

STATE OF LOUISIANA  
COURT OF APPEAL  
FIRST CIRCUIT

NO. 2017 KA 0210

STATE OF LOUISIANA  
VERSUS

GLENN THOMPCKINS

Judgment Rendered: SEP 21 2017

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On Appeal from the  
17th Judicial District Court  
In and for the Parish of Lafourche  
State of Louisiana  
Trial Court No. 537,348

Honorable Walter I. Lanier, III, Judge Presiding

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Gwendolyn K. Brown  
Louisiana Appellate Project  
Baton Rouge, LA

Attorneys for Defendant-Appellant,  
Glenn Thompkins

Lieu T. Vo Clark  
Louisiana Appellate Project  
Mandeville, LA

Camille A. Morvant, II  
District Attorney  
Joseph S. Soignet  
Assistant District Attorney  
Thibodaux, LA

Attorneys for Appellee,  
State of Louisiana

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BEFORE: HIGGINBOTHAM, HOLDRIDGE, AND PENZATO, JJ.

TMT  
GH  
ahp

## **HIGGINBOTHAM, J.**

The defendant, Glenn Thompkins, was charged by bill of information with obscenity, a violation of La. R.S. 14:106, and pled not guilty. After a trial by jury, the defendant was found guilty as charged. The trial court denied the defendant's motion for new trial and motion for postverdict judgment of acquittal. The defendant was sentenced to three years imprisonment at hard labor. He now appeals, assigning error to the constitutionality of the sentence.

### **STATEMENT OF FACTS**

On December 19, 2014, Officer Sheena Hill, a corrections officer at the Lafourche Parish Detention Center, was conducting her nightly security check when she came in contact with the defendant, an inmate at the facility. Officer Hill, as required of female officers, announced her presence<sup>1</sup> by saying "female" or "female on the block," as she entered Block F where the defendant was housed. The announcement was made approximately thirty feet from the third cell on the catwalk, where the defendant was located at the time (one cell over from the fourth cell where he was assigned). As she proceeded down the catwalk performing the security check, Officer Hill used a device called a guardian to scan inmate identification tags and report inmate activities. When Officer Hill approached cell three, the defendant was lying in bed two, masturbating with his penis exposed and a towel over his eyes.<sup>2</sup> After Officer Hill addressed the defendant, he removed the towel from over his eyes, slightly held his head up to make eye contact with the officer, then put his head back down and continued masturbating. Officer Hill immediately used the guardian to

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<sup>1</sup> Officer Hill testified that the purpose of the announcement is to alert an inmate that a female officer is approaching in order to allow them to get dressed or cover themselves to avoid exposure to the officer.

<sup>2</sup> The defendant had a sheet hanging from the bunkbed, blocking the view of the other inmate in the cell, but allowing full view from the catwalk.

document the defendant's activity as "Masturbating," and reported the incident to her lieutenant after completing her rounds.

### **ASSIGNMENT OF ERROR**

In the sole assignment of error, the defendant challenges the constitutionality of the sentence imposed. The defendant notes that he received the maximum sentence for the offense and further notes that he made an attempt to block his actions from the view of others. The defendant argues that he is not the most egregious of defendants and that this is not the worst type of offense.

The record before this court does not contain a copy of a motion to reconsider sentence or evidence that the defendant objected to or moved for reconsideration of the sentence. Louisiana Code of Criminal Procedure article 881.1(A)(1) requires a defendant or the State to make or file a motion to reconsider sentence within thirty days of sentencing unless the trial court sets a longer period of time at the time of sentencing. 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). As stated, the record before us does not include a motion to reconsider sentence, nor did the defendant enter an objection after the sentence was imposed. As the defendant failed to comply with La. Code Crim. P. art. 881.1, he is barred procedurally from having the assignment of error reviewed. See La. Code Crim. P. art. 881.1(E). See also **State v. Duncan**, 94-1563 (La. App. 1st Cir. 12/15/95), 667 So.2d 1141, 1143 (en banc per curiam).

**CONVICTION AND SENTENCE AFFIRMED.**