

STATE OF LOUISIANA

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NO. 2000-KA-1854

VERSUS

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COURT OF APPEAL

RASHAW S. JACKSON

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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. 396-119, SECTION "E"
Honorable Calvin Johnson, Judge

Charles R. Jones
Judge

(Court composed of Judge Joan Bernard Armstrong, Judge Charles R. Jones,
and Judge Dennis R. Bagneris, Sr.)

ARMSTRONG, J., CONCURS

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AFFIRMED; MOTION TO WITHDRAW GRANTED

Rashaw S. Jackson appeals his conviction and sentence for attempted possession of heroin. On appeal, he seeks our review to determine whether errors are patent in his trial record. We affirm.

PROCEDURAL HISTORY

Jackson was charged by Bill of Information with possession of heroin. After waiving his right to a jury trial he was found guilty of attempted possession of heroin. The district court then deferred sentencing and ordered Jackson to participate in the intensive drug court program, to obtain a GED, to perform one hundred hours of community service, and to pay certain fees. Subsequently, Jackson was sentenced under La. R.S. 13:5301-5304, the Louisiana. Court Drug Abuse Program, to serve four years in the Department of Corrections; the sentence was suspended, and he was placed on five years of active probation with conditions. One of the conditions was his completion of the drug program at Odyssey House as an inpatient. His timely appeal followed.

FACTS

At trial Officer Kyle Hinrichs testified that he and his partner, Officer

Robert Ferrier, received word that a young man, later identified as Jackson, was selling narcotics at the intersection of South Prieur and Thalia Streets; and that Jackson was wearing black sweat pants, a black Raiders jacket, and white tennis shoes. About 7:35 p.m. on December 28, 1997, the officers set up surveillance about a block from that intersection and observed a young man matching the description given and standing on the corner. A woman approached Jackson and handed him currency. Jackson reached into his sweat pants for an object that he handed to the woman who then left. Fifteen minutes later a young man walked up to Jackson and gave him currency which Jackson exchanged for an object obtained from his sweat pants, and the man walked away. Ten minutes later another man appeared and spoke to Jackson for about five minutes. Jackson then reached into his sweat pants and took out currency, which he handed to the man.

The officers decided to approach Jackson, and by the time they got to the intersection, two other young men were speaking with Jackson. Sergeant Steve Gaudet arrived to assist the officers, and the two men speaking with Jackson were investigated and dismissed. When Officer Gaudet searched Jackson, eight wax paper packages containing heroin were found in his sweat pants.

Sergeant Gaudet testified at trial as to finding the packets in Jackson's

pants.

Counsel on appeal has 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 he 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 Jackson, 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, supra, this Court performed an independent, thorough review of the pleadings, minute entries, Bill of Information, and transcripts in the appeal record. Jackson was properly charged by Bill of Information with a violation of La. R.S. 40:966(C), and the bill was signed by an assistant district attorney. Jackson was present and represented by counsel at arraignment, 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. Our independent review reveals no non-frivolous issue and no trial court ruling which arguably supports the appeal. Jackson's conviction and sentence are affirmed. Appellate counsel's motion to withdraw is granted.

AFFIRMED;
MOTION TO WITHDRAW GRANTED