

STATE OF LOUISIANA

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NO. 2001-KA-0082

VERSUS

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COURT OF APPEAL

TRINELL SIPPION

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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. 411-731, SECTION "H"
Honorable Camille Buras, Judge

JUDGE

JOAN BERNARD ARMSTRONG

(Court composed of Judge Joan Bernard Armstrong, Judge Patricia Rivet
Murray and Judge David S. Gorbaty)

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COUNSEL FOR DEFENDANT/APPELLANT

AFFIRMED.

The defendant, Trinell Sippio, was charged by bill of information on January 4, 2000, with solicitation for a crime against nature in violation of La. R.S. 14:89(2). At her arraignment on January 21, 2000 the defendant pleaded not guilty. At a hearing on February 10, 2000 the trial court found probable cause to bind the defendant over for trial, and the defendant's motion to quash was denied on March 3, 2000. On March 16, 2000, the day set for trial, the defendant withdrew her earlier plea and entered a plea of guilty as charged under State v. Crosby, 338 So.2d 584 (La. 1976). On that same day the state filed a multiple bill charging Trinell Sippio as a second felony offender, and after being advised of her Boykin rights, she pleaded guilty to the bill; she was then sentenced to serve thirty months at hard labor under La. R.S. 15:529.1. The defendant's motion for reconsideration of sentence was denied and her motion for an appeal was granted.

At the sentencing hearing, the assistant district attorney summed up the facts:

[O]n November 25, 1999, at approximately 12:45 a.m., the defendant flagged down members of the Vice Squad of the New Orleans Police Department. And she solicited them for oral copulation in [sic] the amount of twenty-five

dollars.

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. 4 Cir. 1990). Counsel filed a brief complying with State v. Jyles, 96-2669 (La. 12/12/97), 704 So.2d 241. A copy of the brief was forwarded to the defendant, and this Court informed her that she had the right to file a brief in her own behalf. She 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 transcript in the appeal record. Our review indicates an error patent in that the district attorney failed to sign the bill of information as required by La. C.Cr.P. art. 384. However, an indictment shall not be invalid or insufficient because of a defect in form only. La. C.Cr.P. art. 487. Assuming that the reverse of the indictment was not properly endorsed and signed, these omissions are formal defects only, and must be taken advantage of before trial by motion to quash. State v. Lee, 94-2584 (La. App. 4 Cir. 1/19/96); 668 So.2d 420; State v. White, 404 So.2d 1202 (La.1981). Assuming there was a defect in the indictment, it was waived by the defendant's failure to timely object.

The defendant was present and represented by counsel at arraignment, motion hearings, and sentencing. 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.

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

AFFIRMED.