

NOT DESIGNATED FOR PUBLICATION

**STATE OF LOUISIANA** \* **NO. 2002-KA-0155**  
**VERSUS** \* **COURT OF APPEAL**  
**ALBERT J. LEON** \* **FOURTH CIRCUIT**  
\* **STATE OF LOUISIANA**  
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APPEAL FROM  
CRIMINAL DISTRICT COURT ORLEANS PARISH  
NO. 381-081, SECTION "G"  
Honorable Julian A. Parker, Judge  
\* \* \* \* \*  
**Judge Terri F. Love**  
\* \* \* \* \*

(Court composed of Judge Michael E. Kirby, Judge Terri F. Love, Judge David S. Gorbaty)

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**AFFIRMED AS AMENDED**

This appeal concerns a 1997 guilty plea and the resulting sentences. The appellant argues that his plea was involuntary because the trial court failed to advise him of the parole restrictions as to the second degree kidnapping convictions and also because the court promised to recommend boot camp and did not. We affirm the appellant's sentence.

On February 7, 1997, Albert J. Leon pleaded guilty as charged to one count of aggravated burglary and two counts of second degree kidnapping. The plea was entered under North Carolina v. Alford, 400 U.S. 25, 91 S.Ct. 160 (1970). He was sentenced to serve a ten-year term at hard labor without benefit of probation, parole, or suspension of sentence on each conviction, the sentences to run concurrently. The court also recommended the appellant for the Boot Camp Program.

The appellant has filed numerous writs with this court. Many of the writs concern what the appellant characterized as violations of the plea bargain. The appellant has argued it is not clear from the record whether or not he was sentenced under the multiple bill, that he was not recommended

for the Boot Camp Program, and that the trial court erred in imposing restrictions on parole.

Before addressing the issues raised on appeal, we note errors patent in the amended sentences in the Amendment to the Commitment Form. The trial court properly deleted the prohibition on parole as to the aggravated burglary conviction, but the prohibition on probation and suspension of sentence remain. Because La. R.S. 14:60 does not restrict those benefits, the sentence is illegal. Similarly, when the parole restriction was properly limited to two years on the two La. R.S. 14:44.1 convictions, the prohibition on probation and suspension of sentence remain. Under La. C.Cr.P. art. 882, an illegal sentence may be corrected at any time by the court that imposed the sentence or by an appellate court on review. Accordingly, we hereby delete the prohibition on probation and suspension of sentence on the appellant's ten-year sentence for aggravated burglary as well as on his two ten-year sentences on second degree kidnapping.

At the status hearing of February 13, 2001, after the court established that all the issues raised in writs had already been resolved, the appellant argued that because he had not been able to get paroled, his sentence should be reduced to five years, and claimed that he was assured his sentence would be shortened accordingly. No evidence was offered to support appellant's

claim, and he acknowledged that he signed and initialed the guilty plea form, which stated that he would receive ten-year sentences. He then asked that his plea bargain for the three ten-year sentences be vacated and a new plea bargain for five-year terms be imposed for each conviction. The state objected, and the trial court declared that it was without authority to reduce a sentence once the appellant began serving it. The appellant was granted an appeal from that ruling.

In his brief the appellant through counsel argues that under State ex rel. LaFleur v. Donnelly, 416 So.2d 82 (La.1982), the failure of the trial court to advise him of his ineligibility for parole mandates that he be allowed to withdraw his guilty plea. However, the appellant was granted an appeal on issues arising out of his status hearing on February 13, 2001. At that hearing the court properly denied appellant's request to reduce his sentences to five years. His original sentencing is not at issue.

Accordingly for reasons cited above, we delete the prohibition on probation and suspension of sentence on the appellant's ten-year sentence for aggravated burglary as well as on his two ten year sentences on second degree kidnapping. As amended the appellant's convictions and sentences are affirmed.

**AFFIRMED AS**

**AMENDED**