Fifth Circuit Court of Appeal
State of Louisiana

No. 25-KA-265

STATE OF LOUISIANA

versus

TYRONE J JERNIGAN

ON APPEAL FROM THE TWENTY-FOURTH JUDICIAL DISTRICT COURT
PARISH OF JEFFERSON, STATE OF LOUISIANA
NO. 24-5517, DIVISION "I"
HONORABLE NANCY A. MILLER, JUDGE PRESIDING

December 15, 2025

SUSAN M. CHEHARDY

CHIEF JUDGE

Panel composed of Judges Susan M. Chehardy,
Fredericka Homberg Wicker, and Jude G. Gravois

CONVICTION AND SENTENCE AFFIRMED; MOTION TO WITHDRAW GRANTED

SMC
FHW
JGG

COUNSEL FOR DEFENDANT/APPELLANT,
TYRONE J. JERNIGAN
Prentice L. White

COUNSEL FOR PLAINTIFF/APPELLEE,
STATE OF LOUISIANA
Honorable Paul D. Connick, Jr.
Monique D. Nolan
Thomas J. Butler
Leo M. Aaron

CHEHARDY, C.J.

Defendant, Tyrone J. Jernigan, was charged and convicted of one count of obscenity. Defendant's appellate counsel filed a brief pursuant to *Anders v. California*, 386 U.S. 738, 87 S.Ct. 1396, 18 L.Ed.2d 493 (1967), and a motion to withdraw alleging there are no non-frivolous issues that could support an appeal. After thorough review of the record, we agree with counsel's assessment of the case, affirm defendant's conviction and sentence, and grant appellate counsel's motion to withdraw as counsel of record for defendant.

PROCEDURAL HISTORY

On October 29, 2024, the Jefferson Parish District Attorney filed a bill of information charging defendant, Tyrone J. Jernigan, with obscenity in violation of La. R.S. 14:106, by exposing his genitals in the Jefferson Parish Sheriff's Office on April 12, 2024. Defendant pled not guilty at his arraignment on October 31, 2024.

Defendant withdrew his plea and pled guilty as charged on March 20, 2025.[1] On that same day, the district court sentenced defendant to imprisonment at hard labor for three years. The district court ordered that the sentence run concurrently with case numbers 23-2686 and 23-2953. Additionally, the district court imposed a fine of $150 to the Indigent Defender Board and $150 to the Jefferson Parish Sheriff's Office.

The district court judge recommended that defendant be allowed to participate in any and all self-help programs while at the Department of Corrections, and that he be permitted to take part in any program that would assist him with the psychological issues that led to his present situation, and that he be

[1] Also on March 20, 2025, defendant simultaneously pled guilty under district court case number 23-2686 to two counts of obscenity, third offense, which is currently pending on the same docket in companion case 25-KA-263. Additionally, defendant pled guilty under district court case number 23-2953 to criminal trespass, which is currently pending on the same docket in companion case 25-KA-264.

housed in the Department of Corrections facility best suited to accomplish that purpose.

On April 3, 2025, defendant filed a *pro se* motion for appeal and a *pro se* application to proceed *informa pauperis*. The district court issued an order granting defendant's motion for appeal and denying defendant's related requests on April 9, 2025. A motion to withdraw as counsel of record was granted on April 16, 2025, and the Louisiana Appellate Product was appointed to represent defendant. Appellate counsel subsequently filed an *Anders* brief alleging that, after thorough review of the record, there are no non-frivolous issues that could support an appeal.

FACTUAL BACKGROUND

Because defendant's conviction resulted from a guilty plea, the underlying facts were not fully developed at trial. Nevertheless, the State alleged in the bill of information that, on or about April 12, 2023, defendant violated La. R.S. 14:106, in that he did intentionally expose his genitals in the Jefferson Parish Sheriff's Office. Additionally, defendant indicated that he committed the crime.

ISSUE PRESENTED FOR REVIEW

While defense counsel has assigned no errors for appellate review, the issue this Court must decide is whether the record reveals any facts that could support a non-frivolous appeal. Additionally, we must determine whether any patent errors appear on the face of the record.

