

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NUMBER 2012 KA 1640

STATE OF LOUISIANA

VERSUS

FREDRICK JERMAINE TAYLOR

Judgment Rendered: April 26, 2013

Appealed from the
Nineteenth Judicial District Court
In and for the Parish of Baton Rouge
State of Louisiana
Docket Number 10-09-470

Honorable Bonnie Jackson, Judge Presiding

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Fredrick Jermaine Taylor

Fredrick Jermaine Taylor
Angola, LA

In Proper Person

BEFORE: GUIDRY, CRAIN, AND THERIOT, JJ.

Plg
mt.
NJ

GUIDRY, J.

The defendant, Fredrick Jermaine Taylor, was charged by grand jury indictment with second degree murder, a violation of La. R.S. 14:30.1. He pled not guilty and waived his right to a jury trial. Following a bench trial, he was found guilty as charged. The defendant was sentenced to life imprisonment at hard labor without the benefit of probation, parole, or suspension of sentence. He did not appeal in a timely manner, but was granted an out-of-time appeal. For the following reasons, we affirm the defendant's conviction and sentence, and we grant defense counsel's motion to withdraw.

FACTS

On September 4, 2009, the defendant rode his bicycle to The Haven at Windermere assisted living facility in Baton Rouge, the victim's place of employment, and entered the kitchen through the back door. He approached the victim, who was also his girlfriend, and said, "I told you I was going to get you." The defendant then attacked the victim, stabbing her thirty-one times. During the attack, one of the victim's coworkers tried to stop the defendant by jumping on his back, but he threw her off and continued stabbing the victim. Other coworkers threw wooden chairs at the defendant in an attempt to stop the attack. Witnesses described the defendant as possessed, determined, and outraged. When the defendant finally stopped stabbing the victim, he walked out of the building "like nothing had happened." He was apprehended by a police officer after the attack and stated, "I stabbed my old lady."

At trial, the defendant testified that he and the victim had been in a relationship for seven years and had a child together. He testified that he and the victim had been arguing in the days prior to the attack and that he attempted to call the victim approximately one-hundred times the night before the attack. According to the defendant, he went to the victim's place of employment on the

morning of the attack thinking that he was “just going to go see her” because he had not seen her in a couple of days. However, he admitted that he rode his bicycle a long distance from his apartment to the victim’s place of employment and brought the knife used in the attack with him in order “to do what [he] did.” The defendant admitted that he stabbed the victim and testified that he would have also killed himself if he would have made it home before being apprehended by the police.

DISCUSSION

Defense counsel has filed a motion to withdraw from the case. In accordance with the procedures outlined in Anders v. California, 386 U.S. 738, 744-45, 87 S.Ct. 1396, 1400, 18 L.Ed.2d 493 (1967), State v. Jyles, 96-2669, pp. 2-3 (La. 12/12/97), 704 So. 2d 241, 241-42 (per curiam), and State v. Benjamin, 573 So. 2d 528, 529 (La. App. 4th Cir. 1990),¹ defense counsel has filed a supporting brief to the motion to withdraw. The motion to withdraw argues that, after a diligent and conscientious review of the record, he has found no non-frivolous issues for appeal.

Defense counsel has notified the defendant of the filing of this motion and informed him of his right to file a *pro se* brief on his own behalf. The defendant has filed a *pro se* brief with this court.

In his sole *pro se* assignment of error, the defendant raises an ineffective assistance claim regarding his competency. The defendant notes that defense counsel was aware of his mental illness but failed to investigate the matter.

A claim of ineffective assistance of counsel is more properly raised by an application for postconviction relief in the district court, where a full evidentiary hearing may be conducted. However, where the record discloses sufficient

¹ In State v. Mouton, 95-0981, p. 1 (La. 4/28/95), 653 So. 2d 1176, 1177 (per curiam), the Louisiana Supreme Court sanctioned the procedures outlined in Benjamin for use by the appellate courts of Louisiana. See Jyles, 96-2669 at p. 1, 704 So. 2d at 241.

evidence to decide the issue of ineffective assistance of counsel when raised by assignment of error on appeal, it may be addressed in the interest of judicial economy. State v. Carter, 96-0337, p. 10 (La. App. 1st Cir. 11/8/96), 684 So. 2d 432, 438. A review of the record, including the minute entries, reveals that the defendant's mental status was never presented as an issue before the district court.

The defendant's allegations of ineffective assistance regarding his competency and mental state relate to pretrial and trial preparation and strategy. Decisions relating to investigation, preparation, and strategy cannot possibly be reviewed on appeal. Only in an evidentiary hearing in the district court, where the defendant could present evidence beyond what is contained in the instant record, could these allegations be sufficiently investigated. Thus, these allegations are not subject to appellate review. See State v. Albert, 96-1991, p. 11 (La. App. 1st Cir. 6/20/97), 697 So. 2d 1355, 1363-64; State v. Martin, 607 So. 2d 775, 788 (La. App. 1st Cir. 1992). Accordingly, the *pro se* assignment of error claiming ineffectiveness of counsel is not subject to appellate review. See State v. Allen, 94-1941, p. 8 (La. App. 1st Cir. 11/9/95), 664 So. 2d 1264, 1271, writ denied, 95-2946 (La. 3/15/96), 669 So. 2d 433.

This court has performed an independent, thorough review of the pleadings, minute entries, indictment, and transcripts in the appeal record. The defendant was properly charged by grand jury indictment with a violation of La. R.S. 14:30.1, and the indictment was signed by an assistant district attorney. The defendant was present and represented by counsel at the initial arraignment, bench trial, and sentencing. The sentence imposed is legal in all respects. See State v. Benjamin, 573 So. 2d at 531. Furthermore, we have found no reversible errors under Louisiana Code of Criminal Procedure article 920(2). Our independent review reveals no non-frivolous issues or district court rulings that arguably support this appeal. Accordingly, the defendant's conviction and sentence for second degree

murder are affirmed. Defense counsel's motion to withdraw, which has been held in abeyance pending disposition of this matter, is granted.

CONVICTION AND SENTENCE AFFIRMED; MOTION TO WITHDRAW GRANTED.