

**NOT DESIGNATED FOR PUBLICATION**

**STATE OF LOUISIANA** \* **NO. 2011-KA-1093**  
**VERSUS** \*  
**LOUIS C. BROWN, JR.** \* **COURT OF APPEAL**  
\* **FOURTH CIRCUIT**  
\* **STATE OF LOUISIANA**  
\* \* \* \* \*

**APPEAL FROM**  
**CRIMINAL DISTRICT COURT ORLEANS PARISH**  
**NO. 493-949, SECTION "A"**  
**Honorable Laurie A. White, Judge**

\* \* \* \* \*

**Judge Madeleine M. Landrieu**

\* \* \* \* \*

(Court composed of Judge Terri F. Love, Judge Roland L. Belsome, Judge Madeleine M. Landrieu)

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**AFFIRMED**

Louis Brown, Jr. appeals his convictions for attempted possession of cocaine and possession of marijuana, first offense, requesting only a review of the record for errors patent. Finding no patent errors, we affirm Mr. Brown's convictions and sentences.

#### **FACTS AND PROCEEDINGS BELOW**

The State of Louisiana filed a bill of information charging Mr. Brown with one count each of possession of cocaine and possession of marijuana, second offense. Mr. Brown subsequently pled not guilty to both charges. The trial court granted Mr. Brown's motion to suppress the evidence, but on review, this Court reversed the trial court's ruling. State v. Brown, unpub. 2010-0597 (La. App. 4 Cir. 5/10/10), rehearing denied (La. App. 4 Cir. 7/1/10). The Supreme Court denied Mr. Brown's writ from this Court's ruling. State v. Brown, 2010-1646 (La. 10/8/10), 46 So. 3d 1273.

On remand, Mr. Brown went to trial on March 1, 2011, at the conclusion of which a jury found him guilty of the responsive verdicts of attempted

possession of cocaine and simple possession of marijuana, first offense. On March 14, Mr. Brown filed motions for new trial and for post-verdict judgment of acquittal, which the court denied on that date. Mr. Brown announced readiness for sentencing, and the court sentenced him on the cocaine count to one year at hard labor, suspended, and placed him on one year active probation. On the marijuana count, the court sentenced Mr. Brown to six months in parish prison, suspended, and placed him on inactive probation for six months. The court also ordered that the sentences be served concurrently. The court subsequently granted the defendant's motion for appeal.

At trial, the parties stipulated that in 2000, Mr. Brown had pled guilty to one count of possession of marijuana, first offense, and the certified copies of the documents proving this conviction were introduced as exhibit S-1. The parties also stipulated that if called at trial, John Palm would: (1) testify that he was a criminalist for N.O.P.D.; (2) be qualified as an expert in the examination, detection, and identification of controlled dangerous substances, including cocaine and marijuana; and (3) testify that he had examined the substances seized in this case, and that these substances had tested positive for cocaine and marijuana. The State introduced Mr. Palm's report as exhibit S-2.

Officer Steven Lindsey testified that on January 5, 2010, he and his partner, Officer John Castelin, were on patrol in the Second District of New Orleans. As they drove down Pine Street, they noticed a truck run a stop sign at Pine and Forshey Streets. As the truck passed in front of them, they also noticed

that the driver did not have on a seat belt. The officers turned the corner, activated their lights and siren, and stopped the truck on Forshey next to a park. Officer Lindsey testified that they illuminated the truck with their floodlight and walked toward it. He stated that as they approached the truck, he heard Officer Castelin, who was on the driver's side, say: "What's that?" and then say: "It's still warm" and "We got a little weed." Officer Lindsey testified that Officer Castelin ordered the driver, Louis Brown, out of the truck. Officer Castelin handcuffed Mr. Brown and arrested him for possession of marijuana, which was contained in a marijuana cigarette that Mr. Brown had thrown out the driver's window. Officer Lindsey testified that because he approached the truck from the passenger side, he did not see Mr. Brown throw anything out the window. He stated that Officer Castelin advised Mr. Brown of his Miranda rights and then searched him incidental to his arrest. In Mr. Brown's pocket, Officer Castelin found a small bag of what appeared to be marijuana, as well as a folded ten dollar bill. Officer Castelin unfolded the bill and found what appeared to be a rock of crack cocaine.

While Officer Castelin detained Mr. Brown, Officer Lindsey entered the truck in order to find its registration. He stated that he shone his flashlight around the truck's interior and saw an open can of beer. He stated that at that point, one or two other police units arrived on the scene. He admitted that he did not see Officer Castelin pull the bag of marijuana from Mr. Brown's pocket because he (Officer Lindsey) was inside the truck trying to find the registration. Nonetheless, he testified that he saw Officer Castelin open the ten dollar bill and

find the rock of crack cocaine. Officer Lindsey stated that field tests were performed on these substances once the officers arrived at the police station, and the results of these tests were positive for cocaine and marijuana. He identified exhibit S-3 *en globo*, which consisted of a partially burned cigarette/cigar containing green vegetable matter, a small bag of marijuana, a rock of crack cocaine wrapped in a ten dollar bill, and a photocopy of the ten dollar bill. On cross-examination, Officer Lindsey insisted that he limited his search of Mr. Brown's truck to merely shining his flashlight around inside; he denied conducting a full search of the truck.

