

NOT DESIGNATED FOR PUBLICATION

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

17-677

STATE OF LOUISIANA

Plaintiff-Appellee

VERSUS

ROBERT EARL SANDERS

Defendant-Appellant

**APPEAL FROM THE
NINETH JUDICIAL DISTRICT COURT
PARISH OF RAPIDES, NO. 323,448
HONORABLE JOHN C. DAVIDSON, JUDGE**

**SYLVIA R. COOKS
JUDGE**

Court composed of Sylvia R. Cooks, John E. Conery, and Van H. Kyzar, Judges.

APPEALED DISMISSED.

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COUNSEL FOR APPELLANT:
Robert Earl Sanders

Cooks, Judge

On March 3, 2015, Defendant-Appellant, Robert Earl Sanders, was charged by bill of information with domestic abuse battery, a violation of La.R.S. 14:35.3(C). On November 4, 2015, Defendant-Appellant was found guilty by the judge of domestic abuse battery. On December 7, 2015, Defendant-Appellant was sentenced to six months in the parish jail, to run concurrently with the sentences imposed on the same date in another docket number. The trial court also ordered a permanent order of protection.

On October 24, 2016, Defendant-Appellant filed a “NOTICE OF APPEAL, MOTION TO WITHDRAW, AND MOTION TO APPOINT APPELLATE COUNSEL” with the trial court. An “ORDER” was filed on Defendant-Appellant’s “NOTICE OF APPEAL, MOTION TO WITHDRAW, AND MOTION TO APPOINT APPELLATE COUNSEL” with the Rapides Parish clerk’s office on May 15, 2017. The trial court granted the Rapides Parish Public Defender’s Office motion to withdraw and ordered that the Louisiana Appellate Project be appointed as Defendant-Appellant’s counsel of record. The trial court also ordered that the return date be set as in accordance with law.

On July 25, 2017, this court lodged the appeal record for this case. On August 10, 2017, this court issued a rule to show cause why the appeal should not be dismissed as non-appealable, since the offense at issue is a misdemeanor. La.Code Crim.P. art. 912.1. On August 10, 2017, Defendant-Appellant’s counsel filed a “MOTION TO DISMISS APPEAL, TO REMAND, AND TO PERMIT COUNSEL TO WITHDRAW” in response to this court’s rule to show cause. Defendant-Appellant’s counsel responded, acknowledging that “the notice for

appeal was erroneously issued in this case because this Court does not have jurisdiction over this case as an appeal.” Defendant-Appellant’s counsel asserts:

4.

Mover, the Louisiana Appellate Project was erroneously appointed to represent Robert Sanders in this matter insofar as the scope of its contract with the State extends only to appeals of felony convictions.

5.

In the interest of fairness and justice, counsel respectfully suggests that the Court remand this case for the trial court to set a return date appropriate to afford Mr. Sanders a reasonable opportunity (but at least 30 days) to seek a writ of review in this court, either pro se or through appointed or retained counsel, and to so notify Mr. Sanders.

WHEREFORE, undersigned counsel respectfully requests that the Court dismiss the above captioned appeal, remand the case to the trial court for appropriate disposition, and permit undersigned counsel and the Louisiana Appellate Project to withdraw as counsel of record.

Accordingly, Defendant-Appellant’s counsel’s motion to withdraw as counsel of record and to dismiss the appeal in the instant case is granted. The request that Defendant-Appellant be allowed 30 days to file writs is denied as the motion to appeal was not filed within the time limitation provided in Uniform Rules—Courts of Appeal, Rule 4-3. Therefore, this court will not construe the motion for appeal as a notice of intent to seek a supervisory writ.

APPEAL DISMISSED. MOTION TO WITHDRAW GRANTED.