NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA	*	**NO. 2002-KA-1488**
VERSUS	*	**COURT OF APPEAL**
NATHANIEL SNOWTON, A/K/A ARTHUR SNOWTON	*	**FOURTH CIRCUIT**
	*	**STATE OF LOUISIANA**
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APPEAL FROM
CRIMINAL DISTRICT COURT ORLEANS PARISH
NO. 427-994, SECTION "J"
Honorable Leon Cannizzaro, Judge
* * * * * *
Judge Miriam G. Waltzer
* * * * * *

(Court composed of Judge Steven R. Plotkin, Judge Miriam G. Waltzer, Judge Terri F. Love)

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AFFIRMED.

Nathaniel Snowton, also known as Arthur Snowton, was charged by bill of information on 14 February 2002, with possession of crack cocaine in violation of LSA - R.S. 40:967(C). At his arraignment on 25 February, the defendant pleaded not guilty. After a trial on 18 March a six-member jury found the defendant guilty of the responsive verdict of attempted possession of cocaine. On 28 May the state filed a multiple bill charging the defendant as a third felony offender, and after a hearing at which he admitted he was the same man who had committed the prior offenses, he was sentenced to thirty months at hard labor under LSA - R.S. 15:529.1(A)(1)(b)(i). The defendant was sentenced under LSA - R.S. 15:574.5, The About Face Program in Orleans Parish Prison. His motion for reconsideration of sentence was denied, and his motion for an appeal was granted.

At trial the following facts were adduced. On 28 January 2002, Officers Bryant Louis and Melvin Williams were patrolling uptown when they decided to check an abandoned house at 1527 Carondelet Street. As they entered it, they overheard an argument between a man and a woman in

one of the apartments. Officer Louis looked into the apartment and saw a man sitting on a sofa and a woman in a chair; she was smoking from a glass tube she was holding. A third person was in the room, and when that man saw the officer, he discarded two white objects on a small chest nearby. The defendant, who discarded the rocks, and the woman were arrested on drug charges. The man sitting on the sofa, who appeared to the officers to be under the influence of a narcotic, was arrested for trespassing.

The parties stipulated that the two pieces of white rock were tested and proved to be crack cocaine.

Nathaniel Snowton, the forty-year-old defendant, gave a different version of events. He had given a jacket to a woman friend on the night before he was arrested. The next day he encountered her and asked for his jacket. She told him that it was in an apartment at 1527 Carondelet Street. The defendant and a friend had lunch and then went to the apartment. As they were entering the building, they saw a marked police car at the corner. The men went to the woman's apartment, and Snowton asked for his jacket. They argued briefly. The woman and Snowton's friend were seated, and Snowton was standing against the wall. Seconds later the police knocked on the door. Snowton answered, and the police officers ordered everyone to put their hands up and to walk into the hall. Officer Louis accused all three of

being in possession of cocaine. Under cross-examination, the defendant admitted to having two prior convictions for possession of cocaine, one for theft and one for unauthorized use of a motor vehicle. The defendant explained that he had had a drug addiction, but he had attended an outpatient clinic and on 28 January was no longer a practicing addict.

Officer Lewis testified in rebuttal that the door to the apartment was open when he entered, and he first saw the defendant standing against the wall with his hand cupped. The defendant then discarded two rocks.

In a single assignment of error, the defendant claims that the trial court erred in imposing an unconstitutionally excessive sentence.

La. Const. art. I, § 20 explicitly prohibits excessive sentences. State v. Baxley, 94-2982, p. 4, (La. 5/22/95), 656 So. 2d 973, 977. Although a sentence is within the statutory limits, the sentence may still violate a defendant's constitutional right against excessive punishment. State v. Brady, 97-1095, p. 17 (La. App. 4 Cir. 2/3/99), 727 So. 2d 1264, 1272, rehearing granted on other grounds, (La. App. 4 Cir. 3/16/99); State v. Francis, 96-2389, p. 6 (La. App. 4 Cir. 4/15/98), 715 So.2d 457, 461. However, the penalties provided by the legislature reflect the degree to which the criminal conduct is an affront to society. Baxley, 94-2984 at p. 10, 656 So.2d at 979, citing State v. Ryans, 513 So. 2d 386, 387 (La. App. 4

Cir. 1987). A sentence is constitutionally excessive if it makes no measurable contribution to acceptable goals of punishment, is nothing more than the purposeless imposition of pain and suffering, and is grossly out of proportion to the severity of the crime. State v. Johnson, 97-1906, pp. 6-7 (La. 3/4/98), 709 So. 2d 672, 677; State v. Lindsey, 99-3256 (La. 10/17/00), 770 So. 2d 339. 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. Baxley, 94-2984 at p. 9, 656 So.2d at 979; State v. Hills, 98-0507, p. 5 (La. App. 4 Cir. 1/20/99), 727 So. 2d 1215, 1217.

