

STATE OF LOUISIANA

NO. 17-KA-255

VERSUS

FIFTH CIRCUIT

THOMAS K. AMMONS

COURT OF APPEAL

STATE OF LOUISIANA

ON APPEAL FROM THE TWENTY-FOURTH JUDICIAL DISTRICT COURT  
PARISH OF JEFFERSON, STATE OF LOUISIANA  
NO. 16-5920, DIVISION "K"  
HONORABLE ELLEN SHIRER KOVACH, JUDGE PRESIDING

November 15, 2017

**MARC E. JOHNSON**  
**JUDGE**

Panel composed of Judges Susan M. Chehardy,  
Fredericka Homberg Wicker, and Marc E. Johnson

**CONVICTIONS AND SENTENCES AFFIRMED; MATTER**  
**REMANDED FOR CORRECTION OF COMMITMENT; MOTION TO**  
**WITHDRAW GRANTED**

**MEJ**  
**SMC**  
**FHW**

COUNSEL FOR PLAINTIFF/APPELLEE,  
STATE OF LOUISIANA

Paul D. Connick, Jr.  
Terry M. Boudreaux

COUNSEL FOR DEFENDANT/APPELLANT,  
THOMAS K. AMMONS

Bruce G. Whittaker

## JOHNSON, J.

Defendant, Thomas Ammons, appeals his convictions and sentences for purse snatching, access device fraud valued at over \$500, and attempted access device fraud. For the reasons that follow, we affirm.<sup>1</sup>

On October 14, 2016, Defendant was charged with one count of purse snatching in violation of La. R.S. 14:65.1 (count one), one count of access device fraud valued at over \$500 in violation of La. R.S. 14:70.4 (count two), and two counts of attempted access device fraud in violation of La. R.S. 14:27 and 14:70.4 (counts three and four). Defendant initially pled not guilty but later withdrew his not guilty pleas, after being advised of his *Boykin*<sup>2</sup> rights, and pled guilty as charged to all four counts. In accordance with a plea agreement, the trial court sentenced Defendant to seven and one-half years at hard labor on count one, and two and one-half years at hard labor on each of counts two, three, and four. His sentences were ordered to run concurrently with each other.

Immediately thereafter, the State filed a multiple offender bill of information alleging Defendant to be a second felony offender. As part of the plea bargain, Defendant stipulated to his status as a second felony offender, and the trial court resentenced him under La. R.S. 15:529.1 on count two, after vacating his original sentence on count two, to two and one-half years at hard labor without benefit of probation or suspension of sentence. His enhanced sentence was ordered to run concurrently with his sentences on counts one, three, and four.

Appellate counsel's brief contains no assignments of error and sets forth that it is filed in accordance with *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*

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<sup>1</sup> This memorandum opinion is issued in compliance with Louisiana Uniform Rules – Courts of Appeal, Rule 2-16.1(B).

<sup>2</sup> *Boykin v. Alabama*, 395 U.S. 238, 89 S.Ct. 1709, 23 L.Ed.2d 274 (1969).

*curiam*), which set forth the procedure appellate counsel should follow when, upon conscientious review of a case, counsel finds an appeal would be wholly frivolous.

In the instant case, appellate counsel reviewed the procedural history of the case in his brief. He set forth that, after a review of the record, he has failed to find any non-frivolous issues to present on appeal. Appellate counsel noted that Defendant entered an unqualified guilty plea, which waived all non-jurisdictional defects and precludes review of any such defects on appeal. Counsel also noted that Defendant was not forced, coerced or threatened into entering his guilty pleas, and that he understood his rights, the charges against him, and the sentences he would receive in exchange for his pleas; thus, his pleas were knowing and voluntary. Counsel further indicated Defendant's plea bargain appeared to be advantageous to Defendant and that he was sentenced in accordance with the plea agreement, precluding him from challenging his sentences on appeal. Counsel reviewed the legality of the multiple bill, which was predicated upon a 2013 North Carolina conviction, and concluded the multiple bill was valid and Defendant's enhanced sentence was therefore legal.

Appellate counsel requests to withdraw from further representation of Defendant. He advised this Court that he notified Defendant of his right to file a *pro se* brief in this appeal, and we note that this Court sent Defendant a letter by certified mail informing him that an *Anders* brief had been filed and that he had a right to file a *pro se* supplemental brief. Defendant chose not to file a *pro se* brief.

This Court has performed an independent, thorough review of the pleadings, minute entries, bill of information, and transcripts in the appellate record. Our independent review reveals no non-frivolous issues or trial court rulings that arguably support an appeal.

We note a minor discrepancy between the sentencing transcript and the commitment. The commitment reflects that Defendant's enhanced sentence on

count two is to “run concurrently with counts 2, 3 and 4,” while the transcript reflects that Defendant’s enhanced sentence on count two was ordered to run concurrently with Defendant’s original sentences on counts “1, 3, and 4.”

(Emphasis added.) Generally, when there is a conflict between the transcript and the minute entry, the transcript prevails. *State v. Lynch*, 441 So.2d 732, 734 (La. 1983). Thus, the trial court is ordered to correct the referenced discrepancy in the commitment, and the Clerk of Court for the 24<sup>th</sup> Judicial District court is directed to transmit the corrected commitment to the officer in charge of the institution to which Defendant has been sentenced as well as to the legal department of the Louisiana Department of Public Safety and Corrections. *See State v. Long*, 12-184 (La. App. 5 Cir. 12/11/12); 106 So.3d 1136, 1142.

For the foregoing reasons, Defendant’s convictions and sentences are affirmed. Appellate counsel’s motion to withdraw, which has been held in abeyance pending disposition of this matter, is granted.

**CONVICTIONS AND**  
**SENTENCES AFFIRMED;**  
**MATTER REMANDED FOR**  
**CORRECTION OF**  
**COMMITMENT; MOTION TO**  
**WITHDRAW GRANTED**

SUSAN M. CHEHARDY  
CHIEF JUDGE

FREDERICKA H. WICKER  
JUDE G. GRAVOIS  
MARC E. JOHNSON  
ROBERT A. CHAISSON  
ROBERT M. MURPHY  
STEPHEN J. WINDHORST  
HANS J. LILJEBERG

JUDGES



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CLERK OF COURT

MARY E. LEGNON  
CHIEF DEPUTY CLERK


SUSAN BUCHHOLZ  
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**NOTICE OF JUDGMENT AND CERTIFICATE OF DELIVERY**

I CERTIFY THAT A COPY OF THE OPINION IN THE BELOW-NUMBERED MATTER HAS BEEN DELIVERED IN ACCORDANCE WITH **UNIFORM RULES - COURT OF APPEAL, RULE 2-16.4 AND 2-16.5** THIS DAY **NOVEMBER 15, 2017** TO THE TRIAL JUDGE, CLERK OF COURT, COUNSEL OF RECORD AND ALL PARTIES NOT REPRESENTED BY COUNSEL, AS LISTED BELOW:

  
CHERYL Q. LANDRIEU  
CLERK OF COURT

**17-KA-255**

**E-NOTIFIED**

24TH JUDICIAL DISTRICT COURT (CLERK)  
HONORABLE ELLEN SHIRER KOVACH (DISTRICT JUDGE)  
TERRY M. BOUDREAUX (APPELLEE)

**MAILED**

BRUCE G. WHITTAKER (APPELLANT)	HON. PAUL D. CONNICK, JR.(APPELLEE)
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