

NOT DESIGNATED FOR PUBLICATION

**STATE OF LOUISIANA
COURT OF APPEAL, THIRD CIRCUIT**

11-214

STATE OF LOUISIANA

VERSUS

DARRYLE KITTERLIN

**APPEAL FROM THE
SEVENTH JUDICIAL DISTRICT COURT
PARISH OF CATAHOULA, NO. 09-1039
HONORABLE LEO BOOTHE, DISTRICT JUDGE**

**SHANNON J. GREMILLION
JUDGE**

Court composed of Jimmie C. Peters, James T. Genovese, and Shannon J. Gremillion, Judges.

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

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Gremillion, Judge.

On August 31, 2010, the Defendant, Darryle K. Kitterlin, was found guilty of the offense of domestic abuse battery, a violation of La.R.S. 14:35.3. The trial court sentenced the Defendant to six months in the Catahoula Parish jail. On November 17, 2010, Defendant filed a notice of intent to appeal from the trial court's ruling, and the trial court granted the motion on December 21, 2010.

Thereafter, on February 25, 2011, this court issued a rule to show cause why the appeal should not be dismissed as the judgment at issue is not appealable. Defendant submitted a response asking this court to treat the appeal as an application for supervisory writs and rule on the merits of the application.

We decline Defendant's request. The judgment at issue is not appealable. *See* La.Code Crim.P. arts. 779 and 912.1. Accordingly, we hereby dismiss Defendant's appeal. However, Defendant may seek supervisory writs from the trial court's ruling. Defendant is neither 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. We construe the motion for appeal as timely-filed notice of intent to seek a supervisory writ.

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