

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NO. 2008 KA 0884

STATE OF LOUISIANA

VERSUS

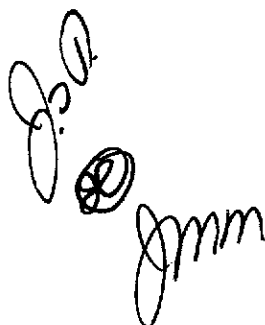
QUINTON JAMMAL CARTER

Judgment rendered

NOV 14 2008

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Appealed from the
18th Judicial District Court
in and for the Parish of Pointe Coupee, Louisiana
Trial Court No. 73,630
Honorable James J. Best, Judge



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QUINTON JAMMAL CARTER

* * * * *

BEFORE: PETTIGREW, McDONALD, AND HUGHES, JJ.

PETTIGREW, J.

The defendant, Quinton Jammal Carter, was charged by bill of information with second degree battery, a violation of La. R.S. 14:34.1. The defendant entered a plea of not guilty, and waived his right to a jury trial. After a bench trial, the defendant was found guilty as charged. The trial court denied the defendant's motion for new trial and sentenced the defendant to three years imprisonment at hard labor. The trial court denied the defendant's motion to reconsider sentence. The defendant now appeals, assigning as error the constitutionality of the sentence. For the following reasons, we affirm the conviction and sentence.

STATEMENT OF FACTS

On or about October 1, 2007, Sergeant Johnny Sparks, a Pointe Coupee Parish Sheriff's Office School Resource Officer, escorted the defendant, a seventeen-year-old student, to his office at Livonia High School for questioning. The assistant principal, Robert Williams, was present at the time. Sergeant Sparks asked the defendant whether he had made statements about his intention to physically attack a teacher, and the defendant did not respond. The defendant hurriedly exited Sergeant Sparks's office. Sergeant Sparks asked the defendant to stop, but the defendant did not comply. Sergeant Sparks and Mr. Williams pursued the defendant as he ran toward a building at the front of the school's campus. Sergeant Sparks was approximately twenty-five yards behind the defendant when he entered the classroom in which Ms. Chastity Kaiser, the victim, was teaching.¹ The defendant punched Ms. Kaiser in the face, knocking her to the floor. He continued beating Ms. Kaiser in the face, right arm, and head, and kicking her legs until he was apprehended by Sergeant Sparks and Mr. Williams. Ms. Kaiser suffered severe swelling and bruising.

¹ Earlier that day, Ms. Kaiser witnessed a physical altercation between the defendant and another student and immediately reported it to Mr. Williams. Mr. Williams escorted the defendant out of the classroom. Ms. Kaiser did not see or have any contact with the defendant again until the attack.

ASSIGNMENT OF ERROR

In the sole assignment of error, the defendant argues that the trial court erred in imposing an unconstitutionally excessive sentence. While conceding that the trial court articulated thorough reasoning for the sentence imposed in this case, the defendant contends that under the circumstances, a lesser sentence was appropriate. The defendant specifically notes that the conviction of second degree battery as charged, as opposed to the responsive offense of simple battery, was a "close call." The defendant further notes that he has a lack of criminal history. Noting the trial court's recommendation of a boot camp program, the defendant argues that incarceration for three years in lieu of completion of boot camp would not benefit the defendant. The defendant notes that his grandfather (who has reared defendant following the death of his father) informed the trial court prior to sentencing that he and the defendant were working together and that he planned to have the defendant transfer to a different high school. The defendant contends that his failure to address the court and apologize to the victim was a decision made by his trial attorney and not an indication of his lack of remorse. The defendant concludes that the three-year sentence, while within the statutory range, is too severe in this case and is nothing more than the imposition of cruel and unusual punishment.

Article I, Section 20, of the Louisiana Constitution prohibits the imposition of excessive punishment. The Louisiana Supreme Court in **State v. Sepulvado**, 367 So.2d 762, 767 (La. 1979), held that a sentence that is within the statutory limits may still be excessive. Generally, a sentence is considered excessive if it is grossly disproportionate to the severity of the crime or is nothing more than the needless imposition of pain and suffering. A sentence is considered grossly disproportionate if, when the crime and punishment are considered in light of the harm to society, it is so disproportionate as to shock one's sense of justice. **State v. Hurst**, 99-2868, p. 10 (La. App. 1 Cir. 10/3/00), 797 So.2d 75, 83, writ denied, 2000-3053 (La. 10/5/01), 798 So.2d 962. A trial judge is given wide discretion in the imposition of sentences within statutory limits, and the

sentence imposed should not be set aside as excessive in the absence of manifest abuse of discretion. **Hurst**, 99-2868 at pp. 10-11, 797 So.2d at 83.

