

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

2013 KA 1069

STATE OF LOUISIANA

VERSUS

AARON TAYLOR

Judgment Rendered FEB 18 2014

Appealed from the
Nineteenth Judicial District Court
In and for the Parish of East Baton Rouge, State of Louisiana
Trial Court Number 07-11-0377

Honorable Donald Johnson, Judge Presiding

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State of Louisiana

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Aaron Taylor

BEFORE: WHIPPLE, C.J., WELCH AND CRAIN, JJ.

WHIPPLE, C.J.

The defendant, Aaron Taylor, was charged by grand jury indictment with one count of second degree murder (count 1), a violation of LSA-R.S. 14:30.1, and three counts of armed robbery (counts 2-4), violations of LSA-R.S. 14:64. He pled not guilty and, following a jury trial, was found guilty as charged. He filed a motion for postverdict judgment of acquittal, which was denied. On count one, the defendant was sentenced to the mandatory term of life imprisonment at hard labor without the benefit of parole. On counts two, three, and four, on each count, he was sentenced to ten years at hard labor without the benefit of parole. The defendant's sentences were ordered to be served concurrently. The defendant now appeals, arguing that his mandatory life sentence is constitutionally excessive. For the following reasons, we affirm the defendant's convictions and sentences.

FACTS

On May 4, 2011, the victim, Jonathan Calvert, and several of his friends were "hanging out" at the home of Joseph Price on Aster Street in Baton Rouge. The victim and his girlfriend were inside his recently purchased recreational vehicle ("RV"), parked next to Price's home, while some of his friends were sitting outside under the carport and others were inside the home. According to trial testimony herein, two black men walked up to the house, and both of the men, later identified as Mohammed Collins and the defendant, pointed guns at Price and told him to empty his pockets and to give them all of his money.¹ Collins then walked toward the door of the house, told the occupants to come outside, and ordered them to empty their pockets.

¹Collins was charged by a separate indictment, tried, and convicted of one count of second degree murder and three counts of armed robbery. In an unpublished decision, this court affirmed Collins's convictions and sentences on September 13, 2013. See State v. Collins, 2012-2048 (La. App. 1st Cir. 9/13/13) (unpublished opinion).

The defendant forced one of the friends, Charles Gunter, at gunpoint to go into the RV. Once inside, the defendant had Gunter get onto his hands and knees. The defendant asked, "what you got, what you got. . . [g]ive it up, where it at?" The victim responded, "look[,] we don't have anything." A "scuffle" ensued. Price, who was in the group being held at gunpoint outside of his home, heard the defendant scream, "Hey, Help. He's got me down." Collins ran toward the RV and fired shots into its open door. The shots struck and killed the victim and wounded the defendant. The defendant and Collins immediately ran away.

EXCESSIVE SENTENCES

In his sole assignment of error, the defendant argues that his mandatory life sentence is constitutionally excessive because he "did not fire any shots and did not rob anyone."

One purpose of the motion to reconsider sentence is to allow the defendant to raise any errors that may have occurred in sentencing while the district court judge still has the jurisdiction to change or correct the sentence. The defendant may point out such errors or deficiencies, or may present argument or evidence not considered in the original sentencing, thereby preventing the necessity of a remand for resentencing. State v. Mims, 619 So. 2d 1059 (La. 1993) (per curiam). Under the clear language of LSA-C.Cr.P. art. 881.1(E), the failure to make or file a motion to reconsider sentence precludes a defendant from raising an objection to the sentence on appeal, including a claim of excessiveness. A motion to reconsider sentence was not filed in this case. Thus, the defendant is procedurally barred from having his challenge to the sentence reviewed by this court on appeal. State v. Felder, 2000-2887 (La. App. 1st Cir. 9/28/01), 809 So. 2d 360, 369, writ denied, 2001-3027 (La. 10/25/02), 827 So. 2d 1173. Accordingly, the defendant's assignment of error is without merit.

CONVICTIONS AND SENTENCES AFFIRMED.