

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA	*	NO. 2012-KA-0890
VERSUS	*	
CHARLES REED	*	COURT OF APPEAL
	*	FOURTH CIRCUIT
	*	STATE OF LOUISIANA

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APPEAL FROM
CRIMINAL DISTRICT COURT ORLEANS PARISH
NO. 499-646, SECTION "E"
Honorable Keva M. Landrum-Johnson, Judge

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

(Court composed of Judge Dennis R. Bagneris, Sr., Judge Max N. Tobias, Jr.,
Judge Daniel L. Dysart)

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MARCH 27, 2013

**CONVICTION AND SENTENCE
AFFIRMED; MOTION TO WITHDRAW
GRANTED**

Charles Reed appeals his guilty pleas and sentences for one count each of manslaughter and attempted second degree murder, requesting only a review of the record for errors patent. Finding no errors that require action by this Court, we affirm Mr. Reed's guilty pleas and sentences.

STATEMENT OF THE CASE

The State of Louisiana obtained an indictment against Mr. Reed that charged him with the second degree murder of Aaron Scott and the attempted second degree murder of Darryl Montgomery. Mr. Reed pled not guilty to the charges on both August 25 and September 15, 2010. After a lunacy hearing held on February 10, 2011, the court found Mr. Reed competent to proceed. On March 31, 2011, the court heard and denied his motions to suppress the statement and evidence, but it took his motion to suppress the identification under advisement. The court denied that motion on April 6, 2011. On January 17, 2012, the State amended the murder count to manslaughter. Mr. Reed withdrew his prior pleas of not guilty and pled guilty to the charge of attempted second degree murder and the amended charge of manslaughter. He waived all delays, and the court sentenced him to serve thirty years at hard labor on each count, the sentences to run concurrently. Although Mr.

Reed filed a motion to withdraw his guilty pleas, the court denied his motion on February 26, 2012. The court then granted his motion for appeal.

STATEMENT OF THE FACTS

The only statement of facts gleaned from the record before this Court are those set forth by the State at the time that Mr. Reed pled guilty. On the evening of April 24, 2010, officers arrived on the scene of a double shooting that occurred in the 4700 block of Babylon Street. Through their investigation, the officers learned that Mr. Reed and his codefendant Michael Tobias, while on a bicycle, approached Aaron Scott and Darryl Montgomery. Mr. Tobias handed Mr. Reed a gun, with which he shot both victims.

DISCUSSION

By his sole assignment of error, Mr. Reed requests a review of the record for errors patent. Counsel for Mr. Reed 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 the record and found no trial court ruling that arguably supports the appeal. A copy of counsel's brief was forwarded to Mr. Reed, 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 indictment in the appeal record. Mr. Reed was properly charged by bill of indictment with one count each of second degree murder and attempted second degree murder in violation of La. R.S. 14:30.1 and 14:27/30.1, and the back of the indictment was signed by the foreman of the grand jury. Mr. Reed was present and represented by counsel at arraignment, during his pretrial and post-trial hearings, when he pled guilty, and at sentencing. Before accepting Mr. Reed's guilty pleas to attempted second degree murder and the amended count of manslaughter, the court ascertained a basis for his pleas.

The only patent error recognized by this Court occurred during sentencing. The court correctly imposed the sentence on the manslaughter count, but it failed to impose the attempted second degree murder sentence without benefit of parole, probation, or suspension of sentence as mandated by La. R.S. 14:30.1 and R.S. 14:27. However, as per La. R.S. 15:301.1A and State v. Williams, 2000-1725 (La. 11/28/01), 800 So. 2d 790, the sentence is deemed to have been imposed with these restrictions of benefits, even in the absence of the trial court's failure to delineate them. Thus, there is no need for this court to correct the sentence. See State v. Barnes, 2011-1421 (La. App. 4 Cir. 9/19/21), 100 So. 3d 926; State v. Phillips, 2003-0304 (La. App. 4 Cir. 7/23/03), 853 So. 2d 675.

Other than this patent error, this Court's review reveals no other patent error and no non-frivolous issue or trial court ruling that arguably supports the appeal. Accordingly, we affirm Charles Reed's guilty pleas and sentences. We also grant appellate counsel's motion to withdraw.

**CONVICTION AND SENTENCE AFIRMED;
MOTION TO WITHDRAW GRANTED**