

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NUMBER 2014 KA 0771

STATE OF LOUISIANA

VERSUS

ROESHAUN D. RILEY

Judgment Rendered:

NOV 07 2014

On appeal from the
Nineteenth Judicial District Court
In and for the Parish of East Baton Rouge
State of Louisiana
Docket Number 04-10-0042, Section "V"
Honorable Louis R. Daniel, Judge Presiding

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Roeshaun Riley

BEFORE: GUIDRY, THERIOT, AND DRAKE, JJ.

GUIDRY, J.

The defendant, Roeshaun D. Riley, was charged by bill of information with possession with intent to distribute marijuana, a violation of La. R.S. 40:966(A). The defendant pled not guilty. The defendant filed a motion to suppress the evidence and, following a hearing on the matter, the motion was denied. The defendant withdrew his not guilty plea. In return for an agreed-upon, twenty-year sentence and the agreement by the State not to file a habitual offender bill of information, the defendant pled guilty to the instant charge. He was sentenced to twenty years imprisonment at hard labor. The defendant now appeals, designating one assignment of error. We affirm the conviction and sentence.

FACTS

At the Boykin¹ hearing, the factual basis for the guilty plea was set forth as follows:

[O]n or about March 11th of 2010, the defendant along with his girlfriend were stopped as a result of a traffic stop here in town on I-12. Once the defendant was contacted, the officer elected to search his vehicle. A certified drug sniffing dog smelled a scent of marijuana in the trunk. The officer searched the trunk and found three large cellophane packages full of marijuana, the total weight of that marijuana being just over twenty-five pounds. Officers later determined that the defendant knowingly and intentionally possessed that marijuana, and he did so with an intent to distribute it.

ASSIGNMENT OF ERROR

In his sole assignment of error, the defendant argues that the trial court erred in denying his motion to suppress the evidence. Specifically, the defendant contends that the officer did not have probable cause to search the vehicle when he opened the passenger door.

The defendant failed to specifically reserve his right to obtain appellate review of the trial court's ruling on the motion to suppress at the time he entered his guilty plea. See State v. Crosby, 338 So. 2d 584 (La. 1976). At the Boykin

¹ Boykin v. Alabama, 395 U.S. 238, 89 S.Ct. 1709, 23 L.Ed.2d 274 (1969)

hearing, the trial court specifically discussed with the defendant whether he was pleading pursuant to Crosby and whether he sought to preserve his right to appeal the trial court's ruling on the motion to suppress. The defendant informed the trial court that he understood what a Crosby plea was and that he was choosing to not enter a guilty plea pursuant to Crosby. The defendant further indicated that, as such, he understood that he would not have the right to appeal the ruling on the motion to suppress and that he still wished to plead guilty.

In Crosby, the court observed that a plea of guilty normally waives all non-jurisdictional defects in the proceedings prior to the plea. Crosby, 338 So. 2d at 588. However, if the guilty plea is conditioned and accepted subject to reservation of the defendant's right to seek appellate review of pre-plea rulings that are believed to involve an issue of fundamental error of a nature that mandates reversal of any conviction that might result after a trial on the merits, then appellate review of such assignments of error is proper. Crosby, 338 So. 2d at 590-92. However, no such Crosby reservation was entered during the defendant's guilty plea in this case. Accordingly, the defendant's sole assignment of error, seeking review of the trial court's denial of his motion to suppress, is not properly before this court and will not be considered. See State v. Parker, 552 So. 2d 771, 772 (La. App. 1st Cir. 1989).

CONVICTION AND SENTENCE AFFIRMED.