

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

2012 KA 0811

STATE OF LOUISIANA

VERSUS

CARL JOHNSON

*RHP
JEW by RHP
Ⓢ*

**On Appeal from the 19th Judicial District Court
Parish of East Baton Rouge, Louisiana
Docket No. 7-08-0463, Section 5
Honorable Louis R. Daniel, Judge Presiding**

**Hillar C. Moore, III
District Attorney
Monisa L. Thompson
Assistant District Attorney
Baton Rouge, LA**

**Attorneys for Appellee
State of Louisiana**

**Frederick Kroenke
Louisiana Appellate Project
Baton Rouge, LA**

**Attorney for
Defendant-Appellant
Carl Johnson**

BEFORE: PARRO, HUGHES, AND WELCH, JJ.

Judgment rendered DEC 31 2012

PARRO, J.

The defendant, Carl Johnson, was originally charged by bill of information with four counts of armed robbery, violations of LSA-R.S. 14:64.¹ In accordance with a plea agreement, the state dismissed count one as to the defendant, and he withdrew his original not guilty pleas and entered a plea of guilty as charged to the remaining three counts. As further agreed, the trial court sentenced the defendant to twenty-two years of imprisonment at hard labor without the benefit of probation, parole, or suspension of sentence on each count, to be served concurrently. The defendant filed a pro se motion for appeal and defense counsel filed a brief on behalf of the defendant raising no assignments of error and contending that there are no non-frivolous issues to argue on appeal. For the following reasons, we affirm the convictions and sentences.

ANDERS BRIEF

Defense counsel has filed a brief containing no assignments of error and a motion to withdraw. In the motion to withdraw, referring to the procedures outlined in **State v. Jyles**, 96-2669 (La. 12/12/97), 704 So.2d 241 (per curiam), counsel indicated that after a review of the record and a diligent and conscientious effort, he could find no non-frivolous issues to raise on appeal.

The procedure in **Anders v. California**, 386 U.S. 738, 87 S.Ct. 1396, 18 L.Ed.2d 493 (1967), used in Louisiana, was discussed in **State v. Benjamin**, 573 So.2d 528, 529-31 (La. App. 4th Cir. 1990), sanctioned by the Louisiana Supreme Court in **State v. Mouton**, 95-0981 (La. 4/28/95), 653 So.2d 1176, 1177 (per curiam), and expanded by the Louisiana Supreme Court in **Jyles**, 704 So.2d at 242. 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

¹ In connection with these offenses, the defendant was charged in the same bill of information with several other defendants, including Eric Franklin, Rusty Dewayne Johnson, and Kyle Wade Jones. The record does not reflect any disposition on other codefendants.

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.

In this matter, defense counsel has complied with all the requirements necessary to file an **Anders** brief. Defense counsel has reviewed the procedural history of the case and as noted by defense counsel, the trial court imposed the agreed-upon sentences recited by the state in open court before the acceptance of the defendant’s guilty pleas. The state further agreed to drop count one and not file a habitual offender bill of information. The defendant was thoroughly questioned and informed of his **Boykin** rights (right to trial by jury, right against compulsory self-incrimination, and right of confrontation) prior to the acceptance of the guilty pleas and indicated that he understood and waived his rights. Defense counsel concludes in his brief that there are no non-frivolous issues for appeal. Further, defense counsel certifies that the defendant was served with copies of the **Anders** brief and the motion to withdraw as counsel of record. Defense counsel’s motion to withdraw notes that the defendant has been informed of his right to file a pro se brief on his own behalf, and the defendant has not filed a pro se brief.

This court has conducted an independent review of the entire record in this matter, including a review for error under LSA-C.Cr.P. art. 920(2). We have found no reversible errors in this case. Furthermore, we agree with defense counsel’s assertion that there are no non-frivolous issues or trial court rulings that arguably support this appeal. Accordingly, the defendant’s convictions and sentences are affirmed. Defense counsel’s motion to withdraw is granted.

CONVICTIONS AND SENTENCES AFFIRMED; DEFENSE COUNSEL’S MOTION TO WITHDRAW GRANTED.