ANDERS BRIEF

Under the procedure adopted by this Court in *State v. Bradford*, 95-929 (La. App. 5 Cir. 6/25/96), 676 So.2d 1108, 1110-11,[2] appointed appellate counsel has filed a brief asserting that he has thoroughly reviewed the trial court record and

[2] In *Bradford*, this Court adopted the procedures outlined in *State v. Benjamin*, 573 So.2d 528, 530 (La. App. 4 Cir. 1990), which were sanctioned by the Louisiana Supreme Court in *State v. Mouton*, 95-981 (La. 4/28/95), 653 So.2d 1176, 1177 (*per curiam*).

cannot find any non-frivolous issues to raise on appeal. Accordingly, 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*), appointed counsel requests permission to withdraw as counsel of record.

In *Anders*, the United States Supreme Court stated that appointed appellate counsel may request permission to withdraw if he finds his case to be wholly frivolous after a conscientious examination of it.[3] The request must be accompanied by "a brief referring to anything in the record that might arguably support the appeal" so as to provide the reviewing court "with a basis for determining whether appointed counsel have fully performed their duty to support their clients' appeals to the best of their ability" and to assist the reviewing court "in making the critical determination whether the appeal is indeed so frivolous that counsel should be permitted to withdraw." *McCoy v. Court of Appeals of Wisconsin, Dist. 1*, 486 U.S. 429, 439, 108 S.Ct. 1895, 1902, 100 L.Ed.2d 440 (1988) (quotation omitted).

In *Jyles*, 96-2669, 704 So.2d at 241, the Louisiana Supreme Court stated that an *Anders* brief need not tediously catalog every meritless pretrial motion or objection made at trial with a detailed explanation of why the motions or objections lack merit. The supreme court explained that an *Anders* brief must demonstrate by full discussion and analysis that appellate counsel "has cast an advocate's eye over the trial record and considered whether any ruling made by the trial court, subject to the contemporaneous objection rule, had a significant, adverse impact on shaping the evidence presented to the jury for its consideration." *Id.*

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[3] The United States Supreme Court reiterated *Anders* in *Smith v. Robbins*, 528 U.S. 259, 120 S.Ct. 746, 145 L.Ed.2d 756 (2000).

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. *Bradford*, 95-929, 676 So.2d at 1110. If, after an independent review, the reviewing court determines there are no non-frivolous issues for appeal, it may grant counsel's motion to withdraw and affirm the defendant's conviction and sentence. However, if the court finds any legal point arguable on the merits, it may either deny the motion and order the court-appointed attorney to file a brief arguing the legal point(s) identified by the court, or grant the motion and appoint substitute appellate counsel. *Id.*

DISCUSSION

Defendant's appellate counsel asserts that after a detailed review of the record, he could find no non-frivolous issues to raise on appeal. He explains that the bill of information was proper, the trial court correctly ruled on the pretrial motions, and the plea was entered freely and voluntarily with no *Boykin*[4] deficiencies. The court confirmed defendant's educational background, mental stability, and opportunity to review the plea agreement with counsel. Defendant was also advised of the sentencing range and his right to counsel if he chose to appeal his sentence. Counsel concludes that no appealable issues exist to support a direct appeal of the conviction or sentence and requests an errors patent review.

The State agrees with appellate counsel that there are no non-frivolous issues for appeal. It asserts that the bill of information was proper and that defendant was present and represented by counsel at every critical stage of the proceedings. The State further asserts that defendant knowingly and voluntarily waived his rights and pled guilty and that the trial court conducted a proper *Boykin* colloquy. It adds that defendant was sentenced in accordance with the plea agreement and that the sentence imposed was legal. The State concludes that because appellate counsel's

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[4] *Boykin v. Alabama*, 395 U.S. 238, 89 S.Ct. 1709, 23 L.Ed.2d 274 (1969).

brief demonstrates compliance with *Anders*, the motion to withdraw should be granted.

