

**NOT DESIGNATED FOR PUBLICATION**

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NO. 2010 KA 1337

STATE OF LOUISIANA

VERSUS

CHRISTOPHER PERKINS

**Judgment rendered February 11, 2011.**

\* \* \* \* \*

Appealed from the  
21st Judicial District Court  
in and for the Parish of Tangipahoa, Louisiana  
Trial Court No. 703176  
Honorable Ernest G. Drake, Jr., Judge

\* \* \* \* \*

HON. SCOTT M. PERRILLOUX  
DISTRICT ATTORNEY  
ANGEL MONISTERE  
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AMITE, LA

ATTORNEYS FOR  
STATE OF LOUISIANA

GWENDOLYN K. BROWN  
BATON ROUGE, LA

ATTORNEY FOR  
DEFENDANT-APPELLANT  
CHRISTOPHER PERKINS

\* \* \* \* \*

**BEFORE: KUHN, PETTIGREW, AND HIGGINBOTHAM, JJ.**

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## **PETTIGREW, J.**

The defendant, Christopher Perkins, was charged by grand jury indictment with second degree murder (count one) and simple burglary (count two), violations of La. R.S. 14:30.1 and La. R.S. 14:62. The defendant initially pled not guilty. The State amended the charge in count one to the responsive offense of manslaughter, a violation of La. R.S. 14:31, and dismissed the charge in count two, as the defendant withdrew his previous plea and entered a plea of nolo contendere to the amended charge. After waiving sentencing delays, the defendant was sentenced to thirty years imprisonment at hard labor. The defendant has filed a brief pursuant to **Anders v. California**, 386 U.S. 738, 87 S.Ct. 1396, 18 L.Ed.2d 493 (1967), and **State v. Jyles**, 96-2669 (La. 12/12/97), 704 So.2d 241 (per curiam), seeking only an examination of the record for error under La. Code Crim. P. art. 920(2). For the following reasons, we affirm the defendant's conviction and sentence.

### **STATEMENT OF FACTS**

As the defendant entered a plea of nolo contendere to the amended charge of manslaughter, the facts of the instant case have not been fully developed. At the time of the plea, the defendant stipulated to the discovery presented by the State and the testimony heard by the court in pretrial proceedings. In accordance with the indictment and the defendant's statement to the police (included in the discovery submitted by the State), on or about July 5, 2007, the defendant, Sheldon Thompson, and Danarryl Franklin beat the victim with their fists to the point of unconsciousness after their rejection of his attempt to purchase crack cocaine. They left the victim unconscious in a ditch filled with water where he was found unresponsive with superficial abrasions and contusions. According to the autopsy, the cause of death was asphyxia due to drowning. Any facts related to the dismissed offense are not noted herein.

### **ANDERS BRIEF**

Defense counsel has filed a brief, containing no assignments of error, and a motion to withdraw. Referring to the procedures outlined in **State v. Benjamin**, 573 So.2d 528, 529-531 (La. App. 4 Cir. 1990), counsel indicated that after a "conscientious

and thorough" review of the record, she could not find any non-frivolous issues to raise on appeal.

The **Anders** procedure used in Louisiana was discussed in **Benjamin**, sanctioned by the Louisiana Supreme Court in **State v. Mouton**, 95-0981 (La. 4/28/95), 653 So.2d 1176, 1177 (per curiam), and expanded by the Louisiana Supreme Court in **Jyles**. According to **Anders**, "if counsel finds his case to be wholly frivolous, after a conscientious examination of it, he should so advise the court and request permission to withdraw." **Anders**, 386 U.S. at 744, 87 S.Ct. at 1400. To comply with **Jyles**, appellate counsel must not only review the procedural history of the case and the evidence presented at trial, but the appellate brief must also contain "a detailed and reviewable assessment for both the defendant and the appellate court of whether the appeal is worth pursuing in the first place." **Jyles**, 704 So.2d at 242 (quoting **Mouton**, 653 So.2d at 1177). When conducting a review for compliance with **Anders**, an appellate court must conduct an independent review of the record to determine whether the appeal is wholly frivolous. See **Mouton**, 653 So.2d at 1177.

Herein, defense counsel has complied with all the requirements necessary to file an **Anders** brief. Defense counsel has reviewed the procedural history, factual basis, and **Boykin** proceeding for this case. As noted by defense counsel, prior to the defendant's entering of his plea of nolo contendere, the trial court informed him of the legal consequences of changing his plea. Defense counsel further determined that the trial court inquired as to the defendant's level of education and informed the defendant of his rights, including the right to a trial by jury, the right against self-incrimination, and the right to confront witnesses. As noted, the trial court ascertained that the defendant understood those rights. Defense counsel also has noted that the agreed upon sentence of thirty years at hard labor was imposed, and the sentence is within the statutory range. La. R.S. 14:31. Defense counsel therefore concludes in her brief that there are no non-frivolous issues for appeal. Further, defense counsel certifies that the defendant was served with a copy of the **Anders** brief and the motion to withdraw as counsel of record.

This court has conducted an independent review of the entire record in this matter, including a review for error under Article 920(2). We have found no reversible errors in this case. Furthermore, we agree with defense counsel's assertion that there are no non-frivolous issues or trial court rulings that arguably support this appeal. Accordingly, the defendant's conviction and sentence are affirmed. Defense counsel's motion to withdraw is granted.

**CONVICTION AND SENTENCE AFFIRMED; DEFENSE COUNSEL'S MOTION TO WITHDRAW GRANTED.**