against him. Once a defendant is sentenced, only those guilty pleas that are constitutionally infirm may be withdrawn by appeal or post-conviction relief. *State v. McCoil*, 05-658 (La. App. 5 Cir. 2/27/06), 924 So.2d 1120, 1124. A guilty plea is constitutionally infirm if it is not entered freely and voluntarily, if the *Boykin* colloquy is inadequate, or when a defendant is induced to enter the plea by a plea bargain or what he justifiably believes was a plea bargain and that bargain is not kept. *Id*. In such a case, the defendant has been denied due process of law in that the plea was not given freely and knowingly. *State v. Dixon*, 449 So.2d 463, 464 (La. 1984). As discussed below, we find defendant's pleas were entered into freely and knowingly and, thus, present no issues for appeal.

The record reflects that defendant was aware he was pleading guilty to four counts of sexual battery of a juvenile under the age of thirteen in violation of La. R.S. 14:43.1, one count of possession of pornography involving a juvenile under the age of thirteen in violation of La. R.S. 14:81.1, and two counts of indecent behavior with a juvenile in violation of La. R.S. 14:81. He was advised of his right to a jury trial, his right to confrontation, and his privilege against self-incrimination, as required by *Boykin v. Alabama*, *supra*. Defendant was advised of these rights by means of the waiver of rights form, which he signed, and during the colloquy with the trial judge.

During the colloquy and through the waiver of rights form, the trial court informed defendant of the sentencing ranges for the crimes charged as well as the actual sentences that would be imposed upon acceptance of his guilty pleas. The record reflects that, as to defendant's four counts of sexual battery of a known juvenile under the age of thirteen, the trial judge instructed defendant that he would receive a sentence of forty years on each count with, "at least twenty-five years of that sentence shall be imposed without benefit of probation, parole, or suspension of sentence." Therefore, as to the sexual battery of a known juvenile charges, the trial judge correctly advised defendant of the sentencing range but neglected to inform him that the he would restrict benefits for the entirety of defendant's forty-year sentences on those four counts. However, for the following reasons, such error is harmless and does not invalidate defendant's pleas.

La. C.Cr.P. art. 556.1(A)(1) provides that, prior to accepting a guilty plea, the court must personally inform the defendant of the nature of the charge to which the plea is offered, any mandatory minimum penalty, and the maximum possible penalty. *State v. Kent*, 15-323 (La. App. 5 Cir. 10/28/15), 178 So.3d 219, 229, *writ denied*, 15-2119, 2016 La. LEXIS 2524 (La. 12/16/16). Further, La. C.Cr.P. art. 556.1(E) provides that: "[a]ny variance from the procedures required by this

Article which does not affect substantial rights of the accused shall not invalidate the plea." Violations of La. C.Cr.P. art. 556.1 that do not rise to the level of *Boykin* violations are subject to a harmless error analysis. *Kent, supra* (*citing State v. Craig*, 10-854 (La. App. 5 Cir. 5/24/11), 66 So.3d 60, 64).

At the commencement of the *Boykin* colloquy, the State informed the court that it had reached a plea agreement with defendant, which included the reduction of two counts of aggravated rape (counts one and four) to two counts of sexual battery of a juvenile under the age of thirteen years. The State further stated on the record that defendant agreed to a forty-year sentence on "all counts, except counts six and seven," and that all sentences would be served concurrently and without the benefit of probation, parole, or suspension of sentence. Additionally, the trial court advised defendant that he would receive a forty-year sentence on count three (pornography involving juveniles), to be served without benefit of probation, parole, or suspension of sentence. Thus, defendant was aware that his forty-year sentences would all be served concurrently and without benefits. Moreover, there is no indication in the record that that there was any inducement regarding the number of years the benefits would be restricted for in this case or that defendant would have changed his pleas based on the advisal that his forty-year sentences on his sexual battery of a known juvenile under the age of thirteen charges would be imposed without benefit of probation, parole, or suspension of sentence. *See State v. Landfair*, 07-751 (La. App. 5 Cir. 3/11/08), 979 So.2d 619, *writ denied*, 008-1143 (La. 1/9/09). Accordingly, this error is harmless and does not invalidate defendant's pleas.

The record further reflects that defendant was aware of the lifetime sex offender registration requirements, although it is unclear whether defendant was informed of the requirements prior to the acceptance of his guilty pleas. La. R.S. 15:543(A) requires the trial court to "provide written notification to any person

convicted of a sex offense and a criminal offense against a victim who is a minor of the registration requirements and the notification requirements of this Chapter." Notification must be given on the statutorily required form and "shall be included on any guilty plea forms and judgment and sentence forms provided to the defendant, and an entry shall be made in the court minutes stating that the written notification was provided to such offenders." *Id*. The Louisiana Supreme Court has stated that failure to advise a defendant of the requirements of registration and notification is one factor that may undercut the voluntary nature of a guilty plea. *State v. Calhoun*, 96-786 (La. 5/20/97), 694 So.2d 909. Upon review, this Court is required to consider the "totality of the circumstances" surrounding the plea to determine whether the guilty plea was freely, voluntarily, and knowingly made. *State v. Blanchard*, 00-1147 (La. 04/20/01), 786 So.2d 701, 704; *State v. R.A.L.*, 10-1475 (La. App. 3 Cir. 6/29/11), 69 So.3d 704, 708.

