

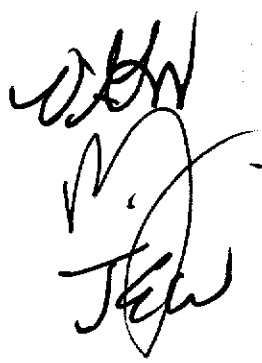
NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NO. 2013 KA 1989



STATE OF LOUISIANA

VERSUS

JEFFERY RODDY

Judgment Rendered: MAY 02 2014

\* \* \* \* \*

On Appeal from the  
23<sup>rd</sup> Judicial District Court,  
In and for the Parish of Ascension,  
State of Louisiana  
Trial Court No. 27143

The Honorable Jessie M. LeBlanc, Judge Presiding

\* \* \* \* \*

Hon. Ricky L. Babin,  
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State of Louisiana

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Baton Rouge, Louisiana

Attorney for Defendant/Appellant,  
Jeffery Roddy

\* \* \* \* \*

BEFORE: WHIPPLE, C.J., WELCH, AND CRAIN, JJ.

## **CRAIN, J.**

The defendant, Jeffery Scott Roddy, was charged by amended bill of information with simple burglary, a violation of Louisiana Revised Statute 14:62.<sup>1</sup> The defendant initially pled not guilty but later withdrew that plea and entered a plea of guilty as charged. The state also filed a habitual offender bill of information alleging the defendant was a second-felony habitual offender.<sup>2</sup> The defendant stipulated to the allegations of the habitual offender bill of information and was adjudicated a second-felony habitual offender. In accordance with the plea agreement, the defendant was sentenced to seventeen years imprisonment at hard labor without the benefit of probation or suspension of sentence. On appeal, defense counsel filed a brief raising no assignments of error, contending that there are no non-frivolous issues to argue on appeal, and requesting a review for error pursuant to Louisiana Code of Criminal Procedure article 920. Defense counsel also filed a motion to withdraw as counsel of record. We affirm the conviction, habitual offender adjudication, and sentence, and grant the motion to withdraw as counsel of record.

### **FACTS**

The facts surrounding the instant offense were not fully developed because the defendant pled guilty to the charged offense. However, at the time of the guilty plea, the defendant agreed with the factual basis set forth by the district attorney and read by the trial court prior to accepting the plea. According to that information, on or about June 5, 2010, the defendant entered property owned by

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<sup>1</sup> The defendant was originally charged with four counts of simple burglary and two counts of theft. The other counts were nolle prossed at the time of the defendant's guilty plea to one simple burglary offense.

<sup>2</sup> The habitual offender bill of information identifies the predicate conviction as the defendant's guilty plea on January 29, 2008, to simple burglary of an inhabited dwelling, bearing docket number 22428 in the 23<sup>rd</sup> Judicial District Court.

Harcot Construction on Megan Lane in Prairieville, Louisiana, without authorization and with the intent to commit a felony or theft therein.

### ANDERS BRIEF

The defense brief contains no assignments of error and sets forth that it is filed in accordance with *Anders v. California*, 386 U.S. 738, 744, 87 S.Ct. 1396, 1400, 18 L. Ed. 2d 493 (1967), and *State v. Jyles*, 96-2669 (La. 12/12/97), 704 So. 2d 241 (*per curiam*). In *Anders*, the United States Supreme Court stated that 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. *Anders*, 386 U.S. at 744, 87 S. Ct. at 1400. That request must, however, be accompanied by a brief referring to anything in the record that might arguably support the appeal. A copy of counsel's brief should be furnished to the indigent and time allowed him to raise any points that he chooses; the court - not counsel - then proceeds, after a full examination of all the proceedings, to decide whether the case is wholly frivolous. *Anders*, 386 U.S. at 744, 87 S. Ct. at 1400.

In *Jyles*, the Louisiana Supreme Court approved the procedures outlined in *State v. Benjamin*, 573 So. 2d 528 (La. App. 4 Cir. 1990), to comply with *Anders*. 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 place." *Jyles*, 704 So. 2d at 242 (quoting *State v. Mouton*, 95-0981 (La. 4/28/95), 653 So. 2d 1176, 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. *State v. Thomas*, 12-0177 (La. App. 1 Cir. 12/28/12), 112 So. 3d 875, 878.

In the present case, defense counsel reviewed the procedural history of the case in her brief. As noted by counsel, the trial court thoroughly questioned and informed the defendant of his *Boykin*<sup>3</sup> rights (right to trial by jury, right against compulsory self-incrimination, and right of confrontation) prior to the court's acceptance of the guilty plea, and the defendant indicated that he understood and waived his rights. The trial court further explained the defendant's rights as to the habitual offender bill of information, and the agreed upon sentence was set forth in the record prior to the acceptance of the stipulation and sentencing. Defense counsel asserts in her brief that there are no non-frivolous issues for appeal. The motion to withdraw confirms that the defendant was informed of his right to file a *pro se* brief on his own behalf, and the defendant has not filed a *pro se* brief. Defense counsel certified that the defendant was served with a copy of the *Anders* brief and the motion to withdraw. No pre-trial rulings were preserved for appeal under *State v. Crosby*, 338 So. 2d 584, 588 (La. 1976), and the defendant has not claimed that his plea was not knowingly and voluntarily given.

This court has conducted an independent review of the entire record in this matter, including a review for error under Louisiana Code of Criminal Procedure article 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 conviction, habitual offender adjudication, and sentence are affirmed. Defense counsel's motion to withdraw is granted.

**CONVICTION, HABITUAL OFFENDER ADJUDICATION, AND SENTENCE AFFIRMED; MOTION TO WITHDRAW GRANTED.**

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<sup>3</sup> See *Boykin v. Alabama*, 395 U.S. 238, 89 S.Ct. 1709, 23 L. Ed. 2d 274 (1969).