

**NOT DESIGNATED FOR PUBLICATION**

**STATE OF LOUISIANA**

**COURT OF APPEAL**

**FIRST CIRCUIT**

**2009 KA 1223**

**STATE OF LOUISIANA**

**VERSUS**

**RHONDA ROSE LAMBERT**

*RHP  
STP  
[Signature]  
[Signature]*

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**On Appeal from the 21st Judicial District Court  
Parish of Livingston, Louisiana  
Docket No. 19617, Division "B"  
Honorable Bruce C. Bennett, Judge Presiding**  
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Rhonda Rose Lambert**

**BEFORE: PARRO, KUHN, AND McDONALD, JJ.**

**Judgment rendered December 23, 2009**

**PARRO, J.**

The defendant, Rhonda Rose Lambert, was charged by grand jury indictment with second degree murder, a violation of LSA-R.S. 14:30.1.<sup>1</sup> The defendant pled not guilty and not guilty by reason of insanity. The trial court found the defendant was competent to stand trial and found she had knowingly and intelligently waived her right to a trial by jury. After a bench trial, the defendant was found guilty of the responsive offense of manslaughter, a violation of LSA-R.S. 14:31. The defendant was sentenced to forty years of imprisonment at hard labor. The trial court denied the defendant's motion to reconsider sentence. The defendant now appeals, assigning as error the propriety and constitutionality of the sentence imposed. For the following reasons, we affirm the conviction and sentence.

**STATEMENT OF FACTS**

The defendant met the victim, Russell Perry, at a rehabilitation facility where both were receiving treatment for substance abuse, and they ultimately began living together. The instant offense occurred on or about April 21, 2005, a few weeks after the defendant and the victim became cohabitants. The defendant inflicted approximately ten stab wounds to the victim's upper body with a knife. According to the defendant, the victim physically attacked her, anally raped and sodomized her, and injured her cat before she stabbed him. The victim died from injuries caused by the multiple stab wounds. The defendant was not present when the victim's body was discovered by his brother, who contacted the police.

**ASSIGNMENTS OF ERROR NUMBERS ONE AND TWO**

In the first assignment of error, the defendant contends that the trial court erred in imposing the maximum sentence based upon incorrect factual reasons. The defendant notes that in committing the instant offense, she was

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<sup>1</sup> While the defendant's appellate brief states that she was charged with manslaughter, the record indicates that she was charged with second degree murder.

provoked by being anally raped by her abusive boyfriend, the victim. Citing the trial court's language at the time the defendant was adjudicated guilty, the defendant notes that the trial court acknowledged that she was provoked and was guilty of the responsive offense of manslaughter. The defendant further notes that the trial court, at the time of the sentencing, referred to the offense as a "cold-blooded murder," and stated that the maximum sentence was being imposed because "any leniency has been reflected in the verdict of the court." The defendant contends that there is no authority for the trial court to impose the maximum sentence in this case. The defendant notes that the conviction of manslaughter was the most serious offense proven by the state's evidence, and argues that the trial court's statements at the time of the sentencing were inconsistent with the trial court's findings at the time of the conviction.

In the second assignment of error, the defendant contends that the sentence imposed by the trial court is excessive. The defendant notes that while state expert witness Dr. Jose Artecona, a psychiatrist, testified that the defendant knew right from wrong at the time of the offense, he also acknowledged the defendant's twenty-year history of mental illness, borderline personality disorder, and a significant problem with poly-substance dependence. The defendant further notes that Dr. Artecona testified that there were factors to support a finding that the defendant had an altered state of mind at the time of the offense. The defendant also notes that while state expert witness Dr. David Hale, a psychologist, stated that the defendant was sane at the time of the offense, he noted that the defendant has a great deal of remorse and guilt and was in a severely abusive relationship with the victim. The defendant argues that the trial court failed to give serious attention to its own factual findings and the testimony of the state's expert witnesses. The defendant further argues that it is not reasonable for the trial court to conclude that the defendant could have walked away and avoided the instant offense. The defendant contends that she is not the most egregious and blameworthy

offender in the class of manslaughter offenders, adding that she is in the class of offenders least able to walk away, reiterating that she was anally raped. The defendant notes that people suffering from serious mental illness are less capable of making rational choices and resisting strong emotional impulses. The defendant concludes that she was less culpable due to extreme provocation and her limited ability to control her impulsive reaction and emotions, and that the maximum sentence is not supported by the record.

Article I, Section 20 of the Louisiana Constitution explicitly prohibits excessive punishment. Although a sentence is within the statutory limits, the sentence may still violate a defendant's constitutional right against excessive punishment. In reviewing a sentence for excessiveness, the appellate court must consider the punishment and the crime in light of the harm to society and gauge whether the penalty is so disproportionate as to shock its sense of justice or that the sentence makes no reasonable contribution to acceptable penal goals and, therefore, is nothing more than the needless imposition of pain and suffering. See **State v. Guzman**, 99-1528, 99-1753 (La. 5/16/00), 769 So.2d 1158, 1167. The trial court has wide discretion in imposing a sentence within the statutory limits and such a sentence will not be set aside as excessive in the absence of manifest abuse of discretion. **State v. Loston**, 03-0977 (La. App. 1st Cir. 2/23/04), 874 So.2d 197, 210, writ denied, 04-0792 (La. 9/24/04), 882 So.2d 1167.

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**, 04-1032 (La. App. 1st Cir. 12/17/04), 897 So.2d 736, 743, writ denied, 05-0150 (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**, 03-1423 (La. App. 1st Cir. 2/23/04), 873 So.2d 690, 692. Failure to comply with Article 894.1 does not necessitate the

invalidation of a sentence or warrant a remand for resentencing, if the record clearly illuminates and supports the sentencing choice. **State v. Smith**, 430 So.2d 31, 46 (La. 1983). Maximum sentences are reserved for cases involving the most serious offenses and the worst offenders. **State v. Easley**, 432 So.2d 910, 914 (La. App. 1st Cir. 1983).

As the trial court found the defendant guilty of the responsive offense of manslaughter, she was subject to the maximum sentence of forty years of imprisonment at hard labor. See LSA-R.S. 14:31(B). The trial court imposed the maximum sentence. As noted by the defendant, at the time of the sentencing the trial court described the offense as a cold-blooded murder and stated that the defendant could have walked away. However, the trial court also stated that the offense was committed in sudden passion upon provocation. The trial court considered victim impact statements. The trial court stated that any lesser sentence would be an injustice based on the facts of the offense and the impact on the victim's family.

We note that the fact that the victim provoked the defendant and that the offense was committed in sudden passion was reflected in the conviction of manslaughter as opposed to the charged offense of second degree murder. Thus, as the defendant was not exposed to a life sentence, those factors have mitigated her sentencing exposure. We find that the trial court provided an adequate basis for the sentence imposed in this case. The trial court was aware of the facts of the instant offense and the record fully supports the imposition of the maximum sentence. The instant offense, though clearly provoked, was a very violent and rage-filled infliction of multiple fatal stab wounds. The maximum sentence is neither grossly disproportionate to the severity of the offense, in light of the facts of the offense, nor so disproportionate as to shock our sense of justice. Therefore, considering the violent nature of the instant offense, we conclude that the sentence imposed in

this case is not unconstitutionally excessive. These assignments of error lack merit.

**CONVICTION AND SENTENCE AFFIRMED.**