NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NO. 2015 KA 0730

STATE OF LOUISIANA

VERSUS

KENTRELL FORCELL

Judgment Rendered: NOV 06 2015

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Appealed from the
23rd Judicial District Court
In and for the Parish of Ascension
State of Louisiana
Case No. 32580

The Honorable Thomas J. Kliebert, Jr., Judge Presiding

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Kentrell Forcell

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Gonzales, Louisiana

Counsel for Appellee
State of Louisiana

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BEFORE: McDONALD, McCLENDON, AND THERIOT, JJ.

THERIOT, J.

The defendant, Kentrell Forcell, was charged by bill of information with aggravated assault with a firearm, a violation of La. R.S. 14:37.4, and initially pled not guilty. After a jury was selected, the defendant withdrew his former plea and entered a plea of guilty as charged. The trial court denied the defendant's subsequent motion to withdraw his guilty plea. The trial court sentenced the defendant to seven years imprisonment at hard labor. The defendant timely appealed. Based on the following reasons, we affirm the conviction and sentence.

STATEMENT OF FACTS

The defendant withdrew his former plea of not guilty and pled guilty as charged before the presentation of evidence; therefore, the facts were not fully developed in this case. The statement of facts herein is based on the bill of information, the arrest report narrative, and the factual basis presented during the **Boykin**[1] examination.

On March 17, 2014, Deputy Roman Barthelomew of the Ascension Parish Sheriff's Office was dispatched to 1201 McKinley Street, Donaldsonville, Louisiana, in reference to a reported aggravated assault. Upon arrival, Deputy Barthelomew interviewed Greg Walker. Walker stated that the defendant and his friend, LaRan Jackson, had an altercation two weeks prior to the instant incident. Regarding the instant incident, Walker advised that he and Jackson were riding in Walker's vehicle on St. Patrick Street when the defendant pulled out a gun, pointed it toward the vehicle, and started running after the vehicle. Walker drove to his residence on

[1] **Boykin v. Alabama**, 395 U.S. 238, 243, 89 S.Ct. 1709, 1712, 23 L.Ed.2d 274 (1969).

McKinley Street and called the police. The defendant agreed with the factual basis presented during the **Boykin** examination.

DISCUSSION

In his sole assignment of error, the defendant argues that the trial court imposed an excessive sentence. The defendant contends that the trial court did not consider any pertinent mitigating evidence. He specifically notes that the trial court failed to consider that the instant offense was brief, that the offense did not involve the discharge of a weapon, and that the defendant accepted responsibility by pleading guilty. The defendant concedes that due to his criminal history, he deserves a period of incarceration. He contends that the imposed sentence is at the high end of the sentencing range, and argues that he is not the worst type of offender and that the instant offense is not the worst type of aggravated assault with a firearm.

Before accepting the defendant's guilty plea, the trial court noted that the State agreed not to file a habitual offender bill of information. The trial court also informed the defendant of the sentencing range of zero to ten years imprisonment and that he would be sentenced somewhere within that range. In imposing the sentence, the trial court considered the instant offense and the defendant's social and criminal history as contained in the presentence investigation report (PSI), including crimes against property, crimes of violence, and crimes involving firearms beginning in 2004 to the 2014 instant offense. The PSI details a lengthy arrest record, notes dispositions for some arrests, and classifies the defendant as a third-felony offender.

A review of the record indicates that the defendant failed to preserve for review the issue of excessive sentencing. The defendant did not file a

written motion to reconsider sentence in this case. Further, although the defense attorney moved to withdraw and appoint the appellate project, there was no objection to the sentence imposed by the trial court. Louisiana Code of Criminal Procedure Article 881.1(A)(1) provides: "In felony cases, within thirty days following the imposition of sentence or within such longer period as the trial court may set at sentence, the state or the defendant may make or file a motion to reconsider sentence." Failure to make or file a motion to reconsider sentence or to include a specific ground upon which a motion to reconsider sentence may be based, including a claim of excessiveness, shall preclude the State or the defendant from raising an objection to the sentence or from urging any ground not raised in the motion on appeal or review. La. Code Crim. P. art. 881.1(E); **State v. Duncan**, 94-1563 (La. App. 1st Cir. 12/15/95), 667 So.2d 1141, 1143 (en banc per curiam); see also **State v. Caldwell**, 620 So.2d 859 (La. 1993); **State v. Mims**, 619 So.2d 1059 (La. 1993) (per curiam); **State v. Bickham**, 98-1839 (La. App. 1st Cir. 6/25/99), 739 So.2d 887, 891. The defendant's failure to urge any specific ground for reconsideration of the sentence by oral or written motion at the trial court level precludes our review of the excessive sentence issue raised on appeal. Thus, the defendant's arguments are not properly before this Court and we find no merit in the sole assignment of error.[2]

CONVICTION AND SENTENCE AFFIRMED.

[2] We have reviewed the record of the instant case for any sentencing errors discoverable by a mere inspection of the pleadings and proceedings without inspection of the evidence. See **State v. Price**, 2005-2514 (La. App. 1st Cir. 12/28/06), 952 So.2d 112, 123-25 (en banc), writ denied, 2007-0130 (La. 2/22/08), 976 So.2d 1277. We have found no patent errors.