In reviewing a claim that a sentence is excessive, an appellate court generally must determine whether the trial judge has adequately complied with statutory guidelines in LSA - C.Cr.P. art. 894.1, and whether the sentence is warranted under the facts established by the record. State v. Trepagnier, 97-2427, p. 11 (La. App. 4 Cir. 9/15/99), 744 So. 2d 181, 189; State v. Robinson, 98-1606, p. 12 (La. App. 4 Cir. 8/11/99), 744 So. 2d 119, 127. If adequate compliance with La. C.Cr.P. art. 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 the case, keeping in mind that maximum sentences should be reserved for the most egregious violators of the offense so charged. State v. Ross, 98-0283, p. 8

(La. App. 4 Cir. 9/8/99), 743 So. 2d 757, 762; State v. Bonicard, 98-0665, p. 3 (La. App. 4 Cir. 8/4/99), 752 So. 2d 184, 185.

However, in State v. Major, 96-1214 (La. App. 4 Cir. 3/4/98), 708 So. 2d 813, this court stated:

> The articulation of the factual basis for a sentence is the goal of Art. 894.1, not rigid or mechanical compliance with its provisions. Where the record clearly shows an adequate factual basis for the sentence imposed, resentencing is unnecessary even when there has not been full compliance with Art. 894.1. State v. Lanclos, 419 So.2d 475 (La.1982). The reviewing court shall not set aside a sentence for excessiveness if the record supports the sentence imposed. La.C.Cr.P. art. 881.4(D).

96-1214 at p. 10, 708 So. 2d at 819.

At the defendant's original sentencing on 20 May the trial court reviewed Snowton's criminal history from the Pre-Sentence Investigatory Report and stated,

> I learned from the Probation Department as a juvenile you have an arrest for a Simple Burglary of a Vehicle; you have an arrest for Illegally Carrying of a Weapon; another arrest for Illegally Carrying a Weapon. Also as a juvenile Simple Burglary of an Inhabited Dwelling and Receiving Stolen property and again as a juvenile Simple Burglary. As an adult you have a arrest for Theft by Credit Card; arrest and conviction for Possession of Stolen Property in Jefferson Parish; another arrest and conviction for a Simple Burglary; another arrest and conviction for Theft by Using a Credit Card; arrest for Possession of Cocaine; arrest for Illegal Possession of a Firearm During the Commission of a Crime for which you were sentenced to three years in the Department of Corrections. Also in that same year this charge may have arisen out of that same offense, Unauthorized use of a

> Motor Vehicle which you were given again a three year sentence DOC. Subsequent to that you have another conviction for Possession of Cocaine. This is your fourth felony conviction. You are not eligible to receive a suspended sentence or be placed on probation. You were found guilty by the jury of Attempted Possession of Cocaine.

In his brief the defendant, through counsel, argues that he should not have received the mandated minimum sentence under LSA - R.S. 40:979 (R.S. 40:967(C)) and LSA - R.S. 15:592.1(A)(1)(b)(i) of thirty months because the record indicates he is a drug addict, and he was harshly sentenced for that status.

The trial court's recitation of the defendant's criminal history indicates the defendant has been involved in felonious activity for twenty-eight years. He was not sentenced harshly because of "status" offenses. He has crimes against public safety and property as well as drug offenses. He obviously has no respect for the law. It is not his condition or status as an addict that is at issue, but rather his continued violation of the laws of this state.

The trial court recognized that his dependence on drugs might be a cause of his criminal activity and imposed his sentence under LSA - R.S. 15:574.5, The About Face Program. Thus, the sentence is tailored to fit the offender. We do not find the thirty-month sentence excessive.

Accordingly, for reasons cited above, the defendant's conviction and sentence are affirmed.

AFFIRMED.