

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL, THIRD CIRCUIT

13-1133

STATE OF LOUISIANA

VERSUS

**DONALD EDMOND DOMINGUE
aka DON DOMINGUES**

**APPEAL FROM THE
FIFTEENTH JUDICIAL DISTRICT COURT
PARISH OF LAFAYETTE, NO. CR 130430
HONORABLE EDWARD D. RUBIN, DISTRICT JUDGE**

**SYLVIA R. COOKS
JUDGE**

Court composed of Sylvia R. Cooks, Marc T. Amy, and James T. Genovese,
Judges.

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

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Cooks, Judge.

On September 9, 2010, Defendant-Appellant, Donald Edmond Domingue aka Don Domingues, was charged by bill of information with cyberstalking, a violation of La.R.S. 14:40.3. On May 17, 2013, Defendant-Appellant entered a *Crosby* plea to the amended charge of criminal mischief, reserving all rights to appeal. The trial court accepted Defendant-Appellant's plea and imposed the following conditions: (1) Pay a fine of \$100.00; (2) Pay court cost of \$242.50 in full by June 16, 2013; (3) No contact with the victim; and (4) In default of these conditions, he is to serve 10 days in the parish jail.

On August 10, 2012, Defendant-Appellant filed a "MOTION & ORDER TO QUASH BILL OF INFORMATION" with the trial court, asserting that "La.R.S. 40:40.3, 'Cyber-stalking,' is invalid as it violates the First Amendment of the Constitution because the law is substantially overbroad." After a hearing on March 15, 2013, the trial court denied Defendant-Appellant's "MOTION & ORDER TO QUASH BILL OF INFORMATION" on June 12, 2013. Defendant-Appellant filed a "Motion to Reconsider" with the trial court on April 1, 2013. The trial court denied Defendant-Appellant's "Motion to Reconsider" on April 15, 2013.

On June 4, 2013, Defendant-Appellant filed a "Motion for Appeal" with the trial court. On June 5, 2013, the trial court granted Defendant-Appellant's motion.

On October 3, 2013, this court lodged the appeal record. On October 4, 2013, 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. *See* La.Code Crim.P. art. 912(B)(1) and (C)(1), La.Code Crim.P. art 779, and La.R.S. 14:59(B). No response was received by Defendant-Appellant.

Accordingly, we hereby dismiss Defendant-Appellant's appeal. Donald Edmond Dominugue, Defendant-Appellant, is hereby permitted to file a proper application for supervisory writs, in compliance with Uniform Rules—Courts of

Appeal, Rule 4, no later than fifteen days from the date of this decision. The Defendant is not required to file a notice of intent to seek writs nor obtain an order setting a return date pursuant to Uniform Rules—Courts of Appeal, Rule 4-3 as we hereby construe the motion for appeal as a timely-filed notice of intent to seek a supervisory writ.

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