Louisiana Code of Criminal Procedure article 894.1 sets forth items that must be considered by the trial court before imposing sentence. The trial court need not recite the entire checklist of Article 894.1, but the record must reflect that it adequately considered the criteria. **State v. Leblanc**, 2004-1032, p. 10 (La. App. 1 Cir. 12/17/04), 897 So.2d 736, 743, writ denied, 2005-0150 (La. 4/29/05), 901 So.2d 1063, cert. denied, 546 U.S. 905, 126 S.Ct. 254, 163 L.Ed.2d 231 (2005); **State v. Faul**, 2003-1423, p. 4 (La. App. 1 Cir. 2/23/04), 873 So.2d 690, 692.

During the sentencing hearing, the school principal, Ms. Stacey Gueho, made a statement regarding the defendant's actions. She stated that his actions severely disrupted the educational process at the high school. She noted that his actions will have a lasting impact on the victim's career as an educator and on the students who knew her. She further noted that the victim was traumatized and had difficulty returning to work after the incident.

The victim also made a statement at the hearing. She noted that it was her birthday on the date of the offense, and that she had no explanation for the defendant's actions. She stated that since the attack, she is afraid to discipline students and suffers overwhelming anxiety.

The trial judge also allowed the defendant's grandfather, Charles Scott, to speak at the hearing. Mr. Scott stated that he was planning to transfer the defendant to North Iberville High School. Mr. Scott also noted that he and the defendant were working together doing carpentry and concrete work at the time of the hearing.

The trial judge reviewed the presentence investigation report and articulated extensive reasons for the sentence. The trial judge noted its consideration of the sentencing guidelines. In pondering an explanation for the defendant's actions, the trial judge noted that the defendant did not have a history of mental illness and that the defendant denied any use of drugs. The trial judge summarized the facts of the offense. Noting that there was no plausible explanation for the defendant's actions, the trial judge

stated that it was difficult to predict whether the defendant would repeat such actions. The trial judge concluded that the defendant is in the need of correctional treatment or a custodial environment that can be provided most effectively by his commitment to an institution. The trial judge noted that the victim remains emotionally unstable. He also noted that the defendant's conduct manifested deliberate cruelty to the victim. The trial judge further noted that the defendant knew the victim was particularly vulnerable as she is not large in stature,² and he described the defendant as, "quite stealthy looking, strong, harmful." The trial judge noted that the victim suffered significant permanent injury, specifically noting that she had ligament problems with her arm, and he reiterated her emotional problems.

The trial judge noted the defendant's youthful age and lack of a criminal history as mitigating factors. After imposing the three-year, hard-labor sentence, the trial court recommended the IMPACT program pending eligibility.

The defendant was subject to a maximum sentence of five years imprisonment at hard labor and a two thousand dollar fine. La. R.S. 14:34.1. Thus, the sentence imposed by the trial court was slightly above the median sentence. Based on the record before us, we do not find that the trial court abused its discretion in sentencing the defendant. Considering the facts of the offense and the injuries suffered by the victim, the sentence is not shocking or grossly disproportionate to the defendant's behavior. The assignment of error is without merit.

REVIEW FOR ERROR

The defendant asks that this court examine the record for error under La. Code Crim. P. art. 920(2). This court routinely reviews the record for such errors, whether or not such a request is made by a defendant. Under La. Code Crim. P. art. 920(2), we are limited in our review to errors discoverable by a mere inspection of the pleadings and

² The victim testified that she is five feet and five inches tall and weighs approximately one hundred thirty-seven pounds. The victim noted that the defendant was unaware of the fact that she had been in an automobile accident prior to the attack. The victim also testified that she suffered serious pain as a result of the attack.

proceedings without inspection of the evidence. After a careful review of the record in these proceedings, we have found no reversible errors. See State v. Price, 2005-2514, pp. 18-22 (La. App. 1 Cir. 12/28/06), 952 So.2d 112, 123-25 (en banc), writ denied, 2007-0130 (La. 2/22/08), 976 So.2d 1277.

CONVICTION AND SENTENCE AFFIRMED.