

Judgment rendered December 5, 2007.  
Application for rehearing may be filed  
within the delay allowed by Art. 922,  
La. C.Cr.P.

No. 42,735-KA

COURT OF APPEAL  
SECOND CIRCUIT  
STATE OF LOUISIANA

\* \* \* \* \*

STATE OF LOUISIANA

Appellee

versus

TOMMY HAWTHORNE

Appellant

\* \* \* \* \*

Appealed from the  
Twenty-Sixth Judicial District Court for the  
Parish of Webster, Louisiana  
Trial Court No. 73,520

Honorable Bruce Martin Bolin, Judge

\* \* \* \* \*

LOUISIANA APPELLATE PROJECT  
By: G. Paul Marx

Counsel for  
Appellant

J. SCHUYLER MARVIN  
District Attorney

Counsel for  
Appellee

JOHN MICHAEL LAWRENCE  
JOHN W. MONTGOMERY  
Assistant District Attorneys

\* \* \* \* \*

Before BROWN, DREW and LOLLEY, JJ.

## **LOLLEY, J.**

The defendant, Tommy Hawthorne, appeals a judgment by the Twenty-Sixth Judicial District Court, Parish of Webster, State of Louisiana, following his guilty plea of aggravated burglary. He was sentenced to eight years' imprisonment at hard labor. Hawthorne's appellate counsel has filed a motion to withdraw, along with an *Anders* brief in support of the motion.<sup>1</sup> The state has filed an appellate brief in this matter concurring that there are no non-frivolous issues to raise on appeal. On July 23, 2007, this court notified Hawthorne that he may file a brief in this appeal within 30 days of its order; however, Hawthorne has not requested the record and has not filed any brief. Accordingly, the motion to withdraw is granted, and Hawthorne's conviction and sentence are affirmed.

### **FACTS**

On May 2, 2006, Hawthorne made an unauthorized entry into Willie Mendenhall's residence by kicking in the door to the house. He then stole money and a firearm from the residence. Following his arrest, Hawthorne was originally charged by bill of information with aggravated burglary and possession of a firearm by a convicted felon, violations of La. R.S. 14:60 and La. R.S. 14:95.1, respectively. As part of a plea bargain agreement, Hawthorne pled guilty to one count of aggravated burglary with a pre-sentence investigation report in exchange for dismissal of the charge for possession of a firearm by a convicted felon—there was no agreement as to his sentence. Hawthorne was subsequently sentenced to serve eight years' imprisonment at hard labor with credit for time served. This appeal ensued.

---

<sup>1</sup>*Anders v. State of Cal.*, 386 U.S. 738, 87 S. Ct. 1396, 18 L. Ed. 2d 493 (1967).

## DISCUSSION

Hawthorne was appointed appellate counsel, which has filed an *Anders* brief seeking to withdraw on the grounds that after “a conscientious and thorough review of the trial court record,” he could find no non-frivolous issues to raise on appeal. *See Anders, supra; State v. Mouton*, 1995-0981 (La. 04/28/95), 653 So. 2d 1176; *State v. Benjamin*, 573 So. 2d 528 (La. App. 4th Cir. 1990). As necessary, Hawthorne’s appellate counsel’s brief outlines the facts and procedural history of the case. *See State v. Jyles*, 1996-2669 (La. 1997), 704 So. 2d 241. Hawthorne’s appellate counsel further verifies that he has mailed copies of the motion to withdraw and his brief to Hawthorne in accordance with applicable jurisprudence.

We have thoroughly reviewed Hawthorne’s appellate record. First, we note that no errors patent were found. Next, we have reviewed the transcript from Hawthorne’s sentencing hearing, where the trial court noted that the potential sentencing range for aggravated burglary is imprisonment at hard labor from one to thirty years. *See La. R.S. 14:60*. The trial court did note the mitigating circumstances as well as the aggravating circumstances in concluding that a “fair and appropriate sentence” for Hawthorne would be eight years’ imprisonment at hard labor. We feel that the record supports the trial court’s sentence of eight years’ imprisonment at hard labor, which, notably, was far below the maximum for this crime. Therefore, our review disclosed no non-frivolous issues and no rulings which arguably support an appeal.

## CONCLUSION

So considering, the motion to withdraw is granted, and Tommy Hawthorne's conviction and sentence are affirmed.

**MOTION GRANTED; CONVICTION AND SENTENCE AFFIRMED.**