

SUPREME COURT OF LOUISIANA

No. 06-KH-2555

STATE OF LOUISIANA

v.

WARREN A. WALLACE

On Writ of Certiorari to the
Second Circuit Court of Appeal

PER CURIAM:

Writ granted. Relator's sentence is amended to delete the term "without benefit of parole, probation, or suspension of sentence" from his sentence. The trial court exceeded its authority when it imposed a 12-year sentence for aggravated incest, pursuant to a plea agreement, without benefit of parole, probation or suspension of sentence. The court-accepted plea agreement between relator and the state did not include any provision that the sentence be served without benefit of probation, parole or suspension of sentence and the penalty provisions of R.S. 14:78.1(D) do not provide for such a term. As such, the trial court erred by imposing this illegal condition as part of the sentence. Cf. State v. Terrebonne, 01-2632, p. 3 (La. App. 1st Cir. 6/21/02), 822 So.2d 149, 151 (remand for resentencing required for defendant who pled guilty, pursuant to plea agreement, to offense of aggravated incest, when trial court's imposition of sentence for such offense was more onerous than that called for by the terms of court-accepted plea agreement, as trial court ordered that sentence be served without benefit of parole, probation, or suspension of sentence, and plea agreement did not contain such a condition).