

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL, THIRD CIRCUIT

15-452

STATE OF LOUISIANA

VERSUS

MARY HENDERSON TRAHAN

**APPEAL FROM THE
FIFTEENTH JUDICIAL DISTRICT COURT
PARISH OF LAFAYETTE, NO. CR 124728
HONORABLE EDWARD RUBIN, DISTRICT JUDGE**

**SYLVIA R. COOKS
JUDGE**

Court composed of Ulysses G. Thibodeaux, Chief Judge, Sylvia R. Cooks, and Elizabeth A. Pickett, Judges.

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

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Cooks, Judge.

Defendant, Mary Henderson Trahan, was indicted for second degree murder, a violation of La.R.S. 14:30.1, on June 3, 2009. Trial commenced on August 17, 2010, and on August 18, 2010, Defendant was found guilty as charged. Defendant was sentenced on August 26, 2010, to life imprisonment without the benefit of probation, parole, or suspension of sentence.

Defendant filed an appeal with this court. On July 6, 2011, this court vacated the conviction and sentence and ordered the trial court to enter an acquittal.¹ *State v. Trahan*, 11-148 (La.App. 3 Cir. 7/6/11), 69 So.3d 1240. The State sought review, and the Louisiana Supreme Court reversed this court's decision and reinstated Defendant's conviction and sentence and remanded to the trial court for execution of the sentence. *State v. Trahan*, 11-1609 (La. 7/2/12), 97 So.3d 994.

On June 30, 2014, Defendant timely filed an application for post-conviction relief with the trial court, which was denied on November 6, 2014. On December 8, 2014, Defendant filed a notice of appeal and designation of record on appeal with the trial court. On December 10, 2014, the trial court granted Defendant's motion with a "Return Date According to Law."

On May 18, 2015, this court lodged the appeal record for this case. On May 19, 2015, this court issued a rule to show cause why this matter should not be dismissed, as the judgment at issue is not an appealable judgment. La.Code Crim.P. art. 930.6.

On June 15, 2015, defense counsel filed a response to this court's rule to show cause acknowledging that the proper remedy would have been to file an

¹Judge Gremillion dissented and found the evidence was sufficient to enter the responsive verdict of negligent homicide.

application invoking supervisory jurisdiction and asking this court to consider the appeal as an application for supervisory jurisdiction.

Defense counsel's request to treat Defendant's appeal in this case as an application for supervisory jurisdiction is hereby denied, and the appeal is dismissed. However, Defendant 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. 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 IS PERMITTED TO FILE AN APPLICATION FOR SUPERVISORY WRITS WITHIN THIRTY DAYS FROM THE DATE OF THIS DECISION.