

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

2013 KA 0950

STATE OF LOUISIANA

VERSUS

STEPHEN BELL

DATE OF JUDGMENT: FEB 14 2014

ON APPEAL FROM THE TWENTY-THIRD JUDICIAL DISTRICT COURT
NUMBER 28032, DIVISION "A", PARISH OF ASCENSION
STATE OF LOUISIANA

HONORABLE RALPH TUREAU, JUDGE

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Stephen Bell

BEFORE: KUHN, HIGGINBOTHAM, AND THERIOT, JJ.

Disposition: CONVICTIONS AND SENTENCES AFFIRMED; REMANDED WITH INSTRUCTIONS.

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mt
Tmt

KUHN, J.,

Defendant, Stephen Bell, was charged by grand jury indictment with four counts of aggravated rape, violations of La. R.S. 14:42. (R. p. 16). He pled not guilty. (R. p. 2). Subsequently, the state amended defendant's indictment to charge him with four counts of aggravated incest, violations of La. R.S. 14:78.1, and defendant withdrew his former pleas of not guilty and entered pleas of guilty pursuant to a written agreement with the state. (R. p. 14-15, 47-51). The trial court accepted defendant's pleas and, under the terms of the plea agreement, sentenced him to four concurrent terms of forty years imprisonment at hard labor, with thirty years of each term to be served without benefit of parole, probation, or suspension of sentence. (R. p. 51, 71). On appeal, defendant raises a sole assignment of error requesting that this Court remand this matter for correction of the minute entry of his sentencing, which lists incorrect sentencing information. For the following reasons, we affirm defendant's convictions and sentences and remand for amendment of the sentencing minute entry and commitment order.

FACTS

Because defendant pled guilty, the facts of his offenses were not developed at trial. The written plea agreement and his guilty plea transcript reflect that defendant engaged in aggravated incest with his minor stepdaughter on at least four occasions between August 1, 2010 and November 17, 2010. (R. p. 50, 70)

ASSIGNMENT OF ERROR

In his sole assignment of error, defendant correctly asserts that the minutes misstate the sentences imposed by the trial court. Defendant's written plea agreement and sentencing transcript indicate that the trial court imposed four concurrent sentences of forty years at hard labor, with thirty years of each sentence to be served without benefit of parole, probation, or suspension of sentence. (R. p. 51, 71). However, the minutes from defendant's sentencing and his commitment

order incorrectly reflect that the trial court imposed four concurrent sentences of forty years at hard labor, with *thirty-two* years of each sentence to be served without benefit of parole, probation, or suspension of sentence. (R. p. 15, 52). It is well settled that where there is a discrepancy between a minute entry and the transcript, the transcript prevails. See *State v. Lynch*, 441 So.2d 732, 734 (La. 1983). Defendant requests that the minute entry of his sentencing be amended to correctly state the sentences imposed, and the state concurs in the request. (State brief, p. 6).

Accordingly, we hereby remand this matter to the trial court for correction of the sentencing minute entry and the commitment order to reflect that the instant sentences are concurrent terms of forty years at hard labor, with thirty years of each sentence to be served without benefit of parole, probation, or suspension of sentence. In all other respects, defendant's convictions and sentences are affirmed.

CONVICTIONS AND SENTENCES AFFIRMED; REMANDED WITH INSTRUCTIONS.