

**STATE OF LOUISIANA**

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**NO. 2000-KA-1259**

**VERSUS**

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**COURT OF APPEAL**

**WILLIE L. WEBSTER**

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**FOURTH CIRCUIT**

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**STATE OF LOUISIANA**

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APPEAL FROM  
CRIMINAL DISTRICT COURT, ORLEANS PARISH  
NO. 400-830, SECTION "B"  
HONORABLE PATRICK G. QUINLAN, JUDGE

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**JUDGE PATRICIA RIVET MURRAY**

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(Court composed of Judge Joan Bernard Armstrong, Judge Patricia Rivet Murray, and Judge James F. McKay, III)

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**AFFIRMED**

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Willie L. Webster was convicted by a jury of the second degree murder of Terrance Clark and of the attempted second degree murder of Shawn Williams. He was sentenced on count one to life imprisonment without benefit of probation, parole or suspension of sentence, and to a consecutive term on count two of twenty-five years without benefit of probation, parole or suspension of sentence. Mr. Webster now appeals, contending that the imposition of consecutive sentences is excessive under

the circumstances. We affirm for the reasons that follow.

At trial, Shawn Williams testified that at about 3:50 p.m. on June 13, 1998, he was driving on Valence Street between Magnolia and Robert Streets when someone in an approaching car flagged him down. Mr. Williams slowed his car almost to a stop and recognized Willie Webster, the defendant, in the other car. Mr. Webster began shooting at him, firing eleven shots at Mr. Williams who was hit in the leg. Mr. Williams drove to a nearby grocery store for help. He was taken to the hospital where he spoke to a detective. Later Mr. Williams was shown a photographic lineup from which he selected Mr. Webster's picture and named him as the man who shot him. Mr. Williams appeared at trial wearing Orleans Parish Prison attire, explaining that he had been convicted of distribution of cocaine and was now in prison for a parole violation. He denied receiving any special consideration from the State for his testimony.

Officer Michael Richard investigated this shooting and found bullet shells on the road at the intersection of Valence and Magnolia Streets. Mr. Millard Green of the crime lab testified that he photographed the scene of the shooting and identified seven spent casings and three spent copper-jacket bullets that were found there.

Officer Kenneth Marchese testified that he spoke with Shawn

Williams while he was in the hospital and got the name "Wil" and a description of the gunman. The officer developed a photographic lineup from which Mr. Williams selected Mr. Webster's picture and named him as the man who shot him.

Officer Kenneth Leary, Jr., an expert in firearms identification, testified that he examined the seven nine millimeter cartridge cases recovered from Valence and Magnolia Streets and found that they were fired by the same weapon. Additionally, he found that all three of the nine millimeter bullets recovered were fired by the same weapon.

Officer Leary also testified concerning evidence recovered on June 24, 1998, after the second incident at issue in this appeal, the murder of Terrance Clark. In that shooting, six spent nine millimeter cartridge cases, four unknown caliber lead fragments, and three copper jacket fragments were found at the intersection of Magnolia and Amelia Streets, and two nine millimeter bullets were recovered during the autopsy of Terrance Clark. The officer examined the six cartridge cases and found they were fired by the same weapon, and the two bullets from the dead man's body came from the same weapon. The fragments were unsuitable for comparison. A comparison of the cartridge cases from the two crime scenes and the two recovered bullets revealed that all were fired from the same weapon.

Rodney Lomax testified that on June 22, 1998, he was outside a grocery store on Amelia and Magnolia Streets where he saw Terrance Clark and another friend. Mr. Lomax spoke with them for a few minutes, and Mr. Clark was about to leave the group when Willie Webster suddenly appeared running toward them pointing a gun. Mr. Lomax turned to run and immediately heard gunshots. Several days later, Mr. Lomax spoke with a police officer and then attended a physical lineup. Mr. Lomax identified the defendant, Mr. Webster, as the man he saw with a gun immediately before the shooting. Mr. Lomax admitted that he initially told the police he saw the gunman, but he did not inform the police that he knew the man until sometime after he was sure that Mr. Webster was in custody.

