

**NOT DESIGNATED FOR PUBLICATION**

**STATE OF LOUISIANA** \* **NO. 2001-KA-0287**  
**VERSUS** \* **COURT OF APPEAL**  
**COY CONNERLY, A/K/A COY** \* **FOURTH CIRCUIT**  
**CONNALY** \* **STATE OF LOUISIANA**

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APPEAL FROM  
CRIMINAL DISTRICT COURT ORLEANS PARISH  
NO. 416-775, SECTION "J"  
Honorable Leon Cannizzaro, Judge

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**Judge Dennis R. Bagneris, Sr.**  
\* \* \* \* \*

(Court composed of Judge James F. McKay, III, Judge Dennis R. Bagneris, Sr., Judge David S. Gorbaty)

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***COUNSEL FOR DEFENDANT/APPELLANT***

**AFFIRMED; MOTION TO WITHDRAW AS COUNSEL FOR APPELLANT GRANTED**

***ASSIGNMENT OF ERROR:***

The defendant requests a review of the record for errors patent. Coy J. Connaly (“Connaly”, “the defendant”), also know as Coy Conerly, was charged by bill of information on September 19, 2000, with possession of cocaine, in violation of La. R.S. 40:967(C). At his arraignment on September 25, 2000, he pled not guilty. However, after trial on October 11, 2000, a six-member jury found the defendant guilty as charged. On November 22, 2000, the State filed a multiple bill charging the defendant as a second felony offender, and, after being advised of his Boykin rights, Connaly pled guilty to the bill. He was then sentenced to serve four years at hard labor under La. R.S. 15:529.1. The defendant’s motion for reconsideration of sentence was denied, and his motion for an appeal was granted.

At trial Officer Sal Battaglia testified that on September 5, 2000, he met with people living in the 1300 block of Leharpe Street. As a result of that conversation, the officer entered an abandoned house at 1358 Leharpe Street, where he found the door unlocked, the windows broken, and no electricity or water services working. The house was filled with trash and smelled of human feces. No one was inside, but the officer saw many plastic

bags of the type used in street-level narcotics trades. The next day, the officer decided to make another check of the house. When he walked into the living room, he saw Connaly there smoking a crack pipe. As soon as the defendant became aware of the officer's presence, he put the pipe on a nearby shelf. Officer Battaglia noted that Connaly's eyes were bloodshot, his speech was slurred, and he "had a hard time balancing himself." The pipe Connaly had put on the shelf was still warm and had a burned end with a white residue. Connaly was arrested for public intoxication, trespassing, and a drug violation. In a search incident to arrest, the officer found that Connaly possessed a small metal container in which there was a white rock and a single razor blade.

Officer Harry O'Neal, an expert in analysis of controlled dangerous substances, testified that he tested the white rock from the metal box and the residue in the pipe. Both substances proved to be crack cocaine.

Coy Connaly, the fifty-five year old defendant, testified that on September 5, 2000, he was at the house on Laharpe Street when the officer pulled up to it. He told the officer that he was looking for his friend James, who owned the house. On the next day, the officer banged on the door and demanded admittance. Connaly opened the door and let him in; the officer asked if anyone else was there, and Connaly said he did not think so. At that

point, the officer gave Connaly a brief patdown for weapons, and he took Connaly's wallet, cigarettes and lighter. Connaly denied that the officer found a small metal box or a pipe in Connaly's possession. He testified that the officer found those items *after* Connaly was placed in the police car, and the officer searched the house. Connaly admitted he had a criminal record for possessing cocaine and a crack pipe. He also admitted that he had had a crack problem.

Officer Battaglia testified in rebuttal that he might have seen Connaly two or three days prior to September 6, 2000, the day Connaly was arrested. However, the officer insisted that he saw Connaly inhaling from a crack pipe when he walked into the house on September 6, 2000. He denied planting the drugs on the defendant.

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 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 Connaly, 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. We find that the defendant was properly charged by bill of information with a violation of La. R.S. 40:967(C), and the bill was signed by an assistant district attorney. Defendant was present and represented by counsel at arraignment, jury selection, trial, and sentencing.

The sentence is legal in all aspects. Our independent review reveals no non-frivolous issue and no trial court ruling which arguably supports the appeal. Therefore, the defendant's conviction and sentence are affirmed. Appellate counsel's motion to withdraw is granted.

**AFFIRMED; MOTION TO WITHDRAW AS COUNSEL FOR**

**APPELLANT GRANTED**