

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NUMBER 2015 KA 0662

STATE OF LOUISIANA

VERSUS

EMILIO DEBRAM

Judgment Rendered: NOV 09 2015

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On appeal from the
Nineteenth Judicial District Court
In and for the Parish of East Baton Rouge
State of Louisiana
Docket Number 05-14-0830
Honorable Anthony J. Marabella, Jr., Judge

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Emilio Debram

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BEFORE: GUIDRY, HOLDRIDGE, AND CHUTZ, JJ.

GUIDRY, J.

The defendant, Emilio Debram, was charged by superseding bill of information with stalking in violation of a protective order, a violation of La. R.S. 14:40.2B(3). He entered a plea of guilty pursuant to a plea agreement with the State wherein other charges filed against him were dismissed,¹ and the State agreed not to file a habitual offender bill. Pursuant to the agreement, the defendant was sentenced to nine months in parish prison and ordered to sign a lifetime abuse prevention order. The defendant now appeals. For the following reasons, we affirm the defendant's conviction and sentence, and we grant defense counsel's motion to withdraw.

FACTS

Because the defendant pled guilty, the facts of his offense were not fully developed. According to the bill of information, Boykin² colloquy, and police reports, on March 30, 2014, around 7:21 p.m., officers with the Baton Rouge Police Department were dispatched in response to a reported disturbance at 3170 Elgin Street.³ Officers spoke with the victim, Debra Chretien, who was formerly married to the defendant. Chretien informed officers that she was fearful of her life due to the defendant's criminal history and violent tendencies. According to Chretien, the defendant repeatedly called her cellular telephone and drove by her house and other places that she frequents prior to March 30, 2014, and on that day, the defendant called Chretien and asked her to come to the Baton Rouge General Hospital, where

¹ The defendant was originally charged with improper telephone communications, a violation of La. R.S. 14:285 (count 1) and violation of a protective order, a violation of La. R.S. 14:79 (count 2).

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

³ While the Baton Rouge Police Department incident report lists the dispatch time as 7:21 p.m., the affidavit of probable cause indicates that officers with the Baton Rouge Police Department were dispatched to this address at 6:45 p.m.

he was being treated after “falling ill due to alcohol intake.” An officer drove to the hospital and, after the defendant was discharged, placed him under arrest.

DISCUSSION

The defense brief contains no assignments of error and sets forth that it is filed in conformity with State v. Jyles, 96-2669 (La. 12/12/97), 704 So. 2d 241 (per curiam), wherein the Louisiana Supreme Court approved the procedures outlined in State v. Benjamin, 573 So. 2d 528 (La. App. 4th Cir. 1990). Benjamin set forth a procedure to comply with Anders v. California, 386 U.S. 738, 744, 87 S.Ct. 1396, 1400, 18 L.Ed.2d 493 (1967), in which the United States Supreme Court discussed how appellate counsel should proceed when, upon conscientious review of a case, counsel finds an appeal would be wholly frivolous. Benjamin has repeatedly been cited with approval by the Louisiana Supreme Court. See Jyles, 96-2669 at p. 1, 704 So. 2d at 241; State v. Mouton, 95-0981, p. 1 (La. 4/28/95), 653 So. 2d 1176, 1177 (per curiam); State v. Royals, 600 So. 2d 653 (La. 1992). Defense counsel has reviewed the procedural history of the case in his brief. He contends that after a review of the record in this case, he has found no non-frivolous errors to present on appeal. He notes that there were no pre-trial rulings in this case and that the defendant was advised of his constitutional rights at the time of his plea. 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 recognize that our review of the guilty-plea colloquy is subject to the restraints of State v. Collins, 14-1461, p. 1 (La. 2/27/15), 159 So. 3d 1040 (per curiam) and State v. Guzman, 99-1528, pp. 6-7 (La. 5/16/00), 769 So. 2d 1158,

1162. Our independent review reveals no non-frivolous issues or trial court rulings that arguably support the defendant's appeal.

Accordingly, the defendant's conviction and sentence are affirmed. Defense counsel's motion to withdraw, which has been held in abeyance pending disposition of this matter, is hereby granted.

CONVICTION AND SENTENCE AFFIRMED; MOTION TO WITHDRAW GRANTED.