

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL, THIRD CIRCUIT

19-192

STATE OF LOUISIANA

VERSUS

**HOLLY ANNE HEBERT
A/K/A HOLLY A. GREGORY
A/K/A HOLLY HERBERT
A/K/A HEBERT A. HOLLY**

**APPEAL FROM THE
FIFTEENTH JUDICIAL DISTRICT COURT
PARISH OF LAFAYETTE, NO. 150288.2
HONORABLE DAVID M. SMITH, DISTRICT JUDGE**

**SHANNON J. GREMILLION
JUDGE**

Court composed of Sylvia R. Cooks, Shannon J. Gremillion, and D. Kent Savoie, 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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HOLLY ANNE HEBERT
A/K/A HOLLY A. GREGORY
A/K/A HOLLY HERBERT
A/K/A HEBERT A. HOLLY

Gremillion, Judge.

On July 23, 2015, Defendant-Appellant, Holly Anne Hebert, aka Holly A. Gregory, aka Holly Herbert, aka Hebert A. Holly, pled guilty to aggravated burglary, a violation of La.R.S. 14:60. On the same date, Defendant-Appellant was sentenced to ten years at hard labor, to run concurrently with any other sentence being served, with credit being given for time served.

On May 23, 2018, after several continuances and hearings, the trial court denied Defendant-Appellant's application for post-conviction relief. On January 14, 2019, Defendant-Appellant filed a "MOTION AND ORDER FOR APPEAL" with the trial court "from the judgment rendered and signed on the 23rd day of May 2018." On January 18, 2019, the trial court granted Defendant-Appellant's motion with a "Return Date According to Law."

On March 12, 2019, this court lodged the appeal record. On March 14, 2019, 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. La.Code Crim.P. art. 912.1. On March 22, 2019, Defendant-Appellant's attorney filed a "MOTION BY APPOINTED COUNSEL TO WITHDRAW" and a "RESPONSE TO COURT ORDER" with this court. Defendant-Appellant's attorney asserts in his response, "in regards to the application or post-conviction relief filed by Defendant-Appellant HOLLY ANNE HEBERT after her conviction, that Defendant-Appellant HOLLY ANNE HEBERT be allowed time to file writs in this matter as the issue presented was erroneously filed as an appeal." Defendant-Appellant's attorney asserts in his "MOTION BY APPOINTED COUNSEL TO WITHDRAW" that he has "reviewed the record of the Trial Court and concludes that Defendant-Appellant **HOLLY ANNE HEBERT** is seeking supervisory writs regarding the denial of her

application for post-conviction relief. The Louisiana Appellant Project has contracted with Lafayette Parish to handle felony appeals and not writ applications.”

Therefore, we hereby grant the “MOTION BY APPOINTED COUNSEL TO WITHDRAW” and dismiss Defendant-Appellant’s appeal. However, 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. Defendant-Appellant 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 notice of intent to seek a supervisory writ.

APPEAL DISMISSED. MOTION TO WITHDRAW FILED BY COUNSEL IS GRANTED. DEFENDANT-APPELLANT IS PERMITTED TO FILE AN APPLICATION FOR SUPERVISORY WRITS WITHIN THIRTY DAYS FROM THE DATE OF THIS DECISION.