

**NOT DESIGNATED FOR PUBLICATION**

**STATE OF LOUISIANA** \* **NO. 2004-KA-0534**  
**VERSUS** \* **COURT OF APPEAL**  
**LIONEL MORRIS** \* **FOURTH CIRCUIT**  
\* **STATE OF LOUISIANA**  
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**APPEAL FROM**  
**CRIMINAL DISTRICT COURT ORLEANS PARISH**  
**NO. 427-975, SECTION "B"**  
**Honorable Patrick G. Quinlan, Judge**  
\* \* \* \* \*  
**Judge Edwin A. Lombard**  
\* \* \* \* \*

(Court composed of Judge David S. Gorbaty, Judge Edwin A. Lombard,  
Judge Leon A. Cannizzaro Jr.)

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**AFFIRME**  
**D**

Defendant appeals a sentence of two-thirds of the maximum term after being convicted as a second offender.

### **FACTS AND PROCEDURAL HISTORY**

On February 14, 2002, the State filed a bill of information charging Lionel Morris with simple burglary of an inhabited dwelling in violation of La. R.S. 14:62.2. He entered a plea of not guilty at his arraignment on February 22, 2002. After hearings on May 2, 2002, the trial court found probable cause to bind the defendant over for trial and also granted the State's *Prieur* motion. The defense announced its intent to file writs, and on May 31, 2002, this Court reversed the trial court's ruling on the *Prieur* motion. The State took writs, and on December 19, 2002, the Supreme Court reversed this Court and reinstated the trial court's ruling. The defendant elected a jury trial, and on January 23, 2003, a twelve-member jury returned

the responsive verdict of attempted unauthorized entry of an inhabited dwelling. On January 30, 2003, the State filed a multiple bill of information charging Mr. Morris as a fourth felony offender, to which he pleaded not guilty. On February 24, 2003, the bill was amended, charging Mr. Morris as a second felony offender. Mr. Morris withdrew his former plea of not guilty, entered a guilty plea to the multiple bill, and was sentenced on that date to serve four years in the custody of the Department of Corrections. The district court denied his pro se motion to correct an illegal sentence.

In a single assignment of error, the defendant now argues that his four-year sentence is excessive. Under La. R.S. 14:(27)62.3 and La. R.S. 15:529.1, the sentencing range is one and one-half to six years incarceration. The defendant maintains that the trial court gave no reasons for the sentence and thus failed to comply with La. C.Cr.P. art. 894.1.

### **LAW AND ANALYSIS**

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, 720. (La. 1983).

*State v. Quebedeaux*, 424 So.2d 1009, 1014 (La. 1982).

In *State v. Major*, 96-1214 (La. App. 4 Cir. 3/4/98), 708 So.2d 813, this

Court stated:

Where the record clearly shows an adequate factual basis for the sentence imposed, re-sentencing 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, p.10, 708 So.2d at 819.

In *State v. Soraparu*, 97-1027 (La. 10/13/97), 703 So.2d 608, the Louisiana Supreme Court held:

In cases in which the trial court has left a less than fully articulated record indicating that it has considered not only aggravating circumstances but also factors militating for a less severe sentence, a remand for resentencing is appropriate only when “there appear[s] to be a substantial possibility that the defendant’s complaints of an excessive sentence ha [ve] merit.”

*Id.*, quoting *State v. Wimberly*, 414 So.2d 666, 672 (La.1982). See also *State v.*

*Coleman*, 2002-1000 (La. App. 4 Cir. 9/25/02), 828 So.2d 1130, 1141.

The defendant is correct that the trial court simply sentenced him to serve four years at hard labor as a second offender without articulating reasons. However, at the beginning of the sentencing hearing the State

presented a multiple bill in which Mr. Morris was charged as a fourth felony offender. The State then amended the bill so that he was charged with only one prior offense; that crime is possession of firearm by a convicted felon. Moreover, the same judge who sentenced the defendant heard the testimony at trial and was aware of Mr. Morris's record indicating a propensity toward obsessive and violent behavior.

Given this defendant's criminal history, it does not appear that the trial court abused its discretion in sentencing him to two-thirds of the maximum term.

Accordingly, for reasons stated above, the conviction and sentence are affirmed.

**AFFIRMED**