

NOT DESIGNATED FOR PUBLICATION

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

14-885

STATE OF LOUISIANA

VERSUS

THEODORE BATISTE

**APPEAL FROM THE
TWELFTH JUDICIAL DISTRICT COURT
PARISH OF AVOUELLES, NO. 86955
HONORABLE WILLIAM BENNETT, DISTRICT JUDGE**

**MARC T. AMY
JUDGE**

Court composed of John D. Saunders, Marc T. Amy, and J. David Painter, Judges.

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

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Amy, Judge.

On March 27, 1996, Defendant-Appellant, Theodore Batiste, was charged by bill of information with forcible rape, a violation of La.R.S. 14:42.1. On February 6, 1998, Defendant-Appellant entered a plea of guilty to the amended charge of simple rape, reserving all rights to appeal. The trial court accepted Defendant-Appellant's plea and imposed an eighteen (18) month sentence without the benefit of probation, parole, or suspension of sentence.

On April 8, 2014, Defendant-Appellant filed a "MOTION TO WITHDRAW GUILTY PLEA" with the trial court. After a hearing on April 22, 2014, the trial court denied Defendant-Appellant's "MOTION TO WITHDRAW GUILTY PLEA" on May 21, 2014.

On June 2, 2014, Defendant-Appellant filed a "Notice of Appeal" with the trial court. On June 4, 2014, the trial court clerk's office issued a "Notice of Appeal" in the instant case, which indicated an "order of appeal was entered on June 2, 2014."

On August 28, 2014, this court lodged the appeal record. On September 3, 2014, 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. No response was received by counsel for Defendant-Appellant. A pro se brief was received from Defendant-Appellant; however, the brief does not address the issue of appealability of the judgment.

Accordingly, we hereby dismiss Defendant-Appellant's appeal. Theodore Batiste, 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 thirty 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 THIRTY DAYS FROM THE DATE OF THIS DECISION.