Appellate counsel has filed a motion to withdraw as attorney of record, which states he made a conscientious and thorough review of the trial court record and can find no non-frivolous issues to raise on appeal and no rulings of the trial court which would arguably support the appeal. He further indicates defendant was notified of his filing and advised of his right to file a *pro se* brief. Additionally, this Court sent defendant a letter informing him that an *Anders* brief had been filed and that he had until August 10, 2025 to file a *pro se* supplemental brief. Defendant chose not to file a *pro se* brief.

Our independent review of the record supports appellate counsel's assertion that there are no non-frivolous issues that could support an appeal.

The bill of information properly charged defendant and concisely stated the essential facts constituting the offense charged. It also sufficiently identified defendant and the crime charged. *See* La. C.Cr.P. arts. 463-466. The minute entries reflect that defendant and his counsel appeared at all crucial stages of the proceedings against him, including his arraignment, guilty plea proceeding, and sentencing. As such, defendant's presence does not present any issues that would support an appeal.

Further, defendant pled guilty as charged to the bill of information. If a defendant pleads guilty, he normally waives all non-jurisdictional defects in the proceedings leading up to the guilty plea and precludes review of such defects either by appeal or post-conviction relief. *State v. Turner*, 09-1079 (La. App. 5 Cir. 7/27/10), 47 So.3d 455, 459. Here, defendant entered an unqualified plea of guilty; consequently, all non-jurisdictional defects are waived. No rulings were preserved for appeal under the holding in *State v. Crosby*, 338 So.2d 584 (La. 1976).

Defendant filed pretrial motions. Even if all of those motions were not heard or ruled upon, when a defendant does not object to the district court's failure to hear or rule on a pretrial motion prior to pleading guilty, the motion is considered waived. *See State v. Corzo*, 04-791 (La. App. 5 Cir. 2/15/05), 896 So.2d 1101, 1102. Here, defendant did not object to the district court's failure to hear or rule on any pretrial motions prior to his guilty plea. Further, prior to defendant's guilty plea proceeding, the district court found that defendant was competent to proceed to trial. This Court has previously determined that a defendant's guilty plea waived his right to challenge his competency on appeal. *See State v. Ellis*, 19-435 (La. App. 5 Cir. 1/29/20), 290 So.3d 306, 311; *State v. Chirlow*, 18-360 (La. App. 5 Cir. 11/7/18), 259 So.3d 604, 609; *State v. Marenco*, 17-418 (La. App. 5 Cir. 12/27/17), 236 So.3d 784, 789.

Additionally, a review of the record reveals no irregularities in defendant's guilty plea that would render it invalid. Once a defendant is sentenced, only those guilty pleas that are constitutionally infirm may be withdrawn by appeal or post-conviction relief. A guilty plea is constitutionally infirm if it is not entered freely and voluntarily, if the *Boykin* colloquy is inadequate, or when a defendant is induced to enter the plea by a plea bargain or what he justifiably believes was a plea bargain and that bargain is not kept. *State v. McCoil*, 05-658 (La. App. 5 Cir. 2/27/06), 924 So.2d 1120, 1124.

The record indicates there was no constitutional infirmity in defendant's guilty plea. The record reflects that defendant was aware he was pleading guilty to one count of obscenity in violation of La. R.S. 14:106. He indicated that he understood the nature of the crime to which he was pleading guilty. As to his highest level of education, defendant stated that he had a tenth-grade education.

Defendant was also properly advised of his *Boykin* rights. On the waiver of rights form and during the guilty plea colloquy, defendant was advised of his right

to a jury trial (or by the court alone), his right to confrontation, and his privilege against self-incrimination.[5] Defendant placed his signature at the end of the waiver of rights form indicating that he understood he was waiving these rights and further affirmatively stated to the trial court during the colloquy that he understood that by pleading guilty he was waiving these rights.

