

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NUMBER 2006 KA 1993

STATE OF LOUISIANA

VERSUS

MICHAEL TYRONE GLASPER

Judgment Rendered: SEP 14 2007

On appeal from the
Nineteenth Judicial District Court
In and for the Parish of East Baton Rouge
State of Louisiana
Suit Number 12-05-0296

Honorable Todd Hernandez, Presiding

Doug Moreau
District Attorney

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State of Louisiana

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Baton Rouge, Louisiana

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Louisiana Appellate Project
Baton Rouge, Louisiana

Counsel for Defendant/Appellant
Michael Tyrone Glasper

BEFORE: PARRO, GUIDRY, AND McCLENDON, JJ.

QMy

PMC by QMy

TRH

GUIDRY, J.

The defendant, Michael Tyrone Glasper, was charged by bill of information with simple burglary, a violation of La. R.S. 14:62. On May 23, 2006, pursuant to a plea agreement, the defendant entered a plea of guilty as charged. Following a **Boykin** examination, the trial court accepted the defendant's guilty plea. The defendant waived sentencing delays. The defendant was sentenced to imprisonment at hard labor for six years. The trial court granted the defendant's motion for appeal. The defendant now appeals. For the following reasons, we affirm defendant's conviction and sentence.

Because the defendant pled guilty, there was no trial testimony regarding the facts of this case. The following facts were presented during the preliminary examination. On or about November 22, 2005, Larry Wilson's neighbor observed a black male removing tools from Wilson's storage shed. The neighbor contacted Wilson's son and noted her observations. Upon notice, Mr. Wilson immediately proceeded home and the police were there at the time of his arrival. The neighbor provided a description of the perpetrator. Mr. Wilson assessed the contents of his storage shed and noted the absence of several items. Mr. Wilson began patrolling the area near his residence and observed the defendant carrying several items that matched the items missing from Wilson's shed. After a small scuffle between the defendant and Mr. Wilson, the police approached. Mr. Wilson identified the items, including a weed eater, blower, and chainsaw, as his property. The defendant was placed under arrest.

On appeal, the court-appointed appellate counsel for the indigent defendant filed a brief containing no assignments of error. Appellate defense counsel also filed a motion to withdraw. Referring to the procedures outlined in State v. Benjamin, 573 So.2d 528 (La. App. 4th Cir. 1990), counsel indicated that after a conscientious and thorough review of the record, she could find no non-frivolous

issues to raise on appeal. See also State v. Jyles, 96-2669 (La. 12/12/97), 704 So.2d 241 (per curiam); State v. Mouton, 95-0981, p. 2 (La. 4/28/95), 653 So.2d 1176, 1177 (per curiam).

A copy of defense counsel's brief was sent to the defendant. The defense brief notes the defendant's right to file a pro se brief on his own behalf. This Court granted the defendant's motion for leave of court to file a supplemental brief. The defendant has filed a pro se brief with this Court. Therein the defendant assigns as error the trial court's failure to comply with the mandatory requirements of La. C. Cr. P. art. 230.1. Specifically, the defendant alleges that his first court appearance for arraignment was after the seventy-two hour delay in Article 230.1 had expired. Thus, the defendant argues the trial court had no jurisdiction over the offense charged and that the bill of information was not properly filed. This argument is without merit.

Subsection (D) of Article 230.1 specifically provides that: "The failure of the sheriff or law enforcement officer to comply with the requirements herein shall have no effect whatsoever upon the validity of the proceedings thereafter against the defendant." See also State v. Guzman, 362 So.2d 744, 750 (La. 1978), cert. denied, 443 U.S. 912, 99 S.Ct. 3103, 61 L.Ed.2d 876 (1979).

The defendant's pro se brief also contains a handwritten page that raises several arguments that were not formally assigned as error or briefed. Listing errors does not constitute briefing. As the arguments were not briefed, they are considered abandoned. See State v. Williams, 632 So.2d 351, 353 (La. App. 1st Cir. 1993), writ denied, 94-1009 (La. 9/2/94), 643 So.2d 139; State v. Kohler, 434 So.2d 1110, 1124 (La. App. 1st Cir. 1983); Uniform Rules-Courts of Appeal, Rule 2-12.4.

This Court has conducted an independent review of the entire record in this matter, including a review for error under La. C. Cr. P. art. 920(2). We have found

no reversible errors. Furthermore, we agree with counsel's assertion that there are no non-frivolous issues or trial court rulings that arguably support this appeal. As noted above, we have reviewed the defendant's pro se brief and have found no merit in his sole assignment of error. Accordingly, the defendant's conviction and sentence are affirmed. Defense counsel's motion to withdraw is granted.

CONVICTION AND SENTENCE AFFIRMED; MOTION TO WITHDRAW GRANTED.