NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA	*	**NO. 2007-KA-0402**
VERSUS	*	**COURT OF APPEAL**
AHMAD BECK	*	**FOURTH CIRCUIT**
	*	**STATE OF LOUISIANA**

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APPEAL FROM
CRIMINAL DISTRICT COURT ORLEANS PARISH
NO. 447-905, SECTION "A"
Honorable Charles L. Elloie, Judge
* * * * * *
Charles R. Jones
Judge
* * * * * *

(Court composed of Chief Judge Joan Bernard Armstrong, Judge Charles R. Jones, and Judge Edwin A. Lombard)

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AFFIRMED

The Appellant, Ahmed Beck, appeals his conviction and sentence for second degree murder. We affirm.

On February 27, 2004, NOPD Detective Calvin Brazley investigated a report of a burned vehicle containing a charred body. When Det. Brazley arrived on the scene, he noted that the body and the car were burned beyond recognition. Det. Brazley ran the vehicle's VIN through the state computer and identified the owner as Shantell Davis. He contacted Ms. Davis' family, who informed him that she had been missing for about two days. Through further conversations with the family and friends, the detective learned that Ms. Davis and Beck had a child together, and that on the morning of February 26, 2004, Ms. Davis took the child to Beck's house. Since that time, no one had seen or heard from her. Det. Brazley obtained Beck's name and address by running Ms. Davis' name through the police computer system's victim file and learned of a prior incident between Ms. Davis and Beck. Because Det. Brazley was unable to locate Beck, he contacted the media to run a news story indicating that the police were interested in questioning the defendant about Ms. Davis' disappearance.

On March 2, 2004, Beck, along with his attorney and two family members, arrived at the police station to speak with Det. Brazley. At that time, Det. Brazley arrested Beck on a municipal attachment. Later that day, Beck confessed to killing Ms. Davis. He told Det. Brazley that at 8:00 a.m. on the morning of February 26, 2004, the victim brought their child to his house, telling him that she would return for the child at 11:00 a.m. When the victim returned, she and Beck got into an argument which escalated into pushing and shoving. Beck stated that the victim grabbed him by his testicles, at which time he grabbed the victim by the throat and began to choke her. When she stopped moving, he shook her, and then when he realized she was dead, Beck placed her body on the bed after which he and the child left his apartment. Beck returned the child to the victim's grandfather and went back to his apartment. He stated that he was frightened and did not know what to do with the body. Ultimately, Beck purchased some gasoline, put the victim's body in her vehicle and drove the car to the intersection of Benefit and Eads Streets where he set the body and the car on fire.

Dr. Richard Tracy, a pathologist employed by the Orleans Parish Coroner's office, testified that he performed the autopsy on the victim's remains. He determined that the victim most likely died by manual strangulation and concluded that the victim was already dead at the time her body was burned.

On April 29, 2004, the State indicted Beck for second-degree murder (La. R.S. 14:30.1) in the strangulation death of Shantell Davis. Beck pled not guilty at his arraignment on May 6, 2004. On August 6, 2004, the trial court denied his Motion to Suppress the Confession. Following a one day bench trial, the district court found Beck guilty of manslaughter. On September 11, 2006, he was

sentenced to forty years at hard labor. Beck filed a Motion for Appeal on September 15, 2006, which was granted on January 29, 2007.

A review of the record for errors patent reveals none.

In his first assignment of error, Beck argues that the district court erred in admitting evidence of other crimes or bad acts without requiring the State to give notice of its intent pursuant to *State v. Prieur*, 277 So.2d 126 (La. 1973). Beck complains of Det. Brazley's trial testimony in which Det. Brazley stated that he identified Beck and obtained his address from prior complaints the victim lodged against Beck. Beck maintains that the testimony was both hearsay and inadmissible evidence of other alleged crimes or bad acts.

In *State v. Taylor*, 2001-1638, pp. 10-11 (La.1/14/03), 838 So.2d 729, 741-42, *cert. den*, *Taylor v. Louisiana*, 540 U.S. 1103, 124 S.Ct. 1036, 157 L.Ed.2d 886 (2004), the Louisiana Supreme Court discussed the admissibility of "other crimes" evidence:

