

STATE OF LOUISIANA  
COURT OF APPEAL  
FIRST CIRCUIT

2017 KA 0208

STATE OF LOUISIANA

VERSUS

JOHN PETERS

Judgment rendered NOV 01 2017

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On Appeal from the  
Twenty-Second Judicial District Court  
In and for the Parish of Washington  
State of Louisiana  
No. 14 CR8 126847

The Honorable Richard Swartz, Jr. Judge Presiding

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**BEFORE: HIGGINBOTHAM, HOLDRIDGE, PENZATO, J**

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## **HOLDRIDGE, J.**

The defendant, John Peters, was charged by bill of information with three counts of attempted second degree murder, violations of Louisiana Revised Statutes 14:30.1 and 14:27.<sup>1</sup> He entered a plea of not guilty, and following a jury trial, was found guilty as charged. He filed motions for new trial and postverdict judgment of acquittal, both of which were denied. The district court sentenced the defendant to fifteen years at hard labor without the benefit of probation, parole, or suspension of sentence on each count, to run concurrently. He filed a motion to reconsider sentence, which was denied. The defendant now appeals, challenging the sentences imposed by the district court and the denial of his motion to reconsider. For the following reasons, we affirm the defendant's convictions and sentences.

### **FACTS**

On August 26, 2014, at approximately 3:20 a.m., Washington Parish Sheriff's Office was dispatched to the Sportsman's Inn Motel in Bogalusa, Louisiana, in response to a shooting. Officers viewed security footage of the motel and made contact with the three victims, Larry Alderson, Brooke Ramsey, and L.R.<sup>2</sup>, who were the occupants of Room 213. Their motel room had been shot at multiple times, and twenty-nine shell casings, including nine from a 9 millimeter weapon, were located on the scene. Officers subsequently learned that co-defendant James Spikes had presented to Our Lady of the Angels Hospital with a gunshot wound. Upon learning this information, officers reported to the home of Spikes where they encountered the defendant and co-defendant Ondre Bickham.

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<sup>1</sup> Jason Jarrell Spikes and Ondre J. Bickham were charged by the same bill of information and tried separately.

<sup>2</sup> The minor victim is identified herein by initials only. See La. R.S. 46:1844W.

The defendant was placed under arrest and gave a taped statement wherein he admitted that he was at the scene of the shooting and had a 9 millimeter handgun.

### EXCESSIVE SENTENCES

In two related assignments of error, the defendant contends that the sentences imposed by the district court are excessive and that the district court erred in denying his motion to reconsider the sentences. Specifically, the defendant contends that because of his youth and lack of a criminal history, the sentences imposed by the district court are excessive.

Article I, Section 20 of the Louisiana Constitution prohibits the imposition of excessive punishment. Although a sentence may be within statutory limits, it may violate a defendant's constitutional right against excessive punishment and is subject to appellate review. **State v. Sepulvado**, 367 So.2d 762, 767 (La. 1979). A sentence is constitutionally excessive if it is grossly disproportionate to the severity of the offense or is nothing more than a purposeless and needless infliction of pain and suffering. See State v. Hurst, 99-2868 (La. App. 1st Cir. 10/3/00), 797 So.2d 75, 83, writ denied, 2000-3053 (La. 10/5/01), 798 So.2d 962. A sentence is grossly disproportionate if, when the crime and punishment are considered in light of the harm done to society, it shocks the sense of justice. **State v. Hogan**, 480 So.2d 288, 291 (La. 1985). A district court is given wide discretion in the imposition of sentences within statutory limits, and the sentence imposed by it should not be set aside as excessive in the absence of manifest abuse of discretion. **State v. Lobato**, 603 So.2d 739, 751 (La. 1992).

Louisiana Code of Criminal Procedure article 894.1 sets forth the factors for the district court to consider when imposing sentence. While the entire checklist of Article 894.1 need not be recited, the record must reflect that the district court

adequately considered the criteria. **State v. Brown**, 2002-2231 (La. App. 1st Cir. 5/9/03), 849 So.2d 566, 569.

Whoever commits the crime of attempted second degree murder shall be imprisoned at hard labor for not less than ten nor more than fifty years, without the benefit of parole, probation, or suspension of sentence. See La. R.S. 14:27D(1)(a) & 14:30.1B. The district court sentenced the defendant to fifteen years imprisonment at hard labor, without benefit of parole, probation, or suspension of sentence on each count and ordered that the sentences run concurrently. In giving reasons for sentencing the defendant, the district court found that there was an undue risk that the defendant would commit another crime during a period of suspended sentence or probation, that the defendant was in need of commitment to an institution, and that any lesser sentences would deprecate the seriousness of the offenses. See La. Code Crim. P. art. 894.1A. In considering the Article 894.1B factors, the district court found that the defendant created the risk of death or great bodily harm to more than one person, that the defendant used threats of violence in the commission of the offenses, and the offender used a dangerous weapon in the commission of the offenses. See La. Code Crim. P. art. 894.1B(5), (6), & (10). In mitigation, the court noted the defendant's age and the fact that he did not have any criminal history. See La. Code Crim. P. art. 894.1B(28) & (33).

Considering the district court's stated reasons and the record as a whole, the sentences imposed are not grossly disproportionate to the severity of the offenses and, therefore, are not unconstitutionally excessive. Thus, the district court did not err or abuse its discretion in imposing the sentences or in denying the motion to reconsider sentences. These assignments of error are without merit.

## **CONCLUSION**

For the foregoing reasons, the defendant's convictions and sentences are affirmed.

**CONVICTIONS AND SENTENCES AFFIRMED.**