NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA	*	**NO. 2000-KA-2126**
VERSUS	*	**COURT OF APPEAL**
TIRRELL JOHNSON	*	**FOURTH CIRCUIT**
	*	**STATE OF LOUISIANA**
	*	
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APPEAL FROM
CRIMINAL DISTRICT COURT ORLEANS PARISH
NO. 391-159, SECTION "B"
Honorable Patrick G. Quinlan, Judge
* * * * * *

Chief Judge William H. Byrnes III
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(Court composed of Chief Judge William H. Byrnes III, Judge Miriam G. Waltzer, Judge Dennis R. Bagneris, Sr.)

Harry F. Connick
District Attorney
Julie C. Tizzard
Assistant District Attorney
619 South White Street
New Orleans, LA 70119
COUNSEL FOR PLAINTIFF/APPELLEE

Kevin V. Boshea
WILLIAMS BOSHEA & EHLE, L.L.C.
4209 Canal Street
New Orleans, LA 70119

COUNSEL FOR DEFENDANT/APPELLANT

CONVICTIONS AFFIRMED; SENTENCES FOR ARMED ROBBERY AND FOR ATTEMPTED POSSESSION OF HEROIN WITH INTENT TO DISTRIBUTE AFFIRMED; SENTENCE FOR ATTEMPTED POSSESSION OF COCAINE WITH INTENT TO DISTRIBUTE AMENDED.

On July 31, 1997, the defendant, Tirrell Johnson, was indicted on one count of possession with the intent to distribute heroin in violation of La. R.S. 40:966, one count of possession with the intent to distribute cocaine in violation of La. R.S. 40:967, five counts of armed robbery in violation of La. R.S. 14:64, and two counts of attempted armed robbery in violation of La. R.S. 14:64(27). The defendant pled not guilty to all counts at his arraignment on August 27, 1997. The defendant filed discovery and suppression motions on November 3, 1997. A suppression hearing was held

on January 26, 1998, after which the trial court denied defendant's motions to suppress identification, evidence and statements. A jury trial was conducted on June 16, 1998. The defendant was found guilty as charged on two counts of armed robbery. He was acquitted on three counts of armed robbery. The State nolle prosequied two counts of attempted armed robbery. The defendant was also found guilty of attempted possession of heroin with the intent to distribute and attempted possession of cocaine with the intent to distribute. The defendant filed motions for new trial and post conviction judgment of acquittal which the trial court denied on July 10, 1998. On July 27, 1998, the trial court sentenced defendant to serve ten years at hard labor on his conviction for attempted possession of heroin with the intent to distribute and ten years at hard labor without benefit of probation, parole or suspension of sentence on the conviction for attempted possession of cocaine with the intent to distribute. These two sentences were to be served concurrently with each other and consecutively to the sentences imposed on the armed robbery convictions. The trial court sentenced the defendant to serve fifty years at hard labor without benefit of probation, parole or suspension of sentence on each armed robbery conviction. These sentences were to be served concurrently with each other and consecutively to the sentences imposed on the narcotics convictions. Defendant's motion for

appeal was granted on July 31, 1998 and a return date of September 30, 1998 was set. The trial court denied defendant's motion to reconsider sentence on August 12, 1998.

The appeal record was lodged in this Court on September 27, 2000. The defendant filed his brief on January 30, 2001. The State filed its brief on April 18, 2001.

STATEMENT OF FACT

Ms. Josephe Tison testified that on the evening of May 15,1 997, she and Raymond Pumilia had dinner together and were returning to her residence at 5502 Constance Street when they were approached by a black man with a gun. The subject told them to give him their money. Raymond gave the man his wallet, and the witness gave the man her purse and wallet. The man then ran to a car parked on Octavia Street and drove off. The witness called the police and reported the robbery. Later, she identified the defendant in a photographic lineup as the person who robbed her and Raymond.

Dr. William Fisher testified that on the afternoon of May 17, 1997, he was raking leaves in his front yard when he was approached by a black man armed with a gun. The subject told Dr. Fisher to give him his "wad." At first, Dr. Fisher did not think he had his wallet in his pants and told the

subject that he did not have any money. When the subject suggested that he go in his house to retrieve his wallet, the witness realized that his wallet was in his pants. The witness then gave the subject his wallet. The subject then ran off. Dr. Fisher called the police and reported the robbery. He identified the defendant in a photographic lineup as the perpetrator. The witness also identified the defendant at trial.