Officer Dorothea Butler of the crime lab testified that she photographed the crime scene and secured all the evidence there. She saw the victim, Terrance Clark, face down on the ground with a head wound; six spent casings, four lead fragments, and three copper fragments were found near his body.

Detective Walter Powers, Jr., testified that when he interviewed Mr. Lomax two days after the murder, Mr. Lomax said he was unable to identify the person who committed the crime. However, after Mr. Webster was arrested the third day after the murder, Mr. Lomax called the detective and

asked to speak with him again. Mr. Lomax attended the physical lineup the detective set up and identified Willie Webster as the gunman. Detective Powers obtained a search warrant for Mr. Webster's house at 3204 Laurel Street. There he found two cellular phones and a pager, mail addressed to the defendant, and four live nine millimeter Luger rounds.

Officer Ronald Stevens testified that he and his partner, Officer Paul Noel, took part in the search at 3204 Laurel Street, then remained in the house after the other officers left, alone except for a pit bull in a cage in the kitchen. After about an hour, Mr. Webster entered the house through the kitchen door. When he saw the officers, he turned and ran out the back door. The officers gave chase, following Mr. Webster as he jumped over five fences. When Officer Noel caught up with him, pepper spray had to be used to stop him.

Mr. Shedrick Gerrard Sexton, who lives near the corner of Amelia and Magnolia Streets, testified that just after noon on June 22, 1998 he was standing across the street from the grocery store when he noticed Rodney Lomax and Terrance Clark talking in front of the store. Mr. Sexton heard a shot, then saw Mr. Lomax cross Amelia Street while Mr. Clark started to run around the corner but collapsed almost immediately. The gunman stood over Mr. Clark's body and shot him four or five times before running

towards Louisiana Avenue. Mr. Sexton identified Willie Webster as the man who shot Mr. Clark.

Dr. William P. Newman, III, an expert in forensic pathology, testified that he autopsied Terrance Carter on June 23, 1998, recovering bullet fragments and jackets from the brain, neck, skull, skin and clothing of the victim. Mr. Clark died of two gunshot wounds to his head and one to his chest. Several other gunshot wounds were superficial and did not penetrate body tissue.

Willie Webster, the twenty-seven year old defendant, testified that he did not know Terrance Clark or Shawn Williams, but he had seen Shawn Williams in the neighborhood. Mr. Webster denied shooting Terrance Clark and Shawn Williams and even owning a gun. He explained that he ran from the police because they were not in uniform and the ammunition was at his house because a friend of his left it there. He admitted having been convicted of two misdemeanors, possession of marijuana and simple battery.

Mr. Lynn Rounds testified that Mr. Webster, whom he has known for fifteen years, has a reputation for honesty in the community.

Based upon this testimony and evidence, Mr. Webster was found guilty of second degree murder, which carries a mandatory life sentence. La. R.S. 14:30.1 B. He was also convicted of attempted second degree

murder, for which the sentencing range is ten to fifty years imprisonment. La. R.S. 14:27 D(1). The trial court sentenced Mr. Webster to life imprisonment on count one, to twenty-five years on count two, and ordered that the sentences are to run consecutively.

In his sole assignment of error, Mr. Webster argues that the trial court's imposition of consecutive, rather than concurrent, sentences is constitutionally excessive because "tacking on a 25-year sentence to a life sentence ... is nothing more than needless imposition of pain and suffering." He further contends that the court failed to make reference to the particular facts of this case and failed to consider his particular criminal history and background. For these reasons, Mr. Webster asserts that the sentences should be concurrent rather than consecutive.

