

Judgment rendered June 20, 2012  
Application for rehearing may be filed  
within the delay allowed by Art. 922,  
La. C.Cr.P.

No. 47,083-KA

COURT OF APPEAL  
SECOND CIRCUIT  
STATE OF LOUISIANA

\* \* \* \* \*

STATE OF LOUISIANA

Appellee

versus

JAMES BAKER

Appellant

\* \* \* \* \*

Appealed from the  
First Judicial District Court for the  
Parish of Caddo, Louisiana  
Trial Court No. 273,635

Honorable Leon Emanuel, III, Judge

\* \* \* \* \*

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Appellant

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\* \* \* \* \*

Before BROWN, CARAWAY and DREW, JJ.

NOT DESIGNATED FOR PUBLICATION.  
Rule 2-16.3, Uniform Rules, Courts of Appeal.

CARAWAY, J.

James Baker appeals a sentence imposed upon remand for his molestation of a juvenile conviction. Finding a portion of the sentence illegal, we amend the sentence and affirm.

On February 18, 2010, Baker was convicted of molestation of a juvenile. Under the provisions La. R.S. 14:81.2(C), the court imposed an 11-1/2-year hard labor sentence and suspended all but the first 3-1/2 years which were imposed without benefit of parole, probation or suspension of sentence. As a special condition of probation, the trial court ordered Baker to have no contact with the victim. This court affirmed Baker's conviction but remanded the matter for resentencing because the parole prohibition was illegal. *State v. Baker*, 46,089 (La. App. 2d Cir. 3/2/11), 58 So. 3d 571.

Resentencing occurred on April 18, 2011. At the hearing the victim informed the judge that she preferred that the "no-contact" order prohibiting Baker from visiting her be lifted.

Thereafter, the trial judge resentenced Baker as follows:

Mr. Baker, it's the order of this Court that you are to be sentenced for a period of 11 and one-half years to the Louisiana Department of Corrections at hard labor, subject to the conditions provided by law. All but 3 and one-half years of sentence will be suspended without the benefit of parole, or suspension of sentence with credit for time served. Mr. Baker, you will be placed on supervised probation for a period of 5 years.

The court also declined to lift its no-contact order noting as follows:

With respect to visitation or contact with the main victim, the Court would still leave in place that condition subject to the decisions by the probation and parole. The reason I'm saying - it's the Court's understanding that they have as a part of their

ongoing administrative supervision policy than [sic] a victim. And the defendant cannot have contact in this type of case.

The victim now has turned the age of majority. She has expressed her desire to have this condition removed. And the Court will only remove that on the recommendation of the department that that's not in violation of their administrative supervision procedure.

The court then clarified that it intended the order to remain in place while Baker was incarcerated. The court did not inform Baker that he must register as a sex offender.

On May 16, 2011, Baker filed a motion to reconsider sentence asking only that the court vacate its no-contact order. The district court denied that motion on June 14, 2011, and Baker appealed.

Although Baker's motion to reconsider sentence did not put the trial court on notice of the continuing sentencing problem, as we observed in our previous opinion, the parole disability in the new sentence is illegal under the applicable provisions of La. R.S. 14:81.2(C). Accordingly, we delete the parole restriction and direct the trial court to make a minute entry noting the correction of the sentence to ensure that the Department of Corrections is advised that the sentence has been amended. *State v Henry*, 46,406 (La. App. 2d Cir. 8/10/11), 73 So. 3d 958.

Baker also argues that the trial court should have rescinded its no-contact order, particularly when the victim testified that she desired the order to be rescinded.

The trial court's stated reasons for maintaining the order included a rule of the Department of Corrections, Probation and Parole Division, that the offender have no contact with the victim. The original sentencing order

also directed Baker to have no contact with the victim “unless approved by the Louisiana Department of Probation and Parole.” We view this order as a simple application of DOC rules and regulations that would be applied in any other sex offender case. *See, e.g.*, La. R.S. 15:538(D)(1)(d), regarding conditions of parole or probation, prohibiting oral or written communication with the victim unless the victim has given consent in writing and Louisiana Administrative Code, Title 22, Part 1, §316, which governs visitation with offenders while they are incarcerated. Accordingly, this portion of the sentence is affirmed.

We note one error patent on the record. At resentencing, the trial court did not notify Baker of the sex offender registration requirements. The trial court is hereby ordered to inform Baker of these requirements in writing and to file proof of notice into the record. *State v. Manning*, 44,403 (La. App. 2d Cir. 6/24/09), 15 So. 3d 1204, *writ denied*, 09-1749 (La. 4/5/10), 31 So. 3d 355.

*Decree*

For the foregoing reasons, Baker’s sentence is amended to delete the parole prohibition, and as amended, is affirmed.

**SENTENCE AMENDED AND AFFIRMED.**