NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

2018 KA 0198

STATE OF LOUISIANA

VERSUS

JACQUEZ GRIFFIN

Judgment Rendered: DEC 2 1 2018

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On Appeal from the
Nineteenth Judicial District Court
In and for the Parish of East Baton Rouge
State of Louisiana
No. 09-16-0143

The Honorable Louis R. Daniel, Judge Presiding

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Hillar C. Moore, III District Attorney Monisa L. Thompson Assistant District Attorney Baton Rouge, Louisiana	Attorney for Appellee, State of Louisiana
Prentice L. White Baton Rouge, Louisiana	Attorney for Defendant/Appellant, Jacquez Griffin

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BEFORE: GUIDRY, THERIOT, AND PENZATO, JJ.

PENZATO, J.

The defendant, Jacquez Griffin, was charged by grand jury indictment with second degree murder, a violation of Louisiana Revised Statutes 14:30.1 (count one). He initially pled not guilty and proceeded to trial. During trial, pursuant to a plea agreement, the State amended the indictment to add armed robbery, a violation of Louisiana Revised Statutes 14:64 (count two), and the defendant withdrew his former plea and pled guilty to the responsive offense of manslaughter, a violation of Louisiana Revised Statutes 14:31, on count one and guilty as charged on count two. He was then sentenced to forty years at hard labor on count one and sixty years at hard labor without the benefit of probation, parole, or suspension of sentence on count two. The district court ordered that the sentences run concurrently. The defendant filed a motion for appeal, which was granted. Contending that there are no non-frivolous issues upon which to support the appeal, appellate counsel filed a brief raising no assignments of error. For the following reasons, we affirm the defendant's convictions and sentences and grant appellate counsel's motion to withdraw.

FACTS

At the defendant's *Boykin*[1] hearing, the State offered the evidence that it presented at the defendant's trial for a factual basis and noted that it had rested. On May 23, 2016, Baton Rouge City Police Officers investigated a car which had struck a fire hydrant on the corner of Wenonah Street and Winbourne Avenue in Baton Rouge. They found the body of the victim, Broderick Brooks, in the driver's seat of the vehicle, which was still running. He had been fatally shot. Two bullets were in the vehicle, and three cartridge casings were located approximately one and one-half blocks from the vehicle near Erie Street. The

[1] *Boykin v. Alabama*, 395 U.S. 238, 243, 89 S.Ct. 1709, 1712, 23 L.Ed.2d 274 (1969).

trunk of the vehicle was tidy, but the interior of the vehicle showed signs of having been searched. The victim's wallet and cellphone were missing.

DNA evidence recovered from the victim's body was compatible with the defendant's DNA profile with a 1 in 151 quintillion probability of finding the same deduced DNA profile if the DNA had come from an unrelated, random individual in the black community. The defendant's fingerprint was also present on sunglasses located near the victim's vehicle.

After being *Mirandized*,[2] the defendant indicated he shot the victim because the victim had followed him while the defendant was riding his bicycle. The defendant claimed the victim "acted like he was reaching for a gun." No weapon, however, was recovered from the victim or his vehicle, and his widow testified he was afraid of guns and neither kept one in their home nor his vehicle. The defendant denied taking anything or rummaging through the vehicle. The defendant indicated the gun recovered from his bedroom was the weapon he used to shoot the victim. Additionally, the cartridge casings recovered near the victim's vehicle were fired from the weapon.

ANDERS BRIEF

Appellate counsel's brief contains no assignments of error and sets forth that it is filed to conform with *State v. Jyles*, 96-2669 (La. 12/12/97), 704 So.2d 241 (per curiam). Accordingly, appointed counsel requests to be relieved from further briefing in this case.

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.

[2] *Miranda v. Arizona*, 384 U.S. 436, 86 S.Ct. 1602, 16 L.Ed.2d 694 (1966).

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 and the facts of the case, 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. *State v. Thomas*, 2012-0177 (La. App. 1st Cir. 12/28/12), 112 So.3d 875, 878 (en banc).

Here, appellate counsel has adequately complied with the requirements necessary to file an *Anders* brief. Appellate counsel reviewed the procedural history, the *Boykin* examination, the testimonial evidence, the statements made by defendant on a DVD during an investigation by a detective, the coroner's report on the victim, DNA evidence, and the ballistic evidence from the State's expert witness. Appellate counsel concludes in his brief that there are no non-frivolous issues for appeal. Further, appellate counsel certifies that the defendant was served with a copy of the *Anders* brief and notified of his right to file a pro se brief. The defendant has not filed a pro se brief.

At the defendant's *Boykin* hearing, prior to the acceptance of his guilty plea, the district court informed him of the statutory elements and sentencing ranges for the offenses. The defendant stated that he understood the offenses and the sentencing ranges. The district court informed the defendant of his *Boykin* rights (right to trial by jury, right against compulsory self-incrimination, and right of confrontation), his right to an appeal, and that by pleading guilty, he would be waiving his rights. The defendant indicated that he understood and waived his

rights and accepted the State's factual basis. The defendant confirmed that he had not been intimidated, forced, or coerced to plead guilty. The district court imposed the sentence in accordance with the plea agreement and underlying statutes.

This court has conducted an independent review of the appellate record in this matter, including a review for error under Louisiana Code of Criminal Procedure article 920(2). Since the defendant pled guilty, our review of the guilty plea colloquy is limited by *State v. Collins*, 2014-1461 (La. 2/27/15), 159 So.3d 1040 (per curiam) and *State v. Guzman*, 99-1753 (La. 5/16/00), 769 So.2d 1158, 1162. We have found no reversible errors under Louisiana Code of Criminal Procedure article 920(2). Furthermore, we have found no non-frivolous issues or district court rulings that arguably support this appeal. Accordingly, the defendant's convictions and sentences are affirmed. Appellate counsel's motion to withdraw is hereby granted.[3]

CONVICTIONS AND SENTENCES AFFIRMED; MOTION TO WITHDRAW GRANTED.

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[3] This court grants the second motion to withdraw filed on November 8, 2018, following the supplementation of the record with the trial transcript. The original motion to withdraw was denied on August 13, 2018, as the record did not contain the trial transcript.