

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA * **NO. 2003-KA-1835**
VERSUS * **COURT OF APPEAL**
RAYMOND J. MATTHEWS * **FOURTH CIRCUIT**
* **STATE OF LOUISIANA**
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APPEAL FROM
CRIMINAL DISTRICT COURT ORLEANS PARISH
NO. 432-605, SECTION "K"
Honorable Arthur Hunter, Judge
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Judge David S. Gorbaty
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(Court composed of Judge Max N. Tobias Jr., Judge David S. Gorbaty,
Judge Leon A. Cannizzaro, Jr.)

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AFFIRMED

On August 19, 2002, the State filed a bill of information charging Raymond J. Matthews with armed robbery in violation of La. Rev. Stat. 14:64, to which he pled not guilty. On February 6, 2003, the bill of information was amended to include the charges of possession of stolen property, a violation of La. Rev. Stat. 14:69, and unauthorized use of a motor vehicle, a violation of La. Rev. Stat. 14:68.4. Matthews, after being advised of his right to a jury, elected a bench trial; he was found to be guilty as charged of unauthorized use of a motor vehicle, and was acquitted of the other two charges. After the proper delays, Matthews was sentenced to serve six years at hard labor; the judge recommended that he be placed in the Impact Program. Matthew's motion for an appeal was granted, and his motion for reconsideration of sentence was denied.

At trial John and Dorta Calahan testified that they were victims of an

armed robbery about lunchtime on May 9, 2002. The Calahans were looking for an apartment at The Point in Algiers. Mr. Calahan got out of the car to knock on the door of the building, and his wife remained in the driver's seat. A young man holding a gun walked up to the car. First he pointed the gun at Mr. Calahan and told him to "lay down." Then he told Mrs. Calahan to get out of the car; he also instructed her to leave her purse on the car seat and to leave the motor running. She did so, and the man got into the car and drove away. Her cell phone was in her purse. Mr. Calahan described the assailant to a police officer as a black male wearing khaki pants, a white shirt, and dreadlocks. Later the investigating officer asked Mrs. Calahan if there were any numbers she did not recognize on her cell phone bill, and she showed him the bill and pointed out those numbers to him. Independently both Mr. and Mrs. Calahan selected the defendant's picture from a photo lineup and named him as the man who robbed them at gunpoint.

Detective John Duzac investigated the armed robbery occurring in the 300 block of Morgan Street. The detective used the Calahans' cell phone records to track the robber. After speaking with recipients of several phone calls, he found the name and address of the defendant; he also learned that the defendant was driving the stolen 2002 Plymouth. After procuring a search warrant for Matthews' residence, the officer found there a pair of

khaki pants and a white polo shirt matching the description of the O. Perry Walker High School uniform allegedly worn by Matthews during the robbery. The officer also prepared the photo lineup. When Matthews was arrested, he told the officer that he rented the Plymouth for \$200 a month from a man named Pluck. Matthews also maintained that the cell phone came with the car.

Ms. Toni Douroux, who keeps the daily attendance records at O. Perry Walker High School, testified that the record from May 9, 2002, indicates that Matthews was not present for his afternoon classes.

Jackson Manuel, Jr., a teacher at O. Perry Walker High School, testified that Matthews was working with him on May 9, 2002, from 11:30 a.m. until noon. Mr. Manuel said that the students at the high school wear uniforms of khaki pants and white polo shirts.

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. 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 that 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. Matthews was properly charged by bill of information with a violation of La. Rev. Stat. 14:68.4, and the bill was signed by an assistant district attorney. Matthews was present and represented by counsel at arraignment, motion hearings, 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 that arguably supports the appeal. Defendant's conviction and sentence are affirmed. Appellate counsel's motion to withdraw is granted.

AFFIRMED