The judge also explained that if defendant had a trial and was found guilty that he would have a right to appeal and would be appointed an attorney for the appeal if he could not afford one. The judge advised him that by pleading guilty he was waiving these rights. Defendant indicated that he understood this. The judge told defendant that if he pled guilty and the plea was accepted by the court that he would not have a right to assert any allegations or defects, such as an illegal arrest, an illegal search and seizure, an illegal confession, an illegal lineup, and the fact that the State might not be able to prove the charge or that a jury would find him not guilty. The judge asked defendant if he understood that by pleading guilty, he was waiving this right, and defendant indicated that he did. He also indicated that he understood that by pleading guilty he was telling the court that he did commit the crime for which he was pleading guilty.

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[5] Although the trial judge failed to specifically refer to defendant's privilege against self-incrimination during the guilty plea colloquy, at the commencement of the colloquy, the trial judge asked defendant whether his attorney had advised him of his right against self-incrimination and whether he understood that he was waiving his right by pleading guilty. Additionally, at the conclusion of the colloquy, the judge confirmed with defense counsel that he had, in fact, advised defendant of his rights, including his right against self-incrimination, and that he was satisfied that defendant entered his plea of guilty knowing all of the consequences. The judge also confirmed with defendant that his waiver of rights form was read to him and confirmed that he was informed of all of the rights he was waiving by pleading guilty. Finally, the waiver of rights form signed by defendant, his attorney, and the district court, reflects a waiver of defendant's privilege against self-incrimination.

Although it is preferable for the trial judge to conduct a colloquy with the defendant to ascertain the validity of the plea, such a colloquy may not be indispensable, as long as the record contains some other affirmative showing to support the plea. *State v. Halsell*, 403 So.2d 688, 690 (La. 1981). A written form containing a waiver of rights is a part of the record and can be examined to determine the free and knowing nature of the plea. *State v. Dunn*, 390 So.2d 525 (La. 1980). Accordingly, while the district court did not specifically advise defendant of his right against self-incrimination during the colloquy, we find this issue does not present a non-frivolous issue for appeal because defendant's plea colloquy, along with the well-executed waiver of rights form, contains a sufficient affirmative showing on the record that defendant knowingly waived his privilege against self-incrimination.

During the colloquy, defendant denied being forced, intimidated, coerced, or promised any award to himself or any member of his family for the purpose of forcing him to plead guilty. He answered negatively when asked if he was suffering from any physical or mental impairments that would affect his ability to enter the guilty plea. The judge asked if he could read, write, and understand English, and defendant answered affirmatively. He also confirmed that he was a U.S. citizen. The waiver of rights form also reflects that defendant initialed next to similar statements.

Thereafter, defense counsel and defendant both indicated that they read and signed the waiver of rights form. Afterward, the trial judge indicated that she was satisfied that defendant was aware of the nature of the crime to which he pled guilty. The judge said defendant did in fact commit said crime and understood the consequences of his guilty plea. After indicating defendant made a knowing, intelligent, free, and voluntary plea, the court accepted defendant's guilty plea.

Also, during the colloquy, the trial judge asked defendant if he understood that the sentencing range was "six months to three years," which defendant indicated he understood. The judge asked defendant if he had been advised by counsel that he would be sentenced to "three years at hard labor in the Department of Corrections," to run concurrent with his other sentences, that the State agreed not to file any multiple bills, and that he would be ordered to pay certain fees. Defendant responded affirmatively. The waiver of rights form, which was signed by defendant, reflects that the sentencing range was six months to three years in the Department of Corrections. It provides that defendant's sentence would be three years in the Department of Corrections.[6] It further provides that the sentence

[6] This Court has previously held that when the trial judge states that the defendant is sentenced to the "Department of Corrections," the sentence is necessarily at hard labor. *State v. Jamison*, 17-49 (La. App. 5 Cir. 5/17/17), 222 So.3d 908, 909 n.2. *See also* La. R.S.15:824(C)(1), which states, "Notwithstanding any other law to the contrary, only individuals actually sentenced to death or

would run concurrently with the sentences rendered in case numbers 23-2686 and 23-2953.

