

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

**12-1359**

**STATE OF LOUISIANA**

**VERSUS**

**BRENDALL BOURQUE**

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**APPEAL FROM THE  
FIFTEENTH JUDICIAL DISTRICT COURT  
PARISH OF LAFAYETTE, NO. CR136309  
HONORABLE MARILYN C. CASTLE, DISTRICT JUDGE**

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**MARC T. AMY  
JUDGE**

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Court composed of John D. Saunders, Marc T. Amy, and James T. Genovese,  
Judges.

**HABITUAL OFFENDER CONVICTION AND SENTENCE VACATED  
AND REMANDED FOR FURTHER PROCEEDINGS. MOTION TO  
WITHDRAW GRANTED.**

**Saunders, J., dissents and assigns written reasons.**

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**Brendall Bourque**

**AMY, Judge.**

The defendant, Brendall Bourque, was charged in the Fifteenth Judicial District Court under docket number 129661 with failure to renew his registration as a sex offender, a violation of La.R.S. 15:542.1.1, and failure to notify law enforcement of a change of address, residence, or other registration information, a violation of La.R.S. 15:542.1.2. After a trial, the jury returned guilty verdicts as to both counts. Thereafter, the trial court imposed a sentence of eight years at hard labor, without benefit of probation, parole, or suspension of sentence on each count, to be served concurrently. The defendant's convictions and sentences regarding those charges are on appeal in *State v. Brendall Bourque*, 12-1358 (La.App. 3 Cir. \_\_/\_\_/\_\_), \_\_ So.3d \_\_.

The defendant was subsequently charged as a habitual offender in violation of La.R.S. 15:529.1. After a hearing, the trial court adjudicated the defendant a fourth felony offender, vacated his sentence for failure to renew his registration as a sex offender, and imposed a habitual offender sentence of twenty years at hard labor, to be served concurrently with his sentence for failure to notify law enforcement of a change of address, residence, or other registration information.

The defendant appeals his habitual offender conviction and sentence. His appellate counsel has filed a brief and motion to withdraw pursuant to *Anders v. California*, 386 U.S. 738, 87 S.Ct. 1396 (1967).

We determined in *State v. Brendall Bourque*, 12-1358 (La.App. 3 Cir. \_\_/\_\_/\_\_), \_\_ So.3d \_\_, that the defendant's sentences and convictions for failure to renew his registration as a sex offender, a violation of La.R.S. 15:542.1.1, and failure to notify law enforcement of a change of address, residence, or other registration information, a violation of La.R.S. 15:542.1.2, must be vacated.

Pursuant to that determination, we find that the defendant's habitual offender conviction and sentence must also be vacated, and the matter is remanded to the trial court for further proceedings. Otherwise, the defendant's appeal under this docket number is moot. Appellate counsel's motion to withdraw is granted.

**HABITUAL OFFENDER CONVICTION AND SENTENCE VACATED AND REMANDED FOR FURTHER PROCEEDINGS. MOTION TO WITHDRAW GRANTED.**

**STATE OF LOUISIANA**  
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**VERSUS**

**BRENDALL BOURQUE**

**SAUNDERS, J., dissents and assigns written reasons.**

Given that I would find no error by the trial court in granting the State's "reverse-*Batson*" motion in *State v. Bourque*, 12-1358 (La.App. 3 Cir. \_\_/\_\_/\_\_) \_\_ So.3d \_\_, Defendant, in my view, would qualify as a habitual offender. Accordingly, I respectfully dissent.