

**NOT DESIGNATED FOR PUBLICATION**

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NO. 2007 KA 2186

STATE OF LOUISIANA

VERSUS

GLYNN J. MATTHEWS

Judgment Rendered: March 26, 2008.

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On Appeal from the  
19th Judicial District Court,  
in and for the Parish of East Baton Rouge  
State of Louisiana  
District Court No. 9-01-0354

The Honorable Richard Anderson, Judge Presiding

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Doug Moreau  
District Attorney  
Baton Rouge, La.

Steve Danielson  
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Assistant District Attorneys

Counsel for  
Plaintiff/Appellee,  
State of Louisiana

Mary E. Roper  
Baton Rouge, La.

Counsel for  
Defendant/Appellant,  
Glynn J. Matthews

\* \* \* \* \*

BEFORE: CARTER, C.J., PETTIGREW AND WELCH, JJ.

*Handwritten initials:*  
RJM  
JAW  
JJA

**CARTER, C.J.**

The defendant, Glynn J. Matthews, originally was charged by bill of information with two counts of simple burglary in violation of La. R.S. 14:62. The state dismissed count one, and the trial on count two ended in a mistrial due to a hung jury. Thereafter, the state amended the bill of information, changing count two to charge simple burglary of an inhabited dwelling, a violation of La. R.S. 14:62.2. Following a jury trial, the defendant was convicted as charged. The defendant was sentenced to imprisonment at hard labor for twelve years.

Subsequently, the state filed a multiple offender bill of information seeking to have the defendant adjudicated and sentenced under La. R.S. 15:529.1. The defendant pled not guilty to the allegations contained in the multiple offender bill. At the conclusion of the multiple offender hearing, the defendant was adjudicated a fourth-felony habitual offender. The previously imposed sentence was vacated, and the defendant was resentenced to twenty-seven years at hard labor without benefit of probation, parole, or suspension of sentence. The defendant's motion for reconsideration of the sentence was denied.

On December 27, 2005, the defendant filed an application for post conviction relief requesting an out-of-time appeal of his conviction, habitual offender adjudication, and sentence. In response, the state filed a procedural objection and motion to dismiss the post conviction relief application as untimely. On September 12, 2006, the trial court granted the defendant an out-of-time appeal as to the

habitual offender adjudication and sentence only. The court denied all claims regarding the underlying conviction as procedurally barred. The defendant now appeals. We affirm the habitual offender adjudication and sentence.

### **FACTS**

The instant offense occurred on May 27, 2001; the defendant was charged with, and subsequently convicted of, burglarizing the residence of Iris Johnson while she was away at work. Alleged as predicates in the habitual offender bill of information were: (1) a September 1992 manslaughter conviction; (2) a March 1994 felon in possession of a firearm conviction; and (3) a January 1998 obscenity conviction.

### **ASSIGNMENT OF ERROR**

Defense counsel has filed a motion to withdraw from the case. In accordance with the procedures outlined in **Anders v. California**, 386 U.S. 738, 87 S.Ct. 1396, 18 L.Ed.2d 493 (1967); **State v. Jyles**, 96-2669 (La. 12/12/97), 704 So.2d 241 (per curiam); and **State v. Benjamin**, 573 So.2d 528 (La. App. 4th Cir. 1990),<sup>1</sup> defense counsel has filed a brief indicating that, after a conscientious and thorough review of the record, this case presents no non-frivolous issues for appeal.

A copy of defense counsel's brief and motion to withdraw were sent to the defendant. Defense counsel informed the defendant of his

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<sup>1</sup> In **State v. Mouton**, 95-0981 (La. 4/28/95), 653 So.2d 1176, 1177 (per curiam), the Louisiana Supreme Court sanctioned the procedures outlined in **Benjamin** for use by the appellate courts of Louisiana. See Jyles, 704 So.2d at 241.

right to file a pro se brief on his own behalf. The defendant has not filed a pro se brief with this court.

This court has performed an independent, thorough review of the record as it relates to the habitual offender proceedings in this matter, including a review for error under La. Code Crim. 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. Accordingly, the defendant's habitual offender adjudication and sentence are affirmed. Defense counsel's motion to withdraw is granted.

**HABITUAL OFFENDER ADJUDICATION AND SENTENCE AFFIRMED. MOTION TO WITHDRAW GRANTED.**