

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

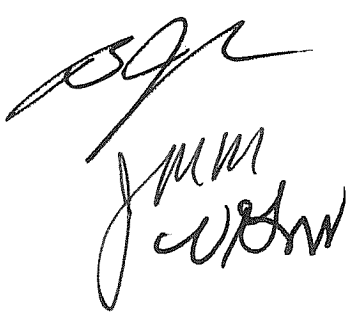
NO. 2006 KA 1606

STATE OF LOUISIANA

VERSUS

TROY A. DUPRE, SR.

Judgment Rendered: March 23, 2007.



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On Appeal from the
17th Judicial District Court,
in and for the Parish of Lafourche
State of Louisiana
District Court No. 412,983

The Honorable F. Hugh Larose, Judge Presiding

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* * * * *

BEFORE: CARTER, C.J., WHIPPLE AND MCDONALD, JJ.

CARTER, C.J.

A jury found the defendant, Troy A. Dupre, Sr., guilty as charged of violating LSA-R.S. 14:78.1, aggravated incest, and the defendant was sentenced to twenty years at hard labor. The defendant appeals, raising four assignments of error. We affirm.

ASSIGNMENT OF ERROR NUMBER ONE

In the first assignment of error, the defendant argues that the trial court erred in allowing other crimes evidence to be introduced during the trial. The record reflects that the defendant did not lodge a contemporaneous objection to any portion of the victim's testimony. Under LSA-C.Cr.P. art. 841 and LSA-C.E. art. 103A(1), a contemporaneous objection is required to preserve an error for appellate review; therefore, to the extent the defendant challenges any portion of the victim's testimony on appeal, such challenge is not properly before us. Moreover, evidence of prior sex offenses by the defendant against the prosecuting victim is properly admitted to show the defendant's lustful disposition toward the victim, as corroboration of the offense charged, to show intimate relations between the parties, and to show the defendant's system, knowledge, and absence of mistake or accident. See State v. Acliese, 403 So.2d 665, 668 (La. 1981).

This assignment of error lacks merit.

ASSIGNMENT OF ERROR NUMBER TWO

In the second assignment of error, the defendant argues that a prospective juror was erroneously removed for cause, giving the State in excess of six peremptory challenges. A contemporaneous objection is required to preserve an error for appellate review. LSA-C.Cr.P. art. 841. Irregularities or errors cannot be availed of on appeal if they are not objected to at the time of the occurrence. **State**

v. **Walker**, 94-0587 (La. App. 1 Cir. 4/7/95), 654 So.2d 451, 453, writs denied, 95-1124, 95-1125 (La. 9/22/95), 660 So.2d 470. Moreover, based on the record before us, we cannot say that the trial court abused its discretion in granting the State's challenge for cause. See State v. Howard, 98-0064 (La. 4/23/99), 751 So.2d 783, 795, cert. denied, 528 U.S. 974, 120 S.Ct. 420, 145 L.Ed.2d 328 (1999).

This assignment of error lacks merit.

ASSIGNMENT OF ERROR NUMBER THREE

In the third assignment of error, the defendant argues that the trial court wrongfully denied his challenge for cause of a prospective juror. A defendant may not assign as error a ruling refusing to sustain a challenge for cause made by him, unless an objection thereto is made at the time of the ruling. The nature of the objection and grounds therefore shall be stated at the time of objection. LSA-Cr.P. arts. 800A and 841. Moreover, in reviewing the voir dire record as a whole, we cannot say that the trial court abused its discretion in denying the challenge for cause. The trial court's rehabilitative efforts were sufficient, and the prospective juror ultimately demonstrated her willingness and ability to be fair and impartial. **State v. Robertson**, 92-2660 (La. 1/14/94), 630 So.2d 1278, 1281.

This assignment of error lacks merit.

ASSIGNMENT OF ERROR NUMBER FOUR

In the fourth and final assignment of error, the defendant argues that the bill of information was so defective as to not inform the defendant or the jury of the conduct being charged. The defendant did not move to quash the bill of information nor lodge an objection thereto. A defendant may not complain of a technical insufficiency in an indictment or bill of information for the first time after conviction when the defendant is fairly informed of the charge against him and

there is no prejudice caused by the defect. **State v. Comeaux**, 408 So.2d 1099, 1106 (La. 1981).

Because the date and time of the offense are not essential elements of the offense of aggravated incest, the bill of information is not insufficient for failing to reflect the date and time of the offense. LSA-C.Cr.P. art. 468; see also **State v. Case**, 357 So.2d 498, 499 (La. 1978).

We also do not find, in this instance, that the bill of information is insufficient due to its failure to identify the victim by name or initial. See LSA-C.Cr.P. art. 473. Although the State could have used “initials, abbreviations, or other forms of indefinite descriptions” on public documents, the State could not publicly disclose the victim's name or identity because the victim was a minor and the victim of a sex offense. See LSA-R.S. 46:1844W(1) & (3). In **State v. Thompson**, 00-1808 (La. 2/2/01), 781 So.2d 1221, 1222 (per curiam), the Louisiana Supreme Court characterized LSA-R.S. 46:1844W(1) as an exception to LSA-C.Cr.P. art. 473. Moreover, the defendant has not established that he was prejudiced by the failure to include the victim’s initials on the bill of information.

This assignment of error lacks merit.

CONCLUSION

For the foregoing reasons, the defendant’s conviction and sentence are affirmed by summary opinion in accordance with Uniform Rules—Courts of Appeal, Rule 2-16.2A(2), (4), and (6).

CONVICTION AND SENTENCE AFFIRMED.