The record in this case reflects that at the commencement of the *Boykin* colloquy, defendant's counsel stated on the record that he was in possession of the "sexual registration packet," and "the lifetime registration packet." Defendant signed the "Notification to Sex Offender" and "Notification of Requirements of Supervised Release of Sex Offenders" forms, which set forth the registration and notification requirements and further indicate that defendant's counsel reviewed same with him, on January 6, 2014, the day he entered his guilty pleas. The record however does not indicate whether defendant signed the notification forms prior to the entry of his guilty pleas.

Following the *Boykin* colloquy, the trial court accepted defendant's guilty pleas as knowingly, intelligently, freely, and voluntarily made. Immediately thereafter, the trial court stated "I believe you have a copy of the Notification of Requirements of Supervised Release of Sex Offenders, Notification to Sex Offenders, and the Sex Offender Notification Statutes. Is that correct, sir?"

Defendant acknowledged that he had the forms in his possession, after which the trial court engaged in a thorough review with defendant of his sex offender registration requirements. Defendant was also provided with printed copies of the relevant statutory law setting forth the sex offender registration requirements.

The record as a whole indicates that defendant was made aware of the sex offender registration requirements before his guilty plea. Further, defendant does not complain on appeal that he was unaware of the requirements or that the untimely advisal would have affected his decision to plead guilty. Under the facts of this case and based upon the record before us, we find that any issue related to the advisal of the registration requirements does not undercut the voluntary nature of defendant's guilty pleas and, thus, does not present an issue for appeal.

Lastly, defendant's sentences do not present any issues for appeal. The record reflects that defendant was sentenced in conformity with the plea agreement. La. C.Cr.P. art. 881.2(A)(2) precludes a defendant from seeking review of his sentence imposed in conformity with a plea agreement, which was set forth in the record at the time of the plea. *State v. Augustine*, 14-747 (La. App. 5 Cir. 05/14/15), 170 So.3d 1123, 1128. Moreover, the record reflects that defendant's sentences fall within the prescribed statutory sentencing ranges and do not present any non-frivolous issue for appeal. *See* La. R.S. 14:43.1(C)(2); La. R.S. 14:81(H)(2); La. R.S. 14:81.1 (E)(5)(a).

Upon an independent review of the record, we find no non-frivolous issues for appeal. We further find that appellate counsel's brief adequately demonstrates by full discussion and analysis that she has reviewed the trial court proceedings and cannot identify any basis for a non-frivolous appeal, and an independent review of the record supports counsel's assertion. Accordingly, we hereby grant counsel's motion to withdraw as counsel of record. *See State v. Crawford*, 14-364 (La. App. 5 Cir. 12/23/14), 166 So.3d 1009, 1019.

***PRO SE* ASSIGNMENT OF ERROR**

In his *pro se* appellate brief, defendant asserts an ineffective assistance of trial counsel claim. Defendant contends on appeal that his trial counsel failed to provide him with "much information" surrounding his plea agreement. The crux of defendant's argument on appeal is that he was unaware of "additional" sexual battery charges that he claims were added without his knowledge and, further, that he was unaware he would be classified as a sexual violent predator. Defendant further claims that he was under "extreme emotional distress" at the time of his pleas.

A criminal defendant is entitled to effective assistance of counsel under the Sixth Amendment to the United States Constitution and Article I, § 13 of the Louisiana Constitution. *State v. Dadney*, 14-511 (La. App. 5 Cir. 12/16/14), 167 So.3d 55, 61; *State v. Johnson*, 08-1156 (La. App. 5 Cir. 4/28/09), 9 So.3d 1084, 1092, *writ denied*, 09-1394 (La. 2/26/10), 28 So.3d 268. To prove ineffective assistance of counsel, a defendant must prove both that his attorney's performance was deficient and that he was prejudiced by the deficiency. *Johnson, supra* (*citing Strickland v. Washington*, 466 U.S. 668, 687, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674 (1984)). In order to show prejudice, a defendant must demonstrate that but for counsel's deficient performance, the outcome of the proceedings would have been different. *Id*.

The Sixth Amendment does not guarantee a defendant errorless counsel and there is a strong presumption that counsel's conduct will fall within the wide range of reasonable professional assistance. *State v. Cambre*, 05-888 (La. App. 5 Cir. 7/25/06), 939 So.2d 446, 460, *writ denied*, 06-2121 (La. 4/20/07), 954 So.2d 158, (*citing State v. LaCaze*, 99-584 (La.1/25/02), 824 So.2d 1063, 1078, *cert. denied*, 537 U.S. 865, 123 S.Ct. 263, 154 L.Ed.2d 110 (2002)); *see also State v. Gorman*, 11-491 (La. App. 5 Cir. 2/14/12), 88 So.3d 590, 600.

