

**NOT DESIGNATED FOR PUBLICATION**

**STATE OF LOUISIANA** \* **NO. 2014-KA-1155**  
**VERSUS** \*  
**JODI B. TICKLE** \* **COURT OF APPEAL**  
\* **FOURTH CIRCUIT**  
\* **STATE OF LOUISIANA**

\* \* \* \* \*

APPEAL FROM  
25TH JDC, PARISH OF PLAQUEMINES  
NO. 2013-00048, DIVISION "B"  
Honorable Michael D. Clement,

\* \* \* \* \*

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

\* \* \* \* \*

(Court composed of Chief Judge James F. McKay, III, Judge Dennis R. Bagneris, Sr., Judge Sandra Cabrina Jenkins)

**JENKINS, J., CONCURS AND ASSIGNS REASONS**

Sherry Watters  
LOUISIANA APPELLATE PROJECT  
P.O. Box 58769  
New Orleans, LA 70158-8769

**COUNSEL FOR DEFENDANT/APPELLANT, JODI B. TICKLE**

**APPEAL CONVERTED TO A WRIT, WRIT GRANTED, JUDGMENT  
AFFIRMED, MOTION TO WITHDRAW GRANTED.**

**APRIL 15, 2015**

Jodi B. Tickle appeals her guilty plea and sentence for simple possession of marijuana, requesting a review of the record for errors patent only. Because Ms. Tickle pled guilty to a misdemeanor, her avenue of review is via supervisory writ, not appeal.<sup>1</sup> Because there are no patent errors in Ms. Tickle's record, we hereby convert her appeal to a writ, grant the writ, and affirm Ms. Tickle's guilty plea and sentence. Further, we hereby grant counsel's motion to withdraw.

#### **STATEMENT OF THE CASE**

The State of Louisiana charged Ms. Tickle on January 3, 2013 with one count of simple possession of marijuana, a charge to which she subsequently pled not guilty. On May 7, the court denied Ms. Tickle's motion to suppress the evidence.<sup>2</sup> On June 24, Ms. Tickle withdrew her prior plea of not guilty and pled guilty as charged, reserving under *State v. Crosby*, 338 So. 2d 584 (La. 1976), her right to appeal the trial court's denial of her motion to suppress the evidence. The

---

<sup>1</sup> See La. Code Crim. Proc. art. 912.1(C).

<sup>2</sup> Ms. Tickle sought emergency review of this ruling, but this Court denied her writ, finding no error in the trial court's judgment. *State v. Tickle*, unpub. 14-0593 (La. App. 4 Cir. 6/6/14).

court deferred sentencing under art. La. C.Cr.P. art. 984 and placed her on probation for twelve months, with various fees and fines.

## **FACTS**

Ms. Tickle, her husband Benjamin (“Mr. Tickle”), and John Bond (“Mr. Bond”) were arrested at the Belle Chasse ferry landing on September 1, 2012. Because Hurricane Isaac had made landfall only a few days earlier, the Plaquemines Parish Sheriff’s Office was acting under emergency protocol. On that date, Deputy Edmond Fisher was positioned in his police unit at the ferry landing to see that only emergency vehicles or landowners were allowed to cross the Mississippi River to the east bank. Mr. Tickle approached Dep. Fisher and inquired about taking the ferry to the east bank to check on some property. He showed Dep. Fisher his identification, which indicated that he did not live in Plaquemines Parish. Dep. Fisher asked him if he had any documentation showing that he owned land on the other side of the river, but he did not produce anything. Instead, Mr. Tickle kept asking to cross the river. Dep. Fisher testified that at no time did Mr. Tickle tell him that he was carrying a concealed weapon.

Detective Sidney Smith, Agent Michael Olivier, and Detective Gerald Cormier of the Plaquemines Parish Sheriff’s Office, as well as Deputy Edwardo Borda and Detective Courtney of the Calcasieu Parish Sheriff’s Office, were located nearby, waiting to take the ferry. As Mr. Tickle was leaning against Dep. Fisher’s police unit, the wind came up and blew his shirt up against his back, and the officers noticed the outline of a gun at his right hip. Det. Smith and Det. Cormier went to Mr. Tickle and disarmed him. Mr. Tickle produced his identification and a permit to carry a concealed weapon, but he did not inform the deputies that he was armed, as required by La. R.S. 40:1379.3I(2) as a condition of

carrying a concealed weapon. The officers ran Mr. Tickle's name and the serial number of his gun; the gun had not been reported stolen, and there were no warrants for Mr. Tickle's arrest.