Mrs. Mary Buindo testified that she met her husband and two daughters at a restaurant called Ninja’s on May 23, 1997. After dinner, she, her husband and one of her daughters walked to her vehicle. They were putting her daughter’s bicycle in the back of her vehicle when a man approached with a gun. The subject told her and her husband to “give it up.” The subject took the cash out of her husband’s wallet and then took her purse from the front seat of her vehicle. The subject ran down Jeannette Street and got into a car. The witness stated that she did not see the subject’s face but she did see the weapon.

Brenda Buindo was with her mother and father at the time of the robbery. She was standing at the back of her mother’s car when the man approached. The subject told her parents to “give it up.” The subject then took her father’s wallet and her mother’s purse. The subject ran off and got into a vehicle. The witness identified the defendant in a photographic lineup

as the perpetrator.

Dr. Joseph Buindo testified that as he, his wife and his daughter approached their vehicle, a black man walked up to them with a gun in his hand and demanded money. The subject took his wallet and his wife's purse. The subject then ran off and got into a vehicle. Mr. Buindo stated that he did not identify the defendant in a photographic lineup. However, he identified the defendant at trial as the person who robbed him and his wife.

Detective Ronald Livingston was involved in follow-up investigation of these armed robberies. Through his investigation, the officer obtained the name of a suspect and conducted photographic lineups with the victims. After the defendant had been identified as the perpetrator of the armed robberies, the officer obtained an arrest warrant and a search warrant for the defendant's residence. When the officer executed the search warrant, there was a female and a child in the front bedroom. The defendant and his girlfriend were found in a bed in the second bedroom. As a result of the search, the officers recovered jewelry, a shotgun, fifty-six tin foil packets of heroin and thirty-five rocks of crack cocaine. The narcotics were found under the mattress where the defendant and his girlfriend had been lying. The officer testified that he advised the defendant of his rights and charged defendant with armed robbery and narcotics violations. The defendant

informed the officers that the narcotics belonged to him. He stated that the others in the residence did not know that drugs were in the house. The defendant later made a statement at the police station denying involvement in the armed robberies but admitting ownership of the narcotics.

Sgt. Tammy LeBlanc Burcette testified that she assisted in the execution of the search warrant and the taking of a statement from the defendant. The officer stated that the defendant was fully advised of his rights before he gave the statement. No force or coercion was used to obtain the statement from the defendant. Officer Burcette testified that the defendant admitted to ownership of the heroin and cocaine found in his residence. He acknowledged that he had been selling narcotics for over one year. However, the defendant denied involvement in the armed robberies.

Sgt. Jerome Leviolette also assisted in the execution of the search warrant. The officer found the narcotics under the mattress where the defendant had been lying. The narcotics were collected by Detective Livingston. The officer also recovered the defendant's birth certificate and tax papers from the residence.

John Palm, a criminalist with the Crime Lab, testified that the substances recovered from the defendant's residence tested positive for heroin and cocaine.

Beulah Johnson testified on behalf of the defendant. She stated that defendant had gold crowns on his teeth since 1992.

ERRORS PATENT

A review of the record reveals an error in the defendant's sentencing. The trial court sentenced defendant to serve ten years at hard labor without benefit of probation, parole or suspension of sentence on his conviction for attempted possession of cocaine with the intent to distribute. However, La. R.S. 40:967 and La. R.S. 14:27 require that only the first two and one-half years of the sentence be served without benefit of probation, parole or suspension of sentence. Therefore, the defendant's sentence must be amended to provide that only the first two and one-half years of the sentence is to be served without benefit of probation, parole or suspension of sentence.

ASSIGNMENT OF ERROR NUMBER 1

In his first assignment, the defendant contends that the trial court erred when it denied his motion for continuance of trial. The defendant based his motion for continuance on the argument that his trial counsel did not have sufficient time to prepare for trial. Trial counsel argued that not all motions had been heard and that he had not obtained copies of the police reports and

search warrant. The trial court denied the motion noting that his trial counsel had first appeared in the matter on January 16, 1998. Trial was not held until six months later, June 16, 1998. The trial court concluded that six months was sufficient time for counsel to prepare a defense.