The record reflects the district court failed to advise defendant that his sentence may have been imposed without hard labor and did not inform him of the potential fines. *See* La. R.S. 14:106(G)(1). Nevertheless, the record confirms that defendant was advised that he would be sentenced to three years in the Department of Corrections, and defendant was sentenced accordingly.[7] We find that the advisement of the agreed-upon sentence was sufficient for compliance with La. C.Cr.P. art. 556.1. *See State v. Craig*, 10-854 (La. App. 5 Cir. 5/24/11), 66 So.3d 60, 64. *See also State v. Williams*, 18-137 (La. App. 5 Cir. 9/19/18), 254 So.3d 1260, 1264.

For the foregoing reasons, we find that defendant's sentence does not present an issue for appeal. His sentence falls within the range prescribed by the statute. *See* La. R.S. 14:106(G)(1). Further, defendant's sentence was imposed in accordance with the terms of the plea agreement. La. C.Cr.P. art. 881.2(A)(2) precludes a defendant from seeking review of his sentence imposed in conformity with a plea agreement, which was set forth in the record at the time of the plea. *State v. Surgi*, 24-293 (La. App. 5 Cir. 2/26/25), 406 So.3d 1181, 1189. Additionally, the plea agreement appears beneficial to defendant in that no fine

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imprisonment at hard labor shall be committed to the Department of Corrections." *But see* La. R.S. 15:824(C)(2), which provides exceptional circumstances.

[7] At the time of the offenses, La. R.S. 14:106(G)(1) provided that on a first conviction, the offender "shall be fined not less than one thousand dollars nor more than two thousand five hundred dollars, or imprisoned, with or without hard labor, for not less than six months nor more than three years, or both. La. C.Cr.P. art. 556.1(A)(1) provides that, prior to accepting a guilty plea in a felony case, the court must personally inform defendant of the nature of the charge to which the plea is offered, any mandatory minimum penalty, and the maximum possible penalty. Further, La. C.Cr.P. art. 556.1(E) provides that: "[a]ny variance from the procedures required by this Article which does not affect substantial rights of the accused shall not invalidate the plea." Violations of La. C.Cr.P. art. 556.1 that do not rise to the level of *Boykin* violations are subject to a harmless error analysis. *State v. Guzman*, 99-1528 and 99-1753 (La. 5/16/00), 769 So.2d 1158, 1164-66; *State v. Kent*, 15-323 (La. App. 5 Cir. 10/28/15), 178 So.3d 219, 229, *writ denied*, 15-2119 (La. 12/16/16), 211 So.3d 1165. Here, the lack of advisal regarding the fines is harmless as no fines were actually imposed.

was imposed despite the statute authorizing both imprisonment and a fine. The State also agreed not to file a multiple bill.

Because appellate counsel's brief adequately demonstrates by full discussion and analysis that he has reviewed the district court proceedings and cannot identify any basis for a non-frivolous appeal, and an independent review of the record supports counsel's assertion, we grant appellate counsel's motion to withdraw as attorney of record.

ERRORS PATENT REVIEW

Defendant requests an errors patent review. However, this Court routinely reviews the record for errors patent in accordance with La. C.Cr.P. art. 920, *State v. Oliveaux*, 312 So.2d 337 (La. 1975), and *State v. Weiland*, 556 So.2d 175 (La. App. 5 Cir. 1990), regardless of whether defendant makes such a request. Our review reveals no errors patent in this case.

CONVICTION AND SENTENCE AFFIRMED; MOTION TO WITHDRAW GRANTED

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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 **DECEMBER 15, 2025** TO THE TRIAL JUDGE, CLERK OF COURT, COUNSEL OF RECORD AND ALL PARTIES NOT REPRESENTED BY COUNSEL, AS LISTED BELOW:

Curtis B. Pursell

CURTIS B. PURSELL
CLERK OF COURT

25-KA-265

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24TH JUDICIAL DISTRICT COURT (CLERK)
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