

**NOT DESIGNATED FOR PUBLICATION**

<b>STATE OF LOUISIANA</b>	*	<b>NO. 2001-KA-0237</b>
<b>VERSUS</b>	*	<b>COURT OF APPEAL</b>
<b>ALFRED ARMAND</b>	*	<b>FOURTH CIRCUIT</b>
	*	<b>STATE OF LOUISIANA</b>
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APPEAL FROM  
CRIMINAL DISTRICT COURT ORLEANS PARISH  
NO. 407-430, SECTION "K"  
Honorable Arthur Hunter, Judge  
\* \* \* \* \*

**Judge Dennis R. Bagneris, Sr.**  
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(Court composed of Judge Joan Bernard Armstrong, Judge James F. McKay,  
III, and Judge Dennis R. Bagneris, Sr.)

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**REVERSED AND REMANDED FOR SENTENCING**

This is an appeal by the state as to one issue only: the trial court's right to find a defendant a third rather than a fourth felony offender when the state's evidence is sufficient to prove the four offenses.

Armand Alfred was charged by bill of information on June 11, 1999, with purse snatching in violation of La. R.S. 14:65.1. At his arraignment on June 14<sup>th</sup> he pleaded not guilty. Probable cause was found after a hearing on August 17<sup>th</sup>. The defendant elected a judge trial after being apprised of his constitutional right to a trial by jury, and on November 11<sup>th</sup>, after trial on the matter, he was found to be guilty as charged. He was sentenced on November 18<sup>th</sup> to serve eight years at hard labor. The state filed a multiple bill charging Alfred as a fourth felony offender, and after a hearing on December 10<sup>th</sup>, the trial court found the defendant to be a third felony offender under La. R.S. 15:529.1; the state objected to the finding. The trial court put off sentencing because the defense wanted to offer testimony that Alfred should be sentenced under State v. Dorthey, 623 So. 2d 1270 (La. 1993).

The facts of the case are not at issue here and are not part of the record on appeal.

The state argues in a single assignment of error that the trial court erred in finding the defendant to be a third rather than a fourth felony offender.

La. R.S. 15:529.1(D)(1)(b) states that the district attorney has the burden of proving beyond a reasonable doubt any issue of fact and that the presumption of regularity of judgment shall be sufficient to meet the original burden of proof. The State must establish the prior felony and that the defendant was the same person convicted of that felony. State v. Neville, 96-0137 (La. App. 4 Cir. 5/21/97), 695 So.2d 534. There are various methods available to prove that the defendant is the same person convicted of the prior felony offense, such as testimony from witnesses, expert opinion regarding the fingerprints of the defendant when compared with those in the prior record, or photographs in the duly authenticated record. State v. Henry, 96-1280 (La. App. 4 Cir. 3/11/98), 709 So.2d 322.

At the multiple bill hearing, the state introduced evidence showing that Alfred had been convicted of unauthorized entry of an inhabited dwelling in 1989, of attempted sexual battery in 1991, and of simple robbery in 1994. Officer Raymond Loosemore, an expert in fingerprint analysis, testified that he took the defendant's fingerprints in court December 10, 1999, and compared them to the fingerprints on the arrest registers and bills

of information in the prior offenses. He found the fingerprints on the bills of information for the crimes of 1989 and 1994 matched the defendant's fingerprints taken in court that day. However, the fingerprints on the bill of information for the 1991 crime (attempted sexual battery) were not suitable for identification. Officer Loosemore then compared the fingerprints on the arrest register for the 1991 crime to the current fingerprints of the defendant and found that they matched. Furthermore, the officer compared the name of the arrested subject, the information as to the crime and the police item number information and found the information was the same.<sup>1</sup>

The defense maintains that the fingerprints from an arrest register do not meet the La. R. S. 15:529.1 criteria. However, in State v. Wolfe, 99-0389 (La. App. 4 Cir. 4/19/00), 761So. 2d 596, this Court held that testimony comparing a defendant's current fingerprints with fingerprints found on prior arrest records was sufficient to prove that the defendant was the person convicted of the prior offenses. Thus, in this case the State proved the defendant's identity as the person who committed the 1991 predicate offense.

Accordingly, the decision of the trial court is reversed, and the case is remanded for sentencing the defendant as a fourth felony offender.

**REVERSED AND REMANDED FOR SENTENCING**