As the deputies were interacting with Mr. Tickle, Mr. Bond walked up behind the deputies and placed himself so that he made eye contact with Mr. Tickle. Because the deputies were still dealing with Mr. Tickle, they approached Mr. Bond and retrieved a gun from his person. Although Mr. Bond also produced his driver's license and a concealed carry permit, he too failed to inform the deputies that he was carrying a gun. The deputies ran the serial number of Mr. Bond's gun, and it had not been reported as being stolen, nor were there any warrants for Mr. Bond's arrest. The deputies then told Mr. Tickle and Mr. Bond that their guns would be unloaded and taken to a different location, where the men could collect them. The men indicated that Mr. Tickle's wife's vehicle was parked just below the levee, and the parties agreed that the deputies would take the guns there, where Mr. Tickle and Mr. Bond could retrieve them.

Det. Smith took the weapons to the vehicle, where Ms. Tickle was waiting. Ms. Tickle agreed to allow Det. Smith to put the guns inside the vehicle and the ammunition in the glove compartment, where it could be locked away. The detective placed the unloaded guns on the back seat of the vehicle. He then asked Ms. Tickle to open the glove compartment so that he could place the ammunition inside. When she did so, he saw what appeared to be a black pistol grip. Ms. Tickle quickly took a piece of paper from inside the compartment and put it over the gun. Det. Smith testified that Ms. Tickle had earlier denied that there were any other weapons in the vehicle. He also testified that he detected a faint odor of marijuana from the vehicle. He told Ms. Tickle to step away from the vehicle, and

then he seized a gun from the glove compartment. Officers also found a bag of marijuana under the floor mat on the passenger side of the vehicle. The driver's side door was open, and when Det. Cormier walked up to that side of the vehicle, he saw a leather gun case lying on the floorboard. Inside the case was another gun, which the deputies also seized.

Agent Olivier walked up to Ms. Tickle, who was sitting on the curb. He asked her for her identification, and she told him it was in her purse, which was sitting on the driver's seat. She told him to retrieve the purse and remove her driver's license from the purse. He opened the purse and looked inside, discovering a small wooden box that contained a small pipe; he recognized it as a "dugout," commonly used to store marijuana and a pipe. He also smelled a strong odor of marijuana when he opened the purse. In addition, he found several hydrocodone pills in a tin box. He then advised Ms. Tickle of her Miranda rights. Mr. Tickle and Mr. Bond were relocated to the vehicle and advised of their rights.

#### **ASSIGNMENT OF ERROR/ERRORS PATENT**

Although Ms. Tickle seeks review of her guilty plea and sentence via an appeal, this Court lacks appellate jurisdiction to consider her claims. Art. V, §10 of the 1974 Constitution limits the criminal appellate jurisdiction of this Court to cases triable by a jury. La. C.Cr.P. art 779 provides that a defendant charged with a misdemeanor, other than those where the maximum sentence exceeds six months imprisonment or a \$1000 fine, shall be tried by the court alone. Ms. Tickle was charged with and pled guilty to possession of marijuana, first offense, for which La. R.S. 40:966E(1) provides a maximum sentence of six months imprisonment

and/or a \$500 fine. Nonetheless, as per Art. V, §10, this Court has supervisory jurisdiction to review Ms. Tickle's guilty plea and sentence.

Ms. Tickle requests only a review of the record 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. See also this Court's recent discussion of the scope of an errors patent review in State v. Gayton, 13-1613 (La. App. 4 Cir. 1/28/15), \_\_\_ So. 3d \_\_\_, 2015 WL 392671. 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 believed, 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.

As per State v. Benjamin and Gayton, we have performed an independent, thorough review of the pleadings, minute entries, and the bill of information in the appeal record. Ms. Tickle was properly charged by bill of information with one count of possession of marijuana, first offense, in violation of La. R.S. 40:966E(1), and the bill of information was signed by an assistant district attorney. Ms. Tickle was present and represented by counsel during arraignment, her guilty plea, and at sentencing. Furthermore, a review of the motion hearing transcript shows that the State provided a basis for the court to accept her guilty plea. Ms. Tickle's sentence is legal in all respects.

Because there are no patent errors in Ms. Tickle's record, we hereby convert her appeal to a writ, grant the writ, and affirm Ms. Tickle's guilty plea and sentence. Further, we hereby grant counsel's motion to withdraw.

**APPEAL CONVERTED TO A WRIT, WRIT GRANTED, JUDGMENT  
AFFIRMED, MOTION TO WITHDRAW GRANTED.**