NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

2014 KA 0365

STATE OF LOUISIANA

VERSUS

TONY J. ARCHIE

Judgment Rendered: NOV 07 2014

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On Appeal from the
19th Judicial District Court
In and for the Parish of East Baton Rouge
State of Louisiana
No. 08-10-0417

The Honorable Bonnie Jackson, Judge Presiding

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BEFORE: GUIDRY, THERIOT, AND DRAKE, JJ.

DRAKE, J.

The defendant, Tony J. Archie, was charged by bill of information (as amended) with felony carnal knowledge of a juvenile, a violation of La. R.S. 14:80.[1] The defendant withdrew his former plea of not guilty, and pled guilty to the amended charge. The defendant was sentenced to six years imprisonment at hard labor. The trial court denied the defendant's motion to reconsider sentence. He now appeals. Contending that there are no non-frivolous issues to argue on appeal, the defense counsel filed a brief on behalf of the defendant raising no assignments of error and requesting a routine review for error pursuant to La. Code Crim. P. art. 920(2). The defense counsel also filed a motion to withdraw as counsel of record. For the following reasons, we affirm the conviction and sentence and grant the defense counsel's motion to withdraw.

STATEMENT OF FACTS

Since the defendant entered a plea of guilty, the facts were not fully developed in this case. At the time of the guilty plea, the trial court accepted the factual basis set forth by the State. According to the factual basis accepted in support of the guilty plea, on March 29, 2008, the mother of R.C.[2] (the sixteen-year-old victim who is the defendant's step-niece) returned to her residence and detected the occurrence of an inappropriate encounter between the defendant and the victim. The police were called, and they interviewed the victim and several family members and/or potential witnesses. While she initially denied any encounter, the victim ultimately admitted that she and the defendant had

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[1] The defendant was originally charged with four counts of aggravated incest, violations of La. R.S. 14:78.1. On the date of the defendant's guilty plea, the State amended count one and dismissed the remaining counts.

[2] According to the bill of information, the victim's date of birth is October 30, 1991. We reference this victim only by her initials or "the victim." *See* La. R.S. 46:1844(W).

consensual sexual relations several times over the period of time indicated in the amended bill of information.[3]

ANDERS BRIEF

The defense counsel has filed a brief containing no assignments of error and a motion to withdraw. In the brief and 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 conscientious and thorough review of the record, he could find no non-frivolous issues to raise on appeal and could find no trial court rulings that would support the appeal.

The procedure in *Anders v. California*, 386 U.S. 738, 87 S.Ct. 1396, 18 L.Ed.2d 493 (1967), as 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 review not only the procedural history of the case and the evidence presented at trial, but must also provide "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 *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.

Herein, the defense counsel has complied with all the requirements necessary to file an *Anders* brief. The defense counsel has reviewed the procedural

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[3] According to the original bill of information, the offenses began in June of 2007.

history and facts of the case. The defense counsel concludes in his brief that there are no non-frivolous issues for appeal. Further, the defense counsel certifies that the defendant was served with a copy of the *Anders* brief and motion to withdraw as counsel of record. The defense counsel's motion to withdraw notes 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.

As noted by defense counsel, the trial court thoroughly questioned and informed the defendant of his *Boykin*[4] rights (right to trial by jury, right against compulsory self-incrimination, and right of confrontation) prior to the acceptance of the guilty plea, and the defendant indicated that he understood and waived his rights. The trial court further set forth the statutory elements and range of sentence for the offense. Further, the defendant confirmed that he had not been intimidated, forced, or coerced to plead guilty. This Court has conducted an independent review of the entire record in this matter, including a review for error under La. Code Crim. P. art. 920(2). We have found no reversible errors in this case. Furthermore, we agree with the 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 and sentence are affirmed. The defense counsel' s motion to withdraw is granted.

CONVICTION AND SENTENCE AFFIRMED; DEFENSE COUNSEL'S MOTION TO WITHDRAW GRANTED.

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