

Judgment rendered February 25, 2009.
Application for rehearing may be filed
within the delay allowed by Art. 922,
La. C. Cr. P.

No. 43,913-KA

COURT OF APPEAL
SECOND CIRCUIT
STATE OF LOUISIANA

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STATE OF LOUISIANA

Appellee

versus

KENDALL MICHAEL DELANEY

Appellant

* * * * *

Appealed from the
Twenty-Sixth Judicial District Court for the
Parish of Bossier, Louisiana
Trial Court No. 144322A

Honorable John M. Robinson, Judge

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LOUISIANA APPELLATE PROJECT
By; Annette Roach

Counsel for
Appellant

J. SCHUYLER MARVIN
District Attorney

Counsel for
Appellee

JOHN M. LAWRENCE
Assistant District Attorney

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Before WILLIAMS, STEWART and MOORE, JJ.

MOORE, J.

The defendant was convicted of Armed Robbery with a Firearm, and pursuant to an habitual offender bill of information, sentenced to 50 years at hard labor. His conviction was affirmed but the habitual offender proceedings were reversed and remanded for new proceedings in *State v. Delaney*, 42,990 (La. App. 2 Cir. 2/13/08), 975 So. 2d 789. The defendant's appellate counsel has filed a motion to withdraw, together with an *Anders/Benjamin* brief in support of the motion. The state has filed an appellate brief in this matter concurring that there are no non-frivolous issues to raise on appeal. This court notified the appellant on September 17, 2008 of the filing of the *Anders/Benjamin* brief and of his right to file a brief in this appeal within 30 days of its order. No brief was filed and the delays have now lapsed. The motion to withdraw is granted, and the defendant's conviction and sentence are affirmed.

This appeal addresses only the proceedings occurring after remand. On remand, the appellant admitted to being a habitual offender, and the trial court imposed a sentence of 50 years, only slightly in excess of the 49.5-year minimum mandated for a second felony offender convicted of armed robbery with the 5 years of jail time for a firearms enhancement time imposed concurrently with the 50-year sentence.

All other issues were addressed in the previous appeal, and because the sentence imposed is only slightly more than the mandatory minimum, there is no non-frivolous sentencing claim that can be made based on this record. *See Anders v. California*, 386 U.S. 738, 87 S. Ct. 1396, 18 L. Ed. 2d 493 (1967); *State v. Mouton*, 95-0981 (La. 4/28/95), 653 So. 2d 1176; and

State v. Benjamin, 573 So. 2d 528 (La. App. 4 Cir. 1990). The brief outlines the procedural history of the case. Defense counsel further verifies that he has mailed copies of the motion to withdraw and his brief to the defendant, in accordance with *Anders*; *Mouton*; and *Benjamin*, *supra*.

The motion to withdraw is granted and the defendant's conviction and sentence are affirmed.

AFFIRMED.