Officer John Castelin's testimony basically tracked that of Officer Lindsey. In addition, he stated that as he approached Mr. Brown's truck after they stopped it, he noticed Mr. Brown reach his hand out of the driver's window and discard a partially-burned cigarette. Officer Castelin testified that this action did not surprise him because often drivers will often discard a cigarette when stopped in order to free up their hands to retrieve their driver's licenses, their vehicle's registration, and their proof of insurance. However, he stated that as he approached the truck, he noticed a strong smell of burned marijuana, which got stronger as he got closer to the cigarette that Mr. Brown had thrown out the window. He stated that he picked up the cigarette and noticed that it smelled like marijuana, and when he flipped it over, he noticed that it contained green vegetable matter. He stated that the cigarette was still warm and smoldering but not really lit. He stated that he put the cigarette in his uniform pocket and ordered Mr. Brown

out of the truck. Officer Castelin testified that he arrested Mr. Brown for possession of marijuana, handcuffed him, and advised him of his rights. He then searched Mr. Brown incidental to this arrest and found the bag of marijuana and the ten dollar bill containing the rock of crack cocaine. Officer Castelin testified that citations were also written to Mr. Brown for disregarding a stop sign and for driving without a seat belt, but the officers did not have Mr. Brown sign the citations because that is done only when a traffic offender is released. However, because Mr. Brown was arrested, copies of the citations were included with his belongings that were taken from him at Central Lock-up. Officer Castelin identified exhibit S-4, the traffic citations. He stated that Mr. Brown also received a citation for the open can of beer found in the truck.

Louis C. Brown, Jr. testified in his own defense. He stated that he was employed as a tire technician in Baton Rouge at the time of his arrest. He testified that he had purchased the truck a few days before he was arrested, and he was in New Orleans on the night of his arrest because he wanted to show off his truck. He stated that he had just left his niece's house on Fern Street and was going to his sister's house on Ursulines Street. He stated that as he was driving down Forshey Street, he rolled down the window to spit outside, and then he could not get the window rolled back up. He denied running the stop sign at Pine Street, but he stated that he stopped the truck next to a park on Forshey and tried to get the window back up. As he did so, several police cars drove up and surrounded his truck. He stated that he complied with the officers' order to exit his truck, and they

handcuffed him and put him in the back of one of the police units. He stated that they searched his truck, and then Officer Castelin walked back to him and showed him the ten dollar bill containing crack cocaine. He insisted that he had not thrown the burned cigarette out his window, and he stated Officer Castelin never showed him the burned cigarette or the bag of marijuana, merely mentioning them at Central Lockup. Mr. Brown denied having any drugs or an open can of beer that night. He identified exhibit D-1, the receipt for the truck that he had purchased a few days before his arrest. He stated that because he had just purchased the truck, he had not had time to look under the truck's seats and into other places in the truck. Mr. Brown admitted that he had pled guilty to possessing marijuana in 2000, but he denied having any drugs on the night of his arrest in this case.

On cross-examination, Mr. Brown insisted that he did not know where the officers had found the drugs that they claimed he had. He admitted that he had paid the traffic citations, but he maintained that he had done so only to avoid having to take more time off of work to handle them. He stated that he was fired anyway, and he then had tried unsuccessfully to withdraw his pleas to the citations. He stated that he had paid the fines in order to avoid having an attachment issued for his arrest. On redirect, Mr. Brown stated that he drove the truck to New Orleans that evening because he needed to drive it several miles to reset the truck's computer in order to get a brake tag.

## **ISSUE**

By his sole assignment of error, Mr. Brown requests a review of the record for errors patent. His counsel has filed a motion to withdraw.

## **DISCUSSION**

We note that Mr. Brown's counsel has 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 has 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 has moved to withdraw because she believes, after a conscientious review of the record, that there is no non-frivolous issue for appeal. Counsel avers that she has reviewed the record and has found no trial court ruling that arguably supports the appeal. A copy of counsel's brief was forwarded to Mr. Brown, and this Court informed him that he had the right to file a brief on his own behalf. He has not done so. Thus, this Court's review is limited to errors on the face of the record. La. C.Cr.P. art. 920.

As per State v. Benjamin, this Court performed an independent, thorough review of the pleadings, minute entries, and the bill of information in the appeal record. Mr. Brown was properly charged by bill of information with possession of cocaine in violation of La. R.S. 40:967C(1) and with possession of marijuana, second offense, in violation of La. R.S. 40:966E(2), and the bill of information was

signed by an assistant district attorney. Mr. Brown was present and represented by counsel at arraignment, during trial, and at sentencing. The jury's verdicts are legal in all respects. Furthermore, a review of the trial transcript shows that the State provided sufficient evidence to prove beyond a reasonable doubt that Mr. Brown was guilty of attempted possession of cocaine and of simple possession of marijuana, first offense, the responsive verdicts returned by the jury.

This Court's review reveals no patent error and no non-frivolous issue or trial court ruling that arguably supports the appeal. Therefore, we affirm Louis Brown, Jr.'s convictions and sentences. We also grant appellate counsel's motion to withdraw.

**AFFIRMED**