

NOT DESIGNATED FOR PUBLICATION

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

11-270

STATE OF LOUISIANA

VERSUS

PHILLIP J. MCGEE

**APPEAL FROM THE
FOURTEENTH JUDICIAL DISTRICT COURT
PARISH OF CALCASIEU, NO. 22474-09
HONORABLE DAVID KENT SAVOIE, DISTRICT JUDGE**

**JAMES T. GENOVESE
JUDGE**

Court composed of Jimmie C. Peters, 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. James D. Caldwell
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State of Louisiana**

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Lake Charles, LA 70601**

Genovese, Judge.

On September 2, 2010, the Defendant, Phillip J. McGee, was convicted after a bench trial, of disturbing the peace by offensive language, a violation of La.R.S. 14:103(A)(2). The trial court then sentenced the Defendant to a fine of \$100.00, plus court costs, or to serve five (5) days in parish jail, in default of payment.

The Defendant filed a motion for appeal on September 14, 2010, and the trial court granted the motion on the same date. Thereafter, this court issued a rule to show cause why the appeal should not be dismissed as not appealable. The Defendant did not respond.

The judgment at issue is not appealable. *See* La.Code Crim.P. art. 912.1. Accordingly, we hereby dismiss the Defendant's appeal. The Defendant may seek supervisory writs within thirty (30) days of the date of this decision. The Defendant is not required to file a notice of intent to seek writs, nor must he 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 a timely-filed notice of intent to seek a supervisory writ.

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