

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL, THIRD CIRCUIT

14-1064

STATE OF LOUISIANA

VERSUS

ROBERT KALTENBACH

**APPEAL FROM THE
SIXTEENTH JUDICIAL DISTRICT COURT
PARISH OF ST. MARTIN, NO. 12-093580
HONORABLE LORI LANDRY, DISTRICT JUDGE**

**SYLVIA R. COOKS
JUDGE**

Court composed Sylvia R. Cooks, Billy H. Ezell, and Shannon J. Gremillion,
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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**Robert Kalenbach
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APPELLANT**

Cooks, Judge.

Defendant-Appellant, Robert Kaltenbach, was convicted of failure to buckle seat belt, a misdemeanor, in violation of La.R.S. 32:295.1, on May 14, 2014. On the same date, he received a fine of twenty-five dollars or serve twenty-four hours in jail. Relator filed a notice of appeal with the trial court on May 22, 2014. The trial court granted his written motion for appeal on May 27, 2014.

On October 10, 2014, this court lodged the appeal record for this case. On October 15, 2014, this court issued a rule to show cause why this matter should not be dismissed as non-appealable, since the offense at issue is a misdemeanor.

On October 21 2014, Defendant-Appellant responded, asserting, “[a]ppel is the remedy to correct the record other than a collateral attack for inconsistencies of due process and violation of constitutional rights. It is a settled and invariable principle in the law of the land that every right trespassed upon must have a remedy and every injury its proper redress. This court is obligated to provide a remedy via an appeal.” The appeal is dismissed, as the offense is non-appealable. *See* La.Code Crim.P. arts. 912.1 and 779. Defendant-Appellant is hereby permitted to file a proper application for supervisory writs, in compliance with Uniform Rules—Courts of Appeal, Rule 4, within fifteen days from the date of this decision. 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.