A motion for continuance shall be in writing and shall be filed at least seven days prior to the commencement of trial. La. C.Cr.P. art. 707. A trial court's decision to deny or grant a continuance is within its broad discretion and will not be disturbed absent a clear showing of abuse of that discretion. State v. Holmes, 590 So.2d 834 (La.App. 4 Cir.1991); State v. Myers, 584 So.2d 242 (La.App. 5 Cir.1991). The decision whether to grant or deny a motion to continue depends on the circumstances of each particular case. A showing of specific prejudice is generally required to demonstrate that the trial court erred in denying the continuance. State v. Holmes, supra. Where the continuance motion is based on inadequate time for counsel to prepare a defense, this specific prejudice requirement has been disregarded only when the preparation time was "so minimal as to call into question the basic fairness of the proceeding." State v. Jones, 395 So.2d 751, 753 (La.1981) citing State v. Winston, 327 So.2d 380 (La.1976). The reasonableness of discretion issue turns upon the circumstances of the particular case. State v. Simpson, 403 So.2d 1214 (La.1981).

The trial court conducted a hearing on the defendant's motion immediately prior to trial. Defense counsel stated that he had not received all the police reports, the affidavit in support of the application for the search warrant, or the search warrant from the State. Defense counsel also complained that a suppression hearing had not been conducted in the Buindo robberies. The record reflects that the defense counsel had signed on the case six months prior to the trial and had been present at the suppression hearings held on January 26, 1998. In fact, defense counsel cross-examined three of the victims and Officer Livingston about the photographic lineups and the search of the defendant's residence. In regards to the defendant's argument concerning the Buindo suppression hearing, the record indicates that the parties had agreed to conduct the suppression hearing on the Buindo robberies immediately prior to trial because one of the witnesses was from out of town. In addition, the defendant was acquitted of the counts involving the Buindo robberies. In light of these factors, the trial court did not err when it found that defense counsel had sufficient time to prepare for trial and denied the motion for a continuance.

This assignment is without merit.

ASSIGNMENT OF ERROR NUMBER 2

The defendant also argues that he received ineffective assistance of

counsel at trial. The defendant suggests that his trial counsel was ineffective in failing to obtain copies of the police reports and search warrant prior to trial.

Generally, the issue of ineffective assistance of counsel is a matter more properly raised in an application for post-conviction relief to be filed in the trial court where an evidentiary hearing can be held. State v. Prudholm, 446 So.2d 729 (La.1984); State v. Sparrow, 612 So.2d 191 (La.App. 4 Cir. 1992). Only when the record contains the necessary evidence to evaluate the merits of the claim can it be addressed on appeal. State v. Seiss, 428 So.2d 444 (La.1983); State v. Kelly, 92-2446 (La.App. 4 Cir. 7/8/94), 639 So.2d 888.

The defendant's claim of ineffective assistance of counsel is to be assessed by the two part test of Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984); State v. Fuller, 454 So.2d 119 (La. 1984). The defendant must show that counsel's performance was deficient and that the deficiency prejudiced the defendant. Counsel's performance is ineffective when it can be shown that he made errors so serious that counsel was not functioning as the "counsel" guaranteed to the defendant by the Sixth Amendment. Strickland, supra at 686, 104 S.Ct. at 2064. Counsel's deficient performance will have prejudiced the defendant if he shows that

the errors were so serious as to deprive him of a fair trial. To carry his burden, the defendant "must show that there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different. A reasonable probability is a probability sufficient to undermine confidence in the outcome." Strickland, supra at 693, 104 S.Ct. at 2068. The defendant must make both showings to prove that counsel was so ineffective as to require reversal. State v. Sparrow, 612 So.2d 191, 199 (La.App. 4 Cir.1992).

The defendant argues that his trial counsel was ineffective in failing to obtain copies of police reports concerning the armed robberies as well as the application for search warrant and the search warrant. However, the defendant does not state which police reports his trial counsel failed to obtain and how this failure prejudiced him. The defendant was convicted of only two of the five armed robberies. There is no indication that trial counsel did not have the police reports for the two armed robberies for which he was convicted. This issue is more appropriate for review in an application for post-conviction relief at which time the trial court may conduct an evidentiary hearing on the defendant's allegations.

This assignment is without merit.

ASSIGNMENT OF ERROR NUMBER 3

The defendant further assigns as error the trial court's denial of his motion to suppress statement. He contends that his statement admitting ownership of the narcotics was not freely and voluntarily given. The defendant argues that he was forced into making a statement when the officers informed him that all the adults in the residence would be charged with possession of the narcotics.

