

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NO. 2007 KA 1534

STATE OF LOUISIANA

VERSUS

DAVID WADE COOPER

Judgment rendered February 8, 2008.

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Appealed from the
19th Judicial District Court
in and for the Parish of East Baton Rouge, Louisiana
Trial Court No. 07-06-0340
Honorable Wilson Fields, Judge

* * * * *

HON. DOUG MOREAU
DISTRICT ATTORNEY
DANA CUMMINGS
STACY WRIGHT
ASSISTANT DISTRICT ATTORNEYS
BATON ROUGE, LA

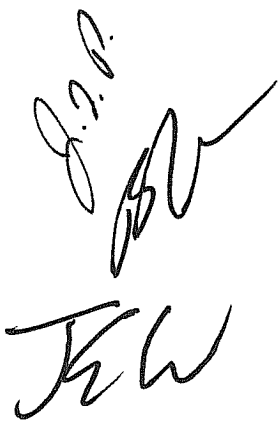
PRENTICE L. WHITE
BATON ROUGE, LA

ATTORNEYS FOR
STATE OF LOUISIANA

ATTORNEY FOR
DEFENDANT-APPELLANT
DAVID COOPER

* * * * *

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



PETTIGREW, J.

The defendant, David Wade Cooper, was charged by bill of information, No. 07-06-0340, with one count of simple burglary of an inhabited dwelling, a violation of La. R.S. 14:62.2, and pled guilty pursuant to a plea agreement. He was sentenced to twelve years at hard labor, one year without benefit of probation, parole, or suspension of sentence. The court ordered that the sentence would run concurrently with the sentences imposed under docket numbers 1-05-0822 and 07-06-0342.¹ He moved for reconsideration of sentence, but the motion was denied. He now appeals, assigning the following specification of error: "The district court abused its discretion by denying the Motion to Reconsider Sentence. Instead, it imposed the statutory maximum sentence against [the defendant] without articulating on the record any specific facts or justification for imposing such a sentence for a non-violent offense." For the reasons that follow, we affirm the defendant's conviction and sentence.

FACTS

Due to the defendant's guilty plea, there was no trial, and thus, no trial testimony concerning the facts of the offense. However, at the **Boykin** hearing, the State set forth the following factual basis for the charge, and the defendant indicated he wished to enter his guilty plea on the basis of those facts.

On September 30, 2004, Randy Jacobs returned to his apartment at 8639 GSRI Avenue and noticed that someone had tampered with the door. Mr. Jacobs entered the residence and saw the defendant with a pile of items gathered at the front of the residence. While Mr. Jacobs was summoning the police, the defendant left the residence with a watch and ring belonging to Mr. Jacobs, valued at \$800.00 and \$150.00, respectively. Fingerprints matching the defendant's were subsequently recovered from the apartment.

¹ The defendant separately appeals from his guilty plea under docket number 1-05-0822. See **State v. Cooper**, 2007-1517 (La. App. 1 Cir. 2/8/08) (unpublished).

EXCESSIVE SENTENCE

In his sole assignment of error, the defendant argues the trial court erred in imposing an unconstitutionally excessive sentence in this case. He argues the offense was nonviolent, he accepted responsibility for his actions, and the sentence imposed was the statutory maximum.

A review of the transcript of the defendant's guilty plea indicates the defendant seeks review of a sentence imposed in conformity with a plea agreement set forth in the record at the time of the plea. It is well settled that a defendant cannot appeal or seek review of a sentence imposed in conformity with a plea agreement that was set forth in the record at the time of the plea. La. Code Crim. P. art. 881.2(A)(2); see **State v. Young**, 96-0195, p. 7 (La. 10/15/96), 680 So.2d 1171, 1175. Thus, review of the defendant's assignment of error is barred by law. Accordingly, we affirm the defendant's conviction and sentence.

CONVICTION AND SENTENCE AFFIRMED.