

STATE OF LOUISIANA

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NO. 2005-KA-0137

VERSUS

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COURT OF APPEAL

LAWRENCE MACK

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FOURTH CIRCUIT

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STATE OF LOUISIANA

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ARMSTRONG, C. J. DISSENTS WITH REASONS.

I respectfully dissent. Sentences within the legislatively provided range are presumed constitutional. *State v. Johnson*, 97-1906 (La. 3/4/98), 709 So.2d 672. The defendant argues that his seven-year sentence is excessive because the district court failed to consider him as an individual human being, failed to consider his age, and ignored the jury's finding and assumed that he was planning to sell marijuana. However, these factors are insufficient to rebut the presumption of the constitutionality of the sentence the defendant received.

The defendant has failed to prove that the trial court abused the liberal discretion allowed in sentencing. *State v. Walker*, 96-112 (La. App. 3 Cir. 6/5/96), 677 So.2d 532, 535, citing *State v. Howard*, 414 So.2d 1210 (La. 1982). Accordingly, I would affirm the sentence imposed by the trial court.

