

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NUMBER 2011 KA 1490

STATE OF LOUISIANA

VERSUS

RICKEY A. REAUX

Judgment Rendered: MAR 23 2012

Appealed from the
Eighteenth Judicial District Court
In and for the Parish of West Baton Rouge
State of Louisiana
Docket Number 102311

Honorable James J. Best, Judge Presiding

Richard J. Ward
District Attorney
Elizabeth A. Engolio
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Plaquemine, LA

Counsel for Appellee
State of Louisiana

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Baton Rouge, LA

Counsel for
Defendant/Appellant
Rickey A. Reaux

BEFORE: WHIPPLE, KUHN, AND GUIDRY, JJ.

GUIDRY, J.

The defendant, Rickey A. Reaux, was charged by grand jury indictment with one count of forcible rape, a violation of La. R.S. 14:42.1, and pled not guilty. Following a jury trial, he was found guilty of the responsive offense of simple rape, a violation of La. R.S. 14:43. He was sentenced to twenty-five years at hard labor without benefit of probation, parole, or suspension of sentence. Defendant appealed and this court affirmed defendant's conviction and sentence in an unpublished decision. State v. Reaux, 10-1074 (La. App. 1st Cir. 12/22/10), 57 So. 3d 606. Subsequently, on May 4, 2011, the trial court held a hearing on the State's habitual offender bill of information that was filed on May 18, 2010, and adjudicated the defendant a sixth felony offender. The trial court vacated the previously imposed sentence and sentenced defendant to life imprisonment at hard labor without the benefit of probation, parole, or suspension of sentence. Defendant filed a motion to appeal the habitual offender adjudication. Defense counsel filed a brief on behalf of the defendant raising no assignments of error and contending that there are no non-frivolous issues to argue on appeal. For the following reasons, we affirm the habitual offender adjudication and sentence.

ANDERS BRIEF

Defense counsel has filed a brief containing no assignments of error and a motion to withdraw. Referring to the procedures outlined in Anders v. California, 386 U.S. 738, 87 S.Ct. 1396, 18 L.Ed.2d 493 (1967), counsel indicated that after a conscientious and thorough review of the record, he could find no non-frivolous issues to raise on appeal.

The Anders procedure used in Louisiana was discussed in State v. Benjamin, 573 So. 2d 528, 529-31 (La. App. 4th Cir. 1990), 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 State v. Jyles, 96-

2669 (La. 12/12/97), 704 So. 2d 241 (per curiam). According to Anders, 386 U.S. at 744, 87 S.Ct. at 1400, "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." To comply with Jyles, appellate counsel must not only review the procedural history of the case and the evidence presented at trial, but his 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 State v. 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.

Herein, defense counsel has complied with all the requirements necessary to file an Anders brief. Defense counsel has reviewed the procedural history and the facts of the case and also has evaluated the evidence presented by the State at the habitual offender proceeding as to each predicate conviction. As noted by the defense, the State presented evidence (including bills of information, minute entries, testimony, and fingerprint evidence) to show that defendant was convicted in this case on October 29, 2009, and previously convicted of possession with intent to distribute marijuana and possession of methamphetamines on May 11, 1998; of possession of marijuana with intent to distribute on February 19, 1991; of six counts of distribution of marijuana on July 17, 1987; of unauthorized entry of an inhabited dwelling on September 2, 1987; and of simple burglary on July 20, 1978. Defense counsel concludes in his brief that there are no non-frivolous issues for appeal. Further, defense counsel certifies that defendant was served with a copy of the Anders brief and his motion to withdraw as counsel of record. The defense counsel's motion to withdraw notes defendant has been informed of his right to file a pro se brief on his own behalf. Defendant has not filed a pro se brief.

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 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, defendant's habitual offender adjudication and sentence are affirmed. Defense counsel's motion to withdraw is granted.

**HABITUAL OFFENDER ADJUDICATION AND SENTENCE
AFFIRMED; DEFENSE COUNSEL'S MOTION TO WITHDRAW
GRANTED.**