In State v. Labostrie, 96-2003, pp. 4-5 (La.App. 4 Cir. 11/19/97), 702 So.2d 1194, 1197, this court stated:

> The State has the burden to prove, beyond a reasonable doubt, that a statement made by a defendant was freely and voluntarily given and was not the product of threats, fear, intimidation, coercion, or physical abuse. State v. Seward, 509 So.2d 413 (La. 1987); State v. Bourque, 622 So.2d 198 (La. 1993). Thus, the State must prove that the accused was advised of his/her Miranda rights and voluntarily waived these rights in order to establish the admissibility of statement made during custodial interrogation. State v. Brooks, 505 So.2d 714 (La. 1987), cert. denied Brooks v. Louisiana, 484 U.S. 947, 108 S.Ct. 337, 98 L.Ed.2d 363 (1987); State v. Daliet, 557 So.2d 283 (La. App. 4 Cir. 1990). A waiver of Miranda rights need not be explicit but may be inferred from the actions and words of the accused; however, an express written or oral waiver of rights is strong proof of the validity of the waiver. North Carolina v. Butler, 441 U.S. 369, 99 S.Ct. 1755, 60 L.Ed.2d 286 (1979); State v. Harvill, 403 So.2d 706 (La. 1981). Whether a statement was voluntary is a question of fact; thus, the trial judge's ruling, based on conclusions of credibility and the weight of the testimony, is entitled to great

> deference and will not be disturbed on appeal unless there is no evidence to support the ruling. State v. Parker, 96-1852, pp. 112-13 (La. App. 4 Cir. 6/18/97), 696 So.2d 599, 606.

Officers Livingston, Burcette and Leviolette testified that the heroin and cocaine were found under the mattress where the defendant was lying. After the narcotics had been seized and all the adults in the residence were to be charged with narcotics violations, the defendant informed the officers that the narcotics belonged to him and that the women did not know about the narcotics. After the defendant was arrested and taken to the police station, the defendant gave another statement admitting his ownership of the narcotics and that he had been selling narcotics for one year. Both statements were made after the defendant had been advised of his rights. The officers testified that the defendant was not coerced or forced into making the statement.

The defendant contends that he felt forced into making a statement when the officers informed him that all adults in the residence were going to be charged with possession of the narcotics. The officers' statements cannot be considered as coercion. The officers were faced with finding a huge amount of narcotics in a house with three adults who appeared to be living in the house. The officers properly informed the residents that they would all be charged. The defendant chose to make a statement to implicate himself

and exonerate the others residents of the house.

Accordingly, the trial court did not err when it denied the defendant's motion to suppress statement. This assignment is without merit.

ASSIGNMENTS OF ERROR NUMBER 4, 5 & 6

The defendant alleges that there was insufficient evidence to support his convictions for attempted possession of heroin with the intent to distribute, attempted possession of cocaine with the intent to distribute, and armed robbery.

When assessing the sufficiency of evidence to support a conviction, the appellate court must determine whether, viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found proof beyond a reasonable doubt of each of the essential elements of the crime charged. Jackson v. Virginia, 443 U.S. 307, 99 S.Ct. 2781, 61 L.Ed.2d 560 (1979); State v. Jacobs, 504 So.2d 817 (La.1987).

In addition, when circumstantial evidence forms the basis of the conviction, such evidence must consist of proof of collateral facts and circumstances from which the existence of the main fact may be inferred according to reason and common experience. State v. Shapiro, 431 So.2d 372 (La.1982). The elements must be proven such that every reasonable

hypothesis of innocence is excluded. La. R.S. 15:438. La. R.S. 15:438 is not a separate test from Jackson v. Virginia, supra, but rather is an evidentiary guideline to facilitate appellate review of whether a rational juror could have found a defendant guilty beyond a reasonable doubt. State v. Wright, 445 So.2d 1198 (La.1984). All evidence, direct and circumstantial, must meet the Jackson reasonable doubt standard. State v. Jacobs, supra.