Article I, Section 20 of the Louisiana Constitution prohibits excessive sentences. *State v. Baxley*, 94-2982, p. 4 (La. 5/22/95), 656 So.2d 973, 977. Although a sentence is within the statutory limits, the sentence may still violate a defendant's constitutional right against excessive punishment. *State v. Francis*, 96-2389, p. 6 (La. App. 4th Cir. 4/15/98), 715 So.2d 457, 461, writ denied, 98-2360 (La. 2/5/99), 737 So.2d 741. A sentence is constitutionally excessive if it makes no measurable contribution to acceptable goals of punishment, is nothing more than the purposeless



imposition of pain and suffering, and is grossly out of proportion to the severity of the crime. *State v. Johnson*, 97-1906, pp. 6-7 (La. 3/4/98), 709 So.2d 672, 677. A sentence is grossly disproportionate if, when the crime and punishment are considered in light of the harm done to society, it shocks the sense of justice. *State v. Baxley*, 94-2984 at p. 9, 656 So.2d at 979.

In reviewing a claim that a sentence is excessive, an appellate court generally must determine whether the trial judge has adequately complied with the statutory guidelines and whether the sentence is warranted under the facts established by the record. *State v. Trepagnier*, 97-2427, p. 11 (La. App. 4th Cir. 9/15/99), 744 So.2d 181, 189. Once adequate compliance with Criminal Procedure article 894.1 is found, a determination must be made as to whether the sentence imposed is too severe in light of the particular defendant and the circumstances of the case, keeping in mind that maximum sentences should be reserved for the most egregious violators of the offense so charged. *State v. Ross*, 98-0283 (La. App. 4th Cir. 9/8/99), 743 So.2d 757. As noted by the Supreme Court in *State v. Cook*, 95-2784, p. 3 (La. 5/31/96), 674 So.2d 957, 959, the question on appellate review of a sentence is "whether the trial court abused its broad sentencing discretion, not whether another sentence might have been more appropriate."

In this case, the two incidents for which Mr. Webster was convicted

did not arise out of a single transaction, nor were they part of a common scheme or plan. Therefore, his sentences would be presumed to be consecutive under Criminal Procedure article 883, which states:

If the defendant is convicted of two or more offenses based on the same act or transaction, or constituting parts of a common scheme or plan, the terms of imprisonment are to be served concurrently unless the court expressly directs that some or all be served consecutively. Other sentences of imprisonment shall be served consecutively unless the court expressly directs that some or all of them be served concurrently. In the case of the concurrent sentence, the judge shall specify, and the court minutes shall reflect, the date from which the sentences are to run concurrently.

Accordingly, the trial court was not required to explicitly state any reasons for imposing consecutive sentences. *State v. Cooley*, 98-0576, pp. 13-15 (La. App. 4th Cir. 12/2/99), 747 So.2d 1182, 1189-90.

Nevertheless, the record establishes that there was no abuse of discretion in the imposition of consecutive sentences in this case. Mr. Webster killed Terrance Clark, who was standing on a street corner chatting with a friend, by shooting at him many times from close range. He attempted to kill Shawn Williams in the same way. Consecutive sentences are justified when the offender poses an unusual risk to the safety of the public; this defendant twice put everyone on the street at great risk. *State v. Lee*, 94-2584, p. 9 (La. App. 4th Cir. 1/19/96), 668 So.2d 420, 427, *writ denied*, 96-0477 (La. 5/10/96), 672 So.2d 919; *State v. Johnson*, 99-0385

(La. App. 1st Cir. 11/5/99), 745 So.2d 217. In addition, although Mr. Webster has only two prior misdemeanor convictions, his criminal record includes thirteen felony arrests dating back to 1983 for various crimes of violence as well as drug offenses. On these facts, we cannot find that the imposition of consecutive sentences was an abuse of the trial court's discretion.

A review of the record reveals no errors patent.

Accordingly, for the reasons stated above, Mr. Webster's convictions and sentences are affirmed.

**AFFIRMED**