Generally, an ineffective assistance of counsel claim is most appropriately addressed through an application for post-conviction relief filed in the district court, where a full evidentiary hearing can be conducted, rather than by direct appeal. However, when the record contains sufficient evidence to rule on the merits of the claim and the issue is properly raised in an assignment of error on appeal, it may be addressed in the interest of judicial economy. *State v. Taylor*, 04-346 (La. App. 5 Cir. 10/26/04), 887 So.2d 589, 595.

In this case, the record is sufficient to address defendant's *pro se* ineffective assistance of counsel claim. As discussed above, the record reflects that defendant's guilty pleas were knowing and voluntary. Contrary to defendant's assertions that he was unaware of the "additional" sexual battery charges, the record reflects that he was advised that his two aggravated rape charges would be amended to two charges of sexual battery of a juvenile under the age of thirteen years—an amendment beneficial to defendant. The record further reflects, as discussed *supra*, that defendant was aware that he was pleading guilty to four counts of sexual battery of a juvenile under the age of thirteen, one count of possession of pornography involving juveniles, and two counts of indecent behavior with a juvenile under the age of thirteen. Defendant was advised of the charges to which he pled guilty during the colloquy with the trial judge as well as through his waiver of rights form, which he signed on the date of his pleas. The record further reflects that defendant was advised of the actual sentences imposed, as set forth in the plea agreement. The trial court thoroughly explained the lifetime sex offender registration requirements to defendant and afforded him the opportunity to ask any questions concerning the requirements, which he declined.[4]

[4] Although defendant in his *pro se* assignment of error claims that he is not a violent person and asserts that he is now classified as a "violent offender," it appears his argument is misplaced. While the crime of sexual battery is defined as a crime of violence pursuant to La. R.S. 14:2(12), at this time, the record does not indicate that defendant has been classified as a "sexually violent predator" under the sex offender notification statutes. See La. R.S. 15:541(27).

Accordingly, we find the record reflects that defendant's pleas were knowingly and freely made and were an advantageous consequence of the plea-bargaining process. Defendant has failed to prove that but for counsel's alleged errors, the outcome of the proceedings would have been any different. Therefore, defendant's ineffective assistance of counsel claim lacks merit.

ERRORS PATENT

Defense counsel's appellate brief requests an errors patent review. However, this Court routinely reviews the record for errors patent in accordance with La. C.Cr.P. art. 920; *State v. Oliveaux*, 312 So.2d 337 (La. 1975); and *State v. Weiland*, 556 So.2d 175 (La. App. 5 Cir. 1990), regardless of whether defendant makes such a request.

The record contains one error patent requiring corrective action. The Uniform Commitment Order unclearly reflects the dates of defendant's offenses as "08/01/2011 1/31/2013 3/01/2013 04/07/2013."[5] This Court has routinely remanded matters for correction of the commitment when it is unclear or inconsistent with the record and transcript. *State v. Reed*, 14-702 (La. App. 5 Cir. 01/14/15), 167 So.3d 857, 861; *State v. Chandler*, 14-574 (La. App. 5 Cir. 12/16/14), 167 So.3d 76, 78.

Accordingly, we remand this case to the 24th Judicial District Court and order that the Uniform Commitment Order be corrected to accurately reflect the correct dates for each offense. We further direct the Clerk of Court for the 24th Judicial District Court to transmit the originals of the corrected Uniform Commitment Orders to the officer in charge of the institution to which defendant has been sentenced and to the Department of Corrections' Legal Department. *See*

[5] The record reflects that counts one, two, and seven were committed on or between March 1, 2013, and April 7, 2013; count three was committed on April 7, 2013; and counts four, five, and six were committed on or before August 1, 2011.

State v. Long, 12-184 (La. App. 5 Cir. 12/11/12), 106 So.3d 1136, 1142, (*citing* La. C.Cr.P. art. 892(B)(2)).

CONCLUSION

Accordingly, for the reasons provided herein, defendant's convictions and sentences are affirmed and appellate counsel's motion to withdraw as attorney of record is hereby granted. We remand this matter to the trial court for correction of an error patent in accordance with this opinion.

CONVICTIONS AND SENTENCES AFFIRMED; MOTION TO WITHDRAW GRANTED; REMANDED FOR CORRECTION OF THE COMMITMENT

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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 2-16.4 AND 2-16.5** THIS DAY **OCTOBER 25, 2017** TO THE TRIAL JUDGE, CLERK OF COURT, COUNSEL OF RECORD AND ALL PARTIES NOT REPRESENTED BY COUNSEL, AS LISTED BELOW:

CHERYL Q. LANDRIEU
CLERK OF COURT

17-KA-135

E-NOTIFIED
24TH JUDICIAL DISTRICT COURT (CLERK)
HONORABLE DONALD A. ROWAN, JR. (DISTRICT JUDGE)
GWENDOLYN K. BROWN (APPELLANT)
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