

STATE OF LOUISIANA

NO. 14-KA-758

VERSUS

FIFTH CIRCUIT

BAMELA KOUSSANTA

COURT OF APPEAL

STATE OF LOUISIANA

ON APPEAL FROM THE TWENTY-FOURTH JUDICIAL DISTRICT COURT
PARISH OF JEFFERSON, STATE OF LOUISIANA
NO. 12-3544, DIVISION "H"
HONORABLE GLENN B. ANSARDI, JUDGE PRESIDING

OCTOBER 29, 2014

COURT OF APPEAL
FIFTH CIRCUIT

FILED OCT 29 2014

ROBERT M. MURPHY
JUDGE


CLERK
Cheryl Quirk Landrieu

Panel composed of Judges Susan M. Chehardy,
Robert M. Murphy, and Stephen J. Windhorst

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APPEAL DISMISSED

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Defendant, Bamela Koussanta, appeals his convictions for two counts of the misdemeanor offense of simple battery in violation of La. R.S. 14:35. Because defendant seeks review of his misdemeanor convictions for a crime not triable by jury, we dismiss this appeal for lack of jurisdiction.

Appellate jurisdiction extends only to cases that are triable by a jury. *State v. Lyons*, 13-180, 13-181, 13-182, 13-183, 13-184, 13-185, 13-186 (La. App. 5 Cir. 10/9/13), 128 So.3d 407, 411 (citing La. Const. Art. 5 § 10; La. C.Cr. P. art. 912.1). “Unless the punishment that may be imposed exceeds six months imprisonment, a misdemeanor is not triable by a jury.” *Id.* (citing La. Const. Art. 1 § 17; La. C.Cr.P. art. 779).

Here, defendant was found guilty of simple battery, in violation of La. R.S. 14:35. La. R.S. 14:35(B) provides that, “[w]hoever commits a simple battery shall be fined not more than one thousand dollars or imprisoned for not more than six months, or both.” Because defendant was found guilty of a misdemeanor offense not triable by jury, this judgment is not an appealable judgment. *See* La.C.Cr.P. art. 779(B); *State v. Flowers*, 11-376 (La. App. 5 Cir. 12/13/11), 81 So.3d 910.

Under La.C.Cr.P. art. 912.1(C)(1), an application for a writ of review is the proper mechanism for seeking judicial review of a conviction on an offense not triable by jury, such as simple battery. *See Flowers, supra*; La. Const. Art. 5 § 10.

CONCLUSION

Accordingly, we dismiss the present appeal. We reserve, however, defendant's right to file a proper application for supervisory writs, in compliance with U.R.C.A. Rule 4-3, within thirty days from the date of this opinion. Further, we hereby construe defendant's notice of appeal as a notice of intent to seek a supervisory writ, so defendant is not required to file a notice of intent or to obtain an order setting a return date pursuant to U.R.C.A. Rule 4-3.

APPEAL DISMISSED

SUSAN M. CHEHARDY
CHIEF JUDGE

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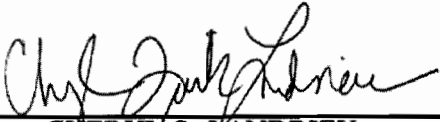
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**NOTICE OF JUDGMENT AND
CERTIFICATE OF DELIVERY**

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 2-20** THIS DAY **OCTOBER 29, 2014** TO THE TRIAL JUDGE, COUNSEL OF RECORD AND ALL PARTIES NOT REPRESENTED BY COUNSEL, AS LISTED BELOW:



CHERYL Q. LANDRIEU
CLERK OF COURT

14-KA-758

E-NOTIFIED

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