

**STATE OF LOUISIANA**  
**COURT OF APPEAL, THIRD CIRCUIT**

**05-1641**

**STATE OF LOUISIANA**

**VERSUS**

**DAVID WAYNE LEDAY**

**COOKS, J., dissents.**

I respectfully disagree with that portion of the majority opinion vacating the sentence of the defendant based on an errors patent review of the record. In this case, both the guilty plea form and the sentence imposed by the trial court made no mention of the fine imposed by La.R.S. 14:95.1(B). The Louisiana Supreme Court has directed appellate courts to “refrain from employing errors patent review to set aside guilty pleas about which the defendant makes no complaint and which resulted in dispositions of the cases favorable to the defendant.” *State v. Campbell*, 01-0329 (La. 11/2/01), 799 So.2d 1136, 1137. Although the majority opinion cites *Campbell*, , it vacates the defendant’s guilty plea, based on an errors patent review, and remands for resentencing. The defendant is then faced with a Hobson’s choice of either maintaining his plea in light of the mandatory fine (which fine upon resentencing will be imposed by the court) or withdrawing his guilty plea and proceeding to trial. This result, the majority professes, is “[i]n keeping with *Campbell*.” By vacating the guilty plea, and remanding for resentencing, the majority opinion circumvents the mandate of the *Campbell* decision. I respectfully disagree with this portion of the majority opinion.