In the case at bar, the defendant was convicted of attempted possession of cocaine with the intent to distribute and attempted possession of heroin with the intent to distribute. In State v. Page, 95-2401, p. 28 (La. App. 4 Cir. 8/21/96), 680 So.2d 700, 717, this court stated:

> To prove that a defendant attempted to possess a controlled dangerous drug, the State must prove that the defendant committed an act tending directly toward the accomplishment of his intent, i.e. possession of the drugs. State v. Chambers, 563 So.2d 579 (La. App. 4 Cir. 1990). Moreover, the State need only establish constructive possession, rather actual or attempted actual possession of cocaine, to support an attempted possession conviction. State v. Jackson, 557 So.2d 1034 (La. App. 4 Cir. 1990). A person found in the area of the contraband can be considered in constructive possession if the illegal substance is subject to his dominion and control. State v. Trahan, 425 So.2d 1222 (La. 1983). An intent to distribute can be inferred from the quantity found in the defendant's possession. Trahan, supra.

Determining whether the defendant had constructive possession

depends upon the circumstances of each case; and, among the factors to be considered in determining whether the defendant exercised dominion and control sufficient to constitute constructive possession are: whether the defendant knew that illegal drugs were present in the area; the defendant's relationship to the person in actual possession of the drugs; whether there is evidence of recent drug use; the defendant's proximity to the drugs; and, any evidence that the area is frequented by drug users. State v. Allen, 96-0138 (La.App. 4 Cir. 12/27/96), 686 So.2d 1017. However, the mere presence of the defendant in an area where drugs are found is insufficient to prove constructive possession. State v. Collins, 584 So.2d 356 (La.App. 4 Cir. 1991).

At trial, the police officers testified that fifty-six tin foil packets of heroin and thirty-five rocks of crack cocaine were found under a mattress where the defendant had been lying. The defendant admitted that the narcotics belonged to him and that he had been selling narcotics for one year. John Palm testified that he testified the substances recovered from the defendant's residence and the substances tested positive for heroin and cocaine. This testimony, along with the huge amount of drugs found in the defendant's residence, was sufficient to sustain the defendant's convictions for attempted possession of cocaine with the intent to distribute and

attempted possession of heroin with the intent to distribute.

The defendant also contends that the State failed to produce sufficient evidence to sustain his convictions for armed robbery. La. R.S. 14:64 defines armed robbery as "the taking of anything of value belonging to another from the person of another or that is in the immediate control of another, by use of force or intimidation, while armed with a dangerous weapon." The defendant was convicted for the armed robberies of JosephTison and William Fisher. Both victims testified that the defendant approached them with a gun and told them to give him their money. Ms. Tison stated that she and her friend, Raymond Pumilia were walking to her residence when the defendant approached them and told them to give up their money. Ms. Tison testified that the defendant pointed a gun at her during the robbery. She and Mr. Pumilia gave the defendant their money and then he ran off. Dr. Fisher testified that he was working in his front yard when the defendant approached him with a weapon and told him to give up his money. After Dr. Fisher gave the defendant the money out of his wallet, the defendant ran off. Both victims positively identified the defendant in photographic lineups and at trial as the perpetrator. Such testimony was sufficient for the jury to conclude that the defendant was guilty of the armed robberies of Ms. Tison and Dr. Fisher.

The defendant further suggests that the witnesses' identifications were not reliable. In Manson v. Brathwaite, 432 U.S. 98, 97 S.Ct. 2243, 53 L.Ed.2d 140 (1977), the United States Supreme Court set forth a five-factor test to determine whether an identification is reliable: (1) the opportunity of the witness to view the assailant at the time of the crime; (2) the witness's degree of attention; (3) the accuracy of the witness's prior description of the assailant; (4) the level of certainty demonstrated by the witness; and (5) the length of time between the crime and the confrontation. State v. Green, 98-1021, p. 12 (La.App. 4 Cir. 12/22/99), 750 So.2d 343, 350, writ denied, 2000-0235 (La. 8/31/2000), 766 So.2d 1274.

Ms. Tison testified that she observed the defendant face to face for several minutes. She stated that she was very attentive in her observations of the defendant. While the incident occurred at night, the area was well lit and she could clearly see the defendant. Ms. Tison stated at trial that she was positive of her identification of the defendant. Likewise, Dr. Fisher testified that he was positive of his identification. He stated that he was also face to face with the defendant for several minutes. The robbery involving Dr. Fisher occurred in the middle of a sunny afternoon. Further, both identifications occurred within two weeks of the armed robberies. The evidence reflects that the identifications were indeed reliable and sufficient

to prove the defendant's identity as the perpetrator of the offenses.

These assignments are without merit.

