

**NOT DESIGNATED FOR PUBLICATION**

**STATE OF LOUISIANA** \* **NO. 2001-KA-0972**  
**VERSUS** \* **COURT OF APPEAL**  
**HENRY HARRIS** \* **FOURTH CIRCUIT**  
\* **STATE OF LOUISIANA**  
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**APPEAL FROM**  
**CRIMINAL DISTRICT COURT ORLEANS PARISH**  
**NO. 418-302, SECTION "J"**  
**Honorable Leon Cannizzaro, Judge**  
\* \* \* \* \*  
**Judge Dennis R. Bagneris, Sr.**  
\* \* \* \* \*

(Court composed of Chief Judge William H. Byrnes, III, Judge Miriam G. Waltzer, and Judge Dennis R. Bagneris, Sr.)

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### **CONVICTION AND SENTENCE**

#### **AFFIRMED**

Henry Harris was charged by bill of information on November 27, 2000, with purse snatching in violation of La. R.S. 14:65.1. At his arraignment on December 4<sup>th</sup> he pleaded not guilty. After trial on January 11, 2001, a six-member jury found him guilty of attempted purse snatching. The state filed a multiple bill charging Harris as a third felony offender, and after a hearing on March 27<sup>th</sup> at which the state proved the charge, he was sentenced to life imprisonment at hard labor as a third felony offender. His motion to reconsider the sentence was denied, and his motion for an appeal

was granted.

At trial Mr. Merwin Klein testified that about 9:30 p.m. on September 25, 2000, he and Alice Plaatje were walking to their hotel on Esplanade Avenue when they were jumped by two men. Ms. Plaatje began screaming, and a resident of the area called 911. Ms. Plaatje's purse was taken. Within moments the police appeared, took descriptions of the assailants, and a short time later, returned with the defendant.

Ms. Alice Plaatje described hearing a "rush of footsteps" before the attack. (Trial transcript, p. 24). Then the assailant shoved her and demanded her purse. She refused to give it up and used it to hit the defendant. However, he was able to get it from her before he turned and ran. Meanwhile she had begun screaming. People came out on a balcony, and she asked them to call 911. When the police arrived, they took her description of her attacker and returned with Harris. She identified him as the man who snatched her purse. After Ms. Plaatje pleaded that she needed medication from the purse, Harris told the officers where the purse could be found, and they retrieved it. Ms. Plaatje recovered most of her belongings. However, the purse had been emptied into a barrel, and she could not find some of her jewelry.

Officer Ronnie Voorhies testified that about 9:30 p.m. on September

25, 2000, he and his partner, Officer Sal Battaglia, responded to a call concerning an armed robbery at the intersection of Esplanade Avenue and Marais Street. In the 1300 block of Columbus Street the officers saw two men who matched the descriptions of the suspects and who appeared very nervous on seeing the police car. When the officers stopped, one of the men began to run. Officer Voorhies detained Harris and held him in the back of a police car so that the victims could view him. Mr. Klein identified Harris as the man who took Ms. Plaatje's purse.

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 she 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 defendant, 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. Defendant was properly charged by bill of information with a violation of La. R.S. 14:65.1, and the bill was signed by an assistant district attorney. Defendant was present and represented by counsel at arraignment, motion hearings, trial, and sentencing.

We note an error patent in the sentence. The defendant was sentenced under La. R.S. 15:529.1(A)(1)(b)(ii), which provides for a life sentence without benefit of parole, probation or suspension of sentence. The trial court did not deny the benefits. However, under La. R.S. 15:529.1(G), the sentence is imposed without probation or suspension of sentence. The error as to parole is favorable to the defendant, and an appellate court may not amend or set aside an illegally lenient sentence on its own motion, when the defendant alone has appealed, and the state has not raised the issue. State v. Fraser, 484 So. 2d 122 (La. 1986); State v. Gervais, 546 So. 2d 215 (La. App. 4 Cir. 1989).