

STATE OF LOUISIANA

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NO. 2000-KA-0622

VERSUS

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COURT OF APPEAL

ALDEN R. MORGAN

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FOURTH CIRCUIT

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STATE OF LOUISIANA

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APPEAL FROM
CRIMINAL DISTRICT COURT ORLEANS PARISH
NO. 402-190, SECTION "G"
HONORABLE JULIAN A. PARKER, JUDGE

JUDGE JAMES F. MCKAY III

(Court composed of Judge Joan Bernard Armstrong, Judge Patricia Rivet Murray, Judge James F. McKay, III)

LAURA PAVY
LOUISIANA APPELLATE PROJECT
New Orleans, Louisiana
Attorney for Defendant/Appellant

AFFIRMED

Alden R. Morgan was charged by bill of information on October 12,

1998, with armed robbery, a violation of La. R.S. 14:64. At his arraignment on October 16th he pleaded not guilty. Probable cause was found and the motions to suppress the identification, evidence, and confession were denied on December 14, 1998. After trial on February 1, 1999, a twelve-member jury found him guilty as charged. He was sentenced on March 11th to serve ninety-nine years at hard labor without benefit of parole, probation, or suspension of sentence. The defendant filed a motion for a new trial which was denied at sentencing and a motion for reconsideration of sentence which was denied after a hearing on July 9, 1999. The defendant's motion for an appeal was granted.

Officer Jeffery Hochman testified that he investigated a robbery in the 1100 block of Second Street on August 9, 1998. There he learned that an armed robbery and car jacking had occurred in which a red 1996 Volvo was taken and a shot was fired. A cellular telephone was in the car, and the officer was able to trace the position of the car with the help of the cellular company. Officer Hochman radioed a description of the car to officers in the Canal Street/ Rampart Street area, and the Volvo was soon located. A chase ensued in which the Volvo hit a tree, and the driver fled. Officer Hochman went door to door in the neighborhood until he saw a blue bandanna in a driveway. The victims had described the robber as wearing a

blue bandanna over his face. The officer spoke to the homeowner who nervously stated that he thought someone was on his property. Alden Morgan was found in a shed. After being given his Miranda rights, Morgan made a statement which the officer read for the jury. In his statement, Morgan said he “went up and asked them people for some money.” He was carrying a “black gun with a brown handle” when he approached a couple with a baby. The man threw his wallet to the ground while the woman got the baby out of the car. When Morgan reached for the wallet, “the gun went off, pow!” and Morgan demanded the car keys which the man handed over. Morgan then drove off and picked up his cousin; they drove around Elysian Fields Avenue, stopping to get something to eat at Anita’s on Tulane Avenue. However, the shifts were changing there, and Morgan decided to go to “the Iberville to get a bag of weed”; the police began chasing the car at that point. After wrecking the car, Morgan and his cousin tried to hide, but the police found them. The defendant said he is addicted to heroin, “weed, rocks and powder.” Morgan said he dropped the gun when he was running from the police and that the man’s wallet and the woman’s purse were in a trash can at a service station on Elysian Fields Avenue.

Sergeant Christy Williams, who assisted Officer Hochman, testified that the purse and wallet taken from the victims were recovered by a

maintenance man at the service station on Elysian Fields Avenue. The gun was recovered from an apartment in the St. Bernard housing project.

Officer Demetrius Jackson testified that he received a description of the stolen Volvo while he was on patrol, and about 5:15 a.m. when he saw the car, he tried to pull it over. However, the car speeded up, and after a chase, the car crashed on Paris Avenue. There were two people in the car, and the defendant was driving. They fled when the car stopped.

Mr. Phillip Spengeman, the victim, testified that on August 9, 1998, he, his wife, and their three-year-old daughter had been visiting friends on First Street. About 2 a.m. as they were strapping the child into her car seat, Mr. Spengeman noticed a man walking toward them. He had a gun, and he instructed Spengeman to drop his keys and take the child out of the car. Mr. Spengeman dropped his wallet also. The couple and child went back to the house and called the police. Mrs. Spengeman's cell phone was in the car. Later, Mr. Spengeman selected the defendant from a line-up and named him as the man who robbed him at gunpoint.

Mr. Andrew Harrelson, who attended the same dinner as Phillip Spengeman, testified that he was leaving just after the Spengemans, and he saw the robbery occur. He heard Phillip Spengeman say something and then

saw Spengeman drop his keys and wallet. He saw a man wearing a mask and carrying a gun, and he heard a gunshot. Mr. Harrelson ran into the house and called the police. He was able to give a description of the robber's clothing to the police.

Mrs. Lois Spengeman testified to the same facts as her husband. She described the robber as wearing a navy blue bandanna on the lower part of his face. Mrs. Spengeman said her purse, cell phone, some Tupperware dishes, and her sandals were in the car when it was taken.

Counsel filed a brief requesting a review for errors patent. Counsel complied with the procedures outlined by Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967), as interpreted by this Court in State v. Benjamin, 573 So. 2d 528 (La. App. 4th Cir. 1990). Counsel filed a brief complying with State v. Jyles, 96-2669 (La. 12/12/97), 704 So. 2d 241. Counsel's detailed review of the procedural history of the case and the facts of the case indicate a thorough review of the record. Counsel moved to withdraw because she believes, after a conscientious review of the record, that there is no non-frivolous issue for appeal. Counsel reviewed available transcripts and found no trial court ruling which arguably supports the appeal. A copy of the brief was forwarded to defendant, and this Court informed him that he had the right to file a brief in his own behalf. He has not done so.

As per State v. Benjamin, this Court performed an independent, thorough review of the pleadings, minute entries, bill of information, and transcripts in the appeal record. Defendant was properly charged by bill of information with a violation of La. R.S. 14:64, and the bill was signed by an assistant district attorney. Defendant was present and represented by counsel at arraignment, motion hearings, jury selection, trial, and sentencing. A review of the trial transcript reveals that the State proved the offense beyond a reasonable doubt. The sentence is legal in all respects.

Accordingly, the defendant's conviction and sentence are affirmed. Appellate counsel's motion to withdraw is granted.

AFFIRMED