ASSIGNMENTS OF ERROR NUMBER 7 & 8

In these assignments, the defendant suggests that the trial court erred when it denied his motions for new trial and post conviction judgment of acquittal. The defendant based his motions for new trial and post conviction judgment of acquittal on the issue that the evidence did not support the verdicts rendered by the jury. However, as stated above, the evidence was sufficient to sustain the defendant's convictions.

Accordingly, these assignments are without merit.

ASSIGNMENTS OF ERROR NUMBER 9 & 10

The defendant further argues that the sentences imposed on his armed robbery convictions are unconstitutionally excessive and that the trial court erred when it denied his motion to reconsider sentence.

Article 1, Section 20 of the Louisiana Constitution of 1974 provides that "No law shall subject any person . . . to cruel, excessive or unusual punishment."

A sentence within the statutory limit is constitutionally excessive if it is "grossly out of proportion to the severity of the crime" or is "nothing more than the purposeless imposition of pain and suffering." State v. Caston, 477

So.2d 868 (La.App. 4 Cir. 1985). Generally, a reviewing court must determine whether the trial judge adequately complied with the sentencing guidelines set forth in La. C.Cr.P. art. 894.1 and whether the sentence is warranted in light of the particular circumstances of the case. State v. Soco, 441 So.2d 719 (La.1983); State v. Quebedeaux, 424 So.2d 1009 (La.1982).

If adequate compliance with Article 894.1 is found, the reviewing court must determine whether the sentence imposed is too severe in light of the particular defendant and the circumstances of his case, keeping in mind that maximum sentences should be reserved for the most egregious violators of the offense so charged. State v. Quebedeaux, supra; State v. Guajardo, 428 So.2d 468 (La.1983).

In the present case, the trial court sentenced the defendant to serve fifty years at hard labor without benefit of probation, parole or suspension of sentence on each conviction for armed robbery. The sentences were to be served concurrently to each other and consecutively to the sentences on the narcotics convictions. The defendant contends that the sentences are excessive in light of the fact that he has no other felony convictions. However, defendant fails to realize that in just one indictment he was charged with nine offenses, of which he was convicted of four. Although the defendant was convicted of attempted possession of heroin with the

intent to distribute and attempted possession of cocaine with the intent to distribute, the evidence was sufficient at trial to sustain convictions for possession with the intent to distribute. Further, there was evidence which would have supported convictions against the defendant for the armed robberies of Raymond Pumilia, Mary Buindo and Joseph Buindo. After trial, the State nolle prosequied the two attempted armed robbery charges. Thus, while the defendant suggests that he has only four convictions, he had several other charges for which he was arrested and on which the trial court heard extensive testimony. The trial court could consider these other charges in determining the sentences to be imposed, and apparently did so. In light of these circumstances, the sentences imposed on the armed robbery convictions are not unconstitutionally excessive.

Further, in a similar case, this Court has affirmed concurrent fifty year sentences on multiple counts of armed robbery. In State v. McNeil, 98-0954, 98-0955 (La.App. 4 Cir. 2/16/2000), 753 So.2d 938, writs denied, 2000-0996 (La. 1/15/2001), 778 So.2d 590, 2000-0973 (La. 3/16/2001), 786 So.2d 744, this Court affirmed the trial court's imposition of concurrent fifty year sentences on the defendant's four convictions for armed robbery, noting that the defendant "was involved in a reign of terror and preyed on other people." The defendant in the present case, likewise, was involved in his

own reign of terror and preyed not only on the people he robbed but also on the people to whom he sold narcotics. The sentences imposed by the trial court are not unconstitutionally excessive.

These assignments are without merit.

DECREE

For the foregoing reasons, the defendant's convictions are affirmed as are defendant's sentences on the armed robbery convictions and on the conviction for attempted possession of heroin with the intent to distribute. Defendant's sentence on his conviction for attempted possession of cocaine with the intent to distribute is amended to provide that only the first two and one half years of the sentence should be served without benefit of probation, parole or suspension of sentence.

CONVICTIONS AFFIRMED; SENTENCES FOR ARMED ROBBERY AND FOR ATTEMPTED POSSESSION OF HEROIN WITH INTENT TO DISTRIBUTE AFFIRMED; SENTENCE FOR ATTEMPTED POSSESSION OF COCAINE WITH INTENT TO DISTRIBUTE AMENDED.