

**STATE OF LOUISIANA**

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**NO. 2003-KA-2198**

**VERSUS**

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**COURT OF APPEAL**

**DONALD TURNER**

\*

**FOURTH CIRCUIT**

\*

**STATE OF LOUISIANA**

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APPEAL FROM  
CRIMINAL DISTRICT COURT ORLEANS PARISH  
NO. 438-781, SECTION "G"  
Honorable Julian A. Parker, Judge

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**Charles R. Jones**  
**Judge**

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(Court composed of Judge Charles R. Jones, Judge James F. McKay III, and  
Judge Dennis R. Bagneris Sr.)

William R. Campbell, Jr.  
LOUISIANA APPELLATE PROJECT  
700 Camp Street  
New Orleans, LA 70130

COUNSEL FOR DEFENDANT/APPELLANT

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

The Appellant, Donald C. Turner, seeks a patent error review of his conviction and sentence in the district court. Finding no errors, we affirm.

Turner was charged with aggravated battery, a violation of La. R.S. 14:34. A six-member jury found him to be guilty as charged after trial. The State filed a multiple bill charging Turner as a third felony offender, and after a hearing, he was sentenced to life imprisonment at hard labor without benefit of parole, probation, or suspension of sentence. Turner's motion to reconsider the sentence was denied, and his motion for an appeal was granted.

At trial, Ms. Laverne Wells of 2606 North Tonti Street testified that

she was at her home on November 11, 2002, where she works as a hairdresser. While Ms. Wells was helping a customer, Turner walked in to speak to the customer. Ms. Wells asked Turner not to stand in front of her door, and being offended, he began to argue with her. The situation escalated, and Turner threw a brick at the house. Ms. Wells, in turn, threw a baseball bat at Turner, and he turned to go inside the house. She slipped, and Turner subsequently attacked her with the baseball bat. When Ms. Wells broke free and got into the house, Turner broke a windowpane in the door, injuring Ms. Wells with the glass. Ms. Wells called the police from her mother-in-law's house, which was two houses down the street. She was taken to the emergency room where she was treated. Ms. Wells testified at trial that she required eight "clamps" in her head and seventeen stitches in her hand as a result of the attack.

Officer Gregory Torregano testified at trial that when he answered the call for an aggravated battery at 2606 North Tonti Street, he found the glass pane in the front door shattered. He learned that the victim was at Charity Hospital, and he interviewed her there. He testified that she had a wound on the crown of her head and a cut between the fingers on her left hand. He further testified that Ms. Wells said she knew her assailant only as "Duck."

Detective Carlton Lawless testified at trial that he further investigated

the incident. He learned that the man known as Duck was Donald Turner, and he developed a photographic lineup, which he showed to the victim. She selected Turner's picture and named him as the man who attacked her with a baseball bat.

Turner testified at trial that prior to the incident, he knew Ms. Wells from the neighborhood, and he had been to her house to buy crack cocaine. Turner further testified that the client, who was having a hair treatment at the time of the incident, sold cocaine. Turner testified that he called out to him from outside the house and Ms. Wells came outside and began cursing at him. She also picked up a rake and threw it at him. Turner testified that he threw a rock at Ms. Wells, but denied hitting her with a baseball bat. He claimed to have thrown several items at her; however, he insisted that none of them hit her. He further testified that he left the North Tonti Street address, but returned to that house a day later to buy drugs from the person on the other side of the double. Turner admitted having prior convictions for possession of stolen property, aggravated battery, and "drug charges."

Counsel for Turner filed a brief requesting a review for errors patent. The record reflects that 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 also 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 indicate a thorough review of the record.

After reviewing the available transcripts and finding no district court ruling that arguably supports the appeal, Counsel moved to withdraw because he believed that there was no non-frivolous issue for appeal. A copy of the brief was forwarded to Turner and this Court informed him that he had the right to file a brief on his own behalf. The record reflects that Turner has not done so.

Pursuant to *State v. Benjamin*, this Court performed an independent, thorough review of the pleadings, minute entries, bill of information, and transcripts in the appeal record. The record reveals that Turner was properly charged by bill of information with a violation of La. R.S. 14:34, and the bill was signed by an assistant district attorney. Turner was present and represented by counsel at arraignment, motion hearings, jury selection, trial, and sentencing. Moreover, a review of the trial transcript reveals that the State proved the offense beyond a reasonable doubt and that the sentence is legal in all respects. Thus, our independent review of the record reveals no non-frivolous issue nor any district court ruling supporting the appeal.

## **DECREE**

For the reasons assigned herein, the conviction and sentence of the Appellant, Donald C. Turner, are affirmed. Further, the Motion to Withdraw filed by counsel for the appellant is hereby granted.

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