Judgment rendered April 10, 2013
Application for rehearing may be filed
within the delay allowed by Art. 922,
La. C.Cr.P.

No. 48,001-KA

COURT OF APPEAL
SECOND CIRCUIT
STATE OF LOUISIANA

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STATE OF LOUISIANA — Appellee

versus

FREDDIE EASON — Appellant

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Appealed from the
Twenty-Sixth Judicial District Court for the
Parish of Webster, Louisiana
Trial Court No. 85051

Honorable Jeffrey S. Cox, Judge

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Before WILLIAMS, CARAWAY and DREW, JJ.

CARAWAY, J.

Freddie Eason pled guilty to possession of cocaine and received the maximum sentence of five years at hard labor. Eason appeals his sentence. We affirm.

Facts

On January 11, 2012, officers of the Springhill Police Department were on routine patrol and observed a vehicle cross the double yellow lines two or three times. The officers initiated a traffic stop and performed a field sobriety test on the driver. The driver passed the field sobriety test and then gave the officers consent to search the vehicle. The officers seized a whisky bottle, which was found under the front passenger seat, and a crack pipe and a bag of crack cocaine which were found on the rear passenger seat where Freddie Eason was sitting.

On February 9, 2012, Eason was charged by bill of information with possession of cocaine with intent to distribute. On May 21, 2012, Eason pled guilty to the amended charge of simple possession of cocaine and the trial court ordered a presentence investigation report. The defense requested that the court consider making Eason's sentence concurrent with a prior parole sentence.

On July 2, 2012, the sentencing hearing was conducted. The trial court reviewed the presentence investigation report, including Eason's criminal, personal and social history. Also, the court reviewed Eason's statement to the officer rendering the report and the sentencing guidelines set forth in La. C. Cr. P. art. 894.1. The court noted Eason's prior

convictions in Arkansas for possession of a CDS with intent to distribute, felony theft of property, second degree forgery, and two convictions for residential burglary, for which he is currently on parole. The court stated that Eason had been on probation and parole several times, most of which resulted in revocation. Also, the court noted that because Eason was a sixth-felony offender, he was not eligible for probation. Considering the above, the trial court sentenced Eason to five years at hard labor, to run consecutively with his prior parole sentence.

Eason filed a motion to reconsider sentence on July 30, 2012, requesting that his sentence run concurrently with the Arkansas parole sentence. The trial court denied the motion on August 13, 2012. This appeal followed.

Discussion

Eason argues that the imposed five-year sentence fails to punish him in a reasonable manner for his nonviolent crime. He argues that considering his age and educational background, the sentence is excessive and violated his constitutional rights because it serves no purpose other than needless imposition of pain and suffering.

An appellate court utilizes a two-pronged test in reviewing a sentence for excessiveness. First, the record must show that the trial court took cognizance of the criteria set forth in La. C. Cr. P. art. 894.1. The trial judge is not required to list every aggravating or mitigating circumstance so long as the record reflects that he adequately considered the guidelines of the article. *State v. Smith,* 433 So. 2d 688 (La. 1983); *State v. Lathan*, 41,855

(La. App. 2d Cir. 2/28/07), 953 So. 2d 890, *writ denied*, 07-0805 (La. 3/28/08), 978 So. 2d 297. The articulation of the factual basis for a sentence is the goal of La. C. Cr. P. art. 894.1, not rigid or mechanical compliance with its provisions. Where the record clearly shows an adequate factual basis for the sentence imposed, remand is unnecessary even where there has not been full compliance with La. C. Cr. P. art. 894.1. *State v. Lanclos,* 419 So. 2d 475 (La. 1982); *State v. Swayzer*, 43,350 (La. App. 2d Cir. 8/13/08), 989 So. 2d 267, *writ denied,* 08-2697 (La. 9/18/09), 17 So. 3d 388. The important elements which should be considered are the defendant's personal history (age, family ties, marital status, health, employment record), prior criminal record, seriousness of offense, and the likelihood of rehabilitation. *State v. Jones,* 398 So. 2d 1049 (La. 1981); *State v. Ates,* 43,327 (La. App. 2d Cir. 8/13/08), 989 So. 2d 259, *writ denied*, 08-2341 (La. 5/15/09), 8 So. 3d 581. There is no requirement that specific matters be given any particular weight at sentencing. *State v. Shumaker*, 41,547 (La. App. 2d Cir. 12/13/06), 945 So. 2d 277, *writ denied*, 07-0144 (La. 9/28/07), 964 So. 2d 351.

Second, the court must determine whether the sentence is constitutionally excessive. A sentence violates La. Const. art. 1, §20 if it is grossly out of proportion to the seriousness of the offense or nothing more than a purposeless and needless infliction of pain and suffering. *State v. Dorthey*, 623 So. 2d 1276 (La. 1993); *State v. Bonanno,* 384 So. 2d 355 (La. 1980). A sentence is considered grossly disproportionate if, when the crime and punishment are viewed in light of the harm done to society, it shocks

the sense of justice. *State v. Weaver,* 01-0467 (La. 1/15/02), 805 So. 2d 166; *State v. Robinson,* 40,983 (La. App. 2d Cir. 1/24/07), 948 So. 2d 379.

A trial court has broad discretion to sentence within the statutory limits. *State v. Guzman*, 99-1528, 99-1753 (La. 5/16/00), 769 So. 2d 1158; *State v. Dunn*, 30,767 (La. App. 2d Cir. 6/24/98), 715 So. 2d 641. Absent a showing of manifest abuse of that discretion, the appellate court may not set aside a sentence as excessive. *State v. Guzman*, *supra*.

Where a defendant has pled guilty to an offense which does not adequately describe his conduct or has received a significant reduction in potential exposure to confinement through a plea bargain, the trial court has great discretion in imposing even the maximum sentence possible for the pled offense. *State v. Germany*, 43,239 (La. App. 2d Cir. 4/30/08), 981 So. 2d 792; *State v. Black*, 28,100 (La. App. 2d Cir. 2/28/96), 669 So. 2d 667, *writ denied*, 96-0836 (La. 9/20/96), 679 So. 2d 430.

The sentencing range for possession of cocaine under La. R.S. 40:967(C)(2) is imprisonment with or without hard labor for not more than five years and a possible fine of not more than $5,000.

We cannot find an abuse of discretion by the trial court in sentencing Eason to the maximum sentence of five years at hard labor consecutive to his prior sentence. The records shows adequate 894.1 compliance by the trial court which considered Eason's extensive criminal history, including five prior felony convictions in Arkansas. Moreover, the sentence is adequately tailored to this defendant. Eason's multiple probation and parole revocations show his failure to respond to prior leniency in sentencing. His

persistent and continued criminal activity also demonstrates a blatant disregard for the law. Finally, Eason received a substantial reduction in sentencing exposure by the plea agreement. For these reasons, we find that the sentence imposed by the trial court does not shock the sense of justice, nor is it disproportionate to the severity of the offense. Therefore, this assignment of error is without merit.

Decree

For the foregoing reasons, Eason's conviction and sentence are affirmed.

AFFIRMED.