

NOT DESIGNATED FOR PUBLICATON

STATE OF LOUISIANA * **NO. 2000-KA-1893**
VERSUS * **COURT OF APPEAL**
DERRICK EDDINGTON * **FOURTH CIRCUIT**
* **STATE OF LOUISIANA**
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APPEAL FROM
CRIMINAL DISTRICT COURT ORLEANS PARISH
NO. 411-078, SECTION "K"
HONORABLE ARTHUR HUNTER, JUDGE

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JUDGE MAX N. TOBIAS, JR.

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(Court composed of Chief Judge William H. Byrnes III, Judge Steven R. Plotkin, Judge Max N. Tobias, Jr.)

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AFFIRMED; MOTION GRANTED

Derrick Eddington was charged by bill of information on 17 May 1999 with unauthorized use of a motor vehicle, a violation of La. R.S. 14:68.4. At his arraignment on 27 May 1999, he pleaded not guilty. Probable cause was found and the motion to suppress the evidence and statement was denied on 12 October 1999. A six-member jury found him guilty as charged after trial on 19 January 2000, and he was sentenced on 2 February 2000 to serve four years in the Department of Corrections. The trial court recommended that he enter the Boot Camp Program in Orleans Parish Prison. The defendant's motion for reconsideration of sentence was denied, and his motion for an appeal was granted.

At trial, Agent Ronnie Martin of the St. Bernard Sheriff's Office testified that about 4 p.m. on 30 December 1998, he and his partner, Deputy Bob Rogers, were on patrol on St. Bernard Highway when they stopped the driver of a Buick because the vehicle had no license plate. The driver identified himself as Derrick Eddington and produced his driver's license. However, he did not have the registration or the insurance information on

him or in the vehicle. He claimed that the car belonged to his aunt, and he did not know where she kept those papers; furthermore, he did not know her telephone number or how to reach her. The officers asked the driver and the two passengers to step out of the vehicle while they checked the vehicle's registration number on the police computer; the check revealed that the vehicle was not registered there. When he walked to the rear of the vehicle, Agent Martin observed a temporary license tag that had fallen down into the rear speaker panel. Normally the registration is affixed to the back of a temporary tag, but in this case a Fleet Insurance Card indicating "Fleet Insurance registered to Crown Buick" was stapled to the tag. The agent gave the information he had to his dispatcher and learned that the vehicle was part of the inventory of Crown Buick and was on loan to the Fairmont Hotel. When the manager of the Fairmont Hotel was contacted, Agent Martin learned that the vehicle should have been parked in the hotel parking garage and that no one had permission to drive it. The defendant and his companions were arrested. The defendant confessed that he took the car from the Fairmont Hotel about 3 p.m., and he was found to have in his possession a control access card to the hotel's parking lot. The defendant and his passengers were transported to Agent Martin's office where the agent overheard Eddington repeat his confession to the booking officer.

Michael Pendergast, the manager of the Fairmont Hotel, testified that he made arrangements to borrow a vehicle from the Crown Buick Company for a few days for the use of the owner of the hotel who was visiting New Orleans during the Christmas holidays with his family. Prior to 30 December 1998, Mr. Pendergast had gone to the Buick dealership, signed the vehicle out under his own name, and took it to the hotel garage where he assumed the vehicle was parked until he received a call from Agent Martin requesting information. Mr. Pendergast authorized the owner of the hotel to use the vehicle during his stay in the city, but he did not give permission to anyone else to use the vehicle. Mr. Pendergast retrieved the vehicle from the police later that day.

Detective Kenny Miestchovich testified that he transported Mr. Pendergast to St. Bernard Parish to pick up the Buick. The detective also learned at the parking lot across the street from the Fairmont Hotel that the vehicle had been taken to the parking lot at 2:13 p.m. on 30 December 1998. He went to the lockup in St. Bernard Parish and met with the defendant. After being advised of his constitutional rights, the defendant said he was responsible for taking the vehicle, and the two people with him were not involved. Mr. Eddington said he had worked at the parking garage and knew that at 3 p.m. the shifts change and no one is watching the car keys. At

that time, he picked up the key, went upstairs, and took the vehicle. He was able to drive out of the parking garage because he had a control access card to open the barricade.

Mr. Eddington testified to another version of events at trial. He acknowledged he was driving the Buick when the officers stopped him. However, he said that he thought the car belonged to the passenger, Quinten Tadlock, his former friend. Mr. Tadlock was giving him a ride but had asked Mr. Eddington to drive because Mr. Tadlock had no license. Mr. Eddington denied confessing to the crime. In fact he said another employee of the parking garage had stolen the vehicle and then sold it to Mr. Tadlock. Mr. Eddington admitted to prior convictions; he has a federal conviction for possession of stolen credit cards and a state conviction for possession of a stolen vehicle. (Mr. Eddington explained that both convictions came out of the same incident, although he claimed he did not know the vehicle was stolen).

Appellate 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). Appellate counsel's brief complies with State v. Jyles, 96-2669 (La. 12/12/97), 704 So. 2d 241.

Appellate counsel's detailed review of the procedural history of the case and the facts of the case indicate a thorough review of the record. Appellate counsel moved to withdraw because he believes, after a conscientious review of the record, that no non-frivolous issue for appeal exists. Appellate counsel reviewed available transcripts and found no trial court ruling, which arguably supports the appeal. A copy of the brief was forwarded to Mr. Eddington, 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. Mr. Eddington was properly charged by bill of information with a violation of La. R.S. 14:68.4, and the bill was signed by an assistant district attorney. Mr. Eddington 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. Our independent review reveals no non-frivolous issue and no trial court ruling which arguably supports the appeal.

Defendant's conviction and sentence are affirmed. Appellate counsel's motion to withdraw is granted.

AFFIRMED; MOTION GRANTED