NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NO. 2008 KA 1892

STATE OF LOUISIANA

VERSUS

WILLIAM WASHINGTON

Judgment Rendered: March 27, 2009

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Appealed from the
22nd Judicial District Court
In and for the Parish of Washington, Louisiana
Case No. 04CR890976

The Honorable Larry Green, Judge Presiding

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BEFORE: KUHN, GUIDRY, AND GAIDRY, JJ.

GAIDRY, J.

The defendant, William Washington, was charged by bill of information with indecent behavior with a juvenile, a violation of La. R.S. 14:81. Defendant was found guilty as charged and sentenced to five years at hard labor, with the sentence to run consecutively to a sentence defendant was currently serving. Defendant appealed, arguing, *inter alia*, that the sentence imposed was excessive. We affirmed the conviction. However, pursuant to La. C.Cr.P. art. 920(2), we found a reversible sentencing error, finding that the trial court erred by sentencing defendant without waiting 24 hours after the denial of his motion for a new trial. *See* La. C.Cr.P. art. 873 and *State v. Augustine*, 555 So.2d 1331, 1333-34 (La. 1990). Accordingly, we pretermitted consideration of the excessive sentence assignment of error, vacated the sentence, and remanded for resentencing. *See State v. Washington*, 06-0634 (La. App. 1st Cir. 11/3/06), 941 So.2d 197, *writ denied*, 07-0113 (La. 10/12/07), 965 So.2d 393 (unpublished opinion).

On resentencing, the trial court sentenced defendant to two years at hard labor, the sentence to run consecutively to the sentence on the unrelated prior conviction. Defendant now appeals, designating one assignment of error. We affirm the sentence.

FACTS

On April 23, 2004, F.H., the thirteen-year-old victim, took part in a theater production of *The Wizard of Oz* at Franklinton Junior High School in Washington Parish. The 49-year-old defendant was a stagehand in the theater production. At the end of the performance, F.H. was waiting in the wings, with several other children, to make her curtain call. As F.H. waited, defendant stood behind her and groped her buttocks several times. F.H. became too frightened to speak. When she went on stage to take her bow,

she began crying. She then informed several people of the incident in the wings. After she went home, she informed her mother, who contacted the police. That same night, F.H. gave a written statement of the incident to Officer Frankie Jones of the Franklinton Police Department. Officer Jones then turned the matter over to Detective Harold Varnado. *See State v. Washington*, 06-0634 at p. 2, 941 So.2d 197 (unpublished opinion).

ASSIGNMENT OF ERROR

In his assignment of error, defendant argues that the trial court imposed an excessive sentence by ordering the sentence to run consecutively to his earlier sentence, without justification.

The use of the term "resentence" in La. C.Cr.P. art. 881.1 makes it clear that when relief is granted, the result is imposition of a new sentence. Since a new sentence is imposed when relief is granted, the language of Article 881.1 requires that a new motion for reconsideration be filed, specifying the grounds for objection to the new sentence. *See* La. C.Cr.P. art. 881.2(A)(1). As such, defendant was required to file a new motion for reconsideration of sentence in the trial court in order to preserve appellate review of the new sentence. *See State v. Smith*, 03-1153, pp. 6-7 (La. App. 1st Cir. 4/7/04), 879 So.2d 179, 183 (en banc).

A thorough review of the record indicates that defendant's counsel did not make a written or oral motion to reconsider his new two-year sentence.[1] Under La. C.Cr.P. arts. 881.1(E) and 881.2(A)(1), the failure to make or file a motion to reconsider sentence shall preclude a defendant from raising an objection to the sentence on appeal, including a claim of excessiveness.

[1] At the conclusion of the sentencing by the trial court, defense counsel stated, "Judge, at this time, we respectfully object to the Court's sentence." Defense counsel's objection did not constitute an oral motion to reconsider sentence. Moreover, a general objection to a sentence without stating specific grounds, including excessiveness, preserves nothing for appellate review. *See State v. Bickham*, 98-1839, p. 6 (La. App. 1st Cir. 6/25/99), 739 So.2d 887, 891.

Defendant, therefore, is procedurally barred from having this assignment of error reviewed. *See State v. Duncan*, 94-1563, p. 2 (La. App. 1st Cir. 12/15/95), 667 So.2d 1141, 1143 (en banc per curiam). See also *State v. LeBouef*, 97-0902, pp. 2-3 (La. App. 1st Cir. 2/20/98), 708 So.2d 808, 808-09, *writ denied*, 98-0767 (La. 7/2/98), 724 So.2d 206.

The assignment of error is without merit.

REVIEW FOR ERROR

Defendant asks this court to examine the record for error under La. C.Cr.P. art. 920(2). We routinely review the record for such errors, whether or not such a request is made by a defendant. Under La. C.Cr.P. art. 920(2), our review is limited to errors discoverable by a mere inspection of the pleadings and 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*, 05-2514 (La. App. 1st Cir. 12/28/06), 952 So.2d 112 (en banc), *writ denied*, 07-0130 (La. 2/22/08), 976 So.2d 1277.

SENTENCE AFFIRMED.