

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA	*	NO. 2001-KA-2200
VERSUS	*	COURT OF APPEAL
NATHAN SPAHR	*	FOURTH CIRCUIT
	*	STATE OF LOUISIANA
	*	
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APPEAL FROM
CRIMINAL DISTRICT COURT ORLEANS PARISH
NO. 419-885, SECTION "J"
Honorable Leon Cannizzaro, Judge
* * * * *
Judge Dennis R. Bagneris, Sr.
* * * * *

(Court composed of Judge Joan Bernard Armstrong, Judge Patricia Rivet Murray, and Judge Dennis R. Bagneris, Sr.)

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AFFIRMED

On February 16, 2001, Nathan Spahr was charged by bill of information with possession of cocaine in violation of La. R.S. 40:967(C). He pleaded not guilty at arraignment on February 22nd. After trial on March 14th, a six-member jury found him guilty of attempted possession of cocaine. He was sentenced on June 26th to serve thirty months at hard labor. His motion to reconsider the sentence was denied, and his motion for an appeal was granted.

At trial Officer Anthony Rome testified that on December 31, 2000, he was driving in the 200 block of Burgundy Street when he noticed the defendant sitting on the curb between two parked vehicles. He looked up as the police car passed and “flinched” while placing something down at his right side. Officer Rome asked him to stand up, and he dropped his right hand down again as he stood. After directing Spahr to walk toward his partner, Officer Rome noticed a black object on the ground where the defendant had been sitting; when the officer picked it up, he found it to be a

crack pipe. On the ground next to the pipe was a cellophane-wrapped white rock, which the officer assumed to be crack cocaine. A search of the defendant produced only personal items and a cigarette lighter.

Officer Donald Battiste, Officer Rome's partner, testified that he was driving on Burgundy Street when the defendant was first seen. After Officer Rome got out of the car, he told Officer Battiste that he had seen the man on the curb drop something as the police approached. Officer Rome used a flashlight to search the area and found the pipe and rock. Spahr was placed under arrest for possession of cocaine and drug paraphernalia. A white filmy residue was visible on the inside of the recovered pipe. In searching the defendant, the officer found a cigarette lighter but no cigarettes.

Karen Lewis Holmes, an expert in testing and analysis of controlled dangerous substances, testified that she received the evidence from this case, a glass tube with wire mesh at one end and a visible residue as well as a white rock wrapped in cellophane. When she tested the residue in the pipe, it proved to be a crack cocaine pipe, but the tests revealed that the rock was not cocaine.

A review of the record for errors patent reveals none.

In a single assignment of error the defendant complains that the trial court erred when it failed to advise him of post-conviction relief provisions

under La. C.Cr.P. art. 930.8; however, this article contains merely precatory language and does not bestow an enforceable right upon an individual defendant. State ex rel. Glover v. State, 93-2330, 94-2101, 94-2197, p. 21 (La. 9/5/95), 660 So.2d 1189, 1201, abrogated in part on other grounds, State ex rel. Olivieri v. State, 2000-0172, 2000-1767 (La. 2/21/2001), 779 So.2d 735.

In the interest of judicial economy, we note for defendant that La. C.Cr.P. art. 930.8 generally requires that applications for post-conviction relief be filed within two years of the finality of a conviction.

For the reasons stated herein, we affirm defendant's conviction and sentence.

AFFIRMED