

**NOT DESIGNATED FOR PUBLICATION**

**STATE OF LOUISIANA**

**COURT OF APPEAL, THIRD CIRCUIT**

**11-37**

**STATE OF LOUISIANA**

**VERSUS**

**LIONEL M. HARBISON**

\*\*\*\*\*

**APPEAL FROM THE  
SIXTEENTH JUDICIAL DISTRICT COURT  
PARISH OF IBERIA, NO. 06-652  
HONORABLE EDWARD LEONARD, JR., DISTRICT JUDGE**

\*\*\*\*\*

**JAMES T. GENOVESE  
JUDGE**

\*\*\*\*\*

Court composed of Marc T. Amy, James T. Genovese, and Shannon J. Gremillion,  
Judges.

**APPEAL DISMISSED. THE DEFENDANT IS PERMITTED  
TO FILE AN APPLICATION FOR SUPERVISORY WRITS  
WITHIN THIRTY DAYS OF THE DATE OF THIS  
OPINION.**

**Hon. J. Phillip Haney  
District Attorney, 16<sup>th</sup> JDC  
300 Iberia Street, Suite 200  
New Iberia, LA 70560  
(337) 369-4420  
COUNSEL FOR APPELLEE:  
State of Louisiana**

**Mark Owen Foster  
Louisiana Appellate Project  
P. O. Box 2057  
Natchitoches, LA 71457  
(318) 572-5693  
COUNSEL FOR APPELLANT:  
Lionel M. Harbison**

**Genovese, Judge.**

The Defendant entered a plea of guilty to manslaughter on August 11, 2008, and was sentenced to fifteen years at hard labor. On August 3, 2010, the Defendant filed an application for post-conviction relief seeking to withdraw his guilty plea. The trial court denied the application on August 18, 2010. On October 6, 2010, the Defendant filed a motion for appeal, seeking to appeal the trial court's denial of his application for post-conviction relief. The motion was subsequently granted.

On January 11, 2011, an appeal was lodged with this court. Thereafter, this court issued a rule to show cause why the appeal should not be dismissed as the judgment at issue is not an appealable judgment. La.Code Crim.P. art. 912.1. In response, the Defendant alleged the trial court granted him an out-of-time appeal.

The judgment at issue is not appealable pursuant to La.Code Crim.P. art. 912.1, and the Defendant neither requested nor was granted an out-of-time appeal. That being the case, the Defendant's appeal is hereby dismissed. However, the Defendant may seek supervisory writs within thirty days of the date of this decision. The Defendant is not required to file a notice of intent to seek writs nor obtain an order from the trial court setting a return date as is generally required by Uniform Rules—Courts of Appeal, Rule 4-3.

**APPEAL DISMISSED. THE DEFENDANT IS PERMITTED TO FILE AN APPLICATION FOR SUPERVISORY WRITS WITHIN THIRTY DAYS OF THE DATE OF THIS OPINION.**