> Generally, courts may not admit evidence of other crimes to show defendant is a man of bad character who has acted in conformity with his bad character. However, under La. C.E. art. 404(B)(1) evidence of other crimes, wrongs or acts may be introduced when it relates to conduct, formerly referred to as *res gestae*, that "constitutes an integral part of the act or transaction that is the subject of the present proceeding." *Res gestae* events constituting other crimes are deemed admissible because they are so nearly connected to the charged offense that the state could not accurately present its case without reference to them. A close proximity in time and location is required between the charged offense and the other crimes evidence "to insure that 'the purpose served by admission of other crimes evidence is not to depict defendant as a bad man, but rather to complete the story of the crime on trial by proving its immediate context of happenings near in time and place.' " *State v. Colomb*, 98-2813, p. 3 (La.10/1/99), 747 So.2d 1074, 1076 (quoting *State v. Haarala*, 398 So.2d 1093, 1098 (La.1981)). The *res gestae* doctrine in Louisiana is broad and includes not only spontaneous utterances and

> declarations made before or after the commission of the crime, but also testimony of witnesses and police officers pertaining to what they heard or observed during or after the commission of the crime if a continuous chain of events is evident under the circumstances. *State v. Huizar*, 414 So.2d 741, 748 (La.1982); *State v. Kimble*, 407 So.2d 693, 698 (La.1981). In addition, as this court recently observed, integral act (*res gestae*) evidence in Louisiana incorporates a rule of narrative completeness without which the state's case would lose its "narrative momentum and cohesiveness, 'with power not only to support conclusions but to sustain the willingness of jurors to draw the inferences, whatever they may be, necessary to reach an honest verdict.' " *Colomb*, 747 So.2d at 1076 (quoting *Old Chief v. United States*, 519 U.S. 172, 117 S.Ct. 644, 136 L.Ed.2d 574 (1997)).

Hence, it is evident that *res gestae* evidence that constitutes an integral part of the crime is admissible without prior notice to the defense. La.C.Cr.P. art. 720; *State v. Prieur*, 277 So.2d 126, 128 (La. 1973).

In this case, Det. Brazley's testimony was offered to explain how the NOPD eventually identified the defendant. Det. Brazley learned from the victim's family that she had a companion named "Ahmad". The victim's family was unable to supply Ahmad's last name, so the detective ran the victim's name through the NOPD motions computer and learned that the victim had filed reports against an individual named "Ahmad Beck". This testimony was offered as narrative of the detective's investigation and to show how Beck became a person of interest in the victim's disappearance. *State v. Brown*, 03-1616 (La. App. 4 Cir. 3/31/04), 871 So.2d 1240. In addition, Beck was tried by a judge, who would already have been made aware of the prior "bad acts" if the State had given *Prieur* notice. However, even if Det. Brazley's testimony were improper, the admission of the testimony would be subject to the harmless error rule, and considering that Beck confessed to the crime, which is discussed below, the verdict rendered in the case was

unattributable to the error. *State v. Leonard*, 2005-1382 (La. 6/16/06), 932 So.2d 660. Thus, we find that this assignment of error is without merit.

In his second assignment of error, Beck argues that his forty year sentence for manslaughter is excessive and that the district court failed to meet the requirements of La. C.Cr.P. 894.1. Pursuant to La. R.S. 14:31, the maximum penalty for manslaughter is forty years imprisonment at hard labor.

A trial court has wide, although not unbridled, discretion in imposing a sentence within statutory limits. *State v. Trahan*, 93-1116, p. 25 (La.App. 1 Cir. 5/20/94), 637 So.2d 694, 708. Article I, Section 20, of the Louisiana Constitution prohibits the imposition of excessive punishment. See *State v. Sepulvado*, 367 So.2d 762, 767 (La.1979). A sentence is considered constitutionally excessive if it is grossly disproportionate to the seriousness of the offense or is nothing more than a purposeless and needless infliction of pain and suffering. *State v. An*drews, 94-0842, p. 8 (La.App. 1 Cir. 5/5/95), 655 So.2d 448, 454. The sentence imposed by the trial court will not be set aside absent a showing of manifest abuse of the trial court's wide discretion. *Id.*, 94-0842 p. 9, 655 So.2d at 454.

The trial court should give weight to the sentencing guidelines and must state for the record the considerations taken into account and the factual basis for the sentence imposed. La. C.Cr.P. art. 894.1 B and C. The sentencing court need not recite the entire checklist of items which must be considered before imposing sentence, but the record must reflect that it adequately considered the guidelines. *State v. Barnett*, 96-2050, p. 12 (La.App. 1 Cir. 9/23/97), 700 So.2d 1005, 1013. Even without full compliance with article 894.1, remand is unnecessary when the record clearly reflects an adequate basis for the sentence. *State v. Ledet*, 96-0142, p. 17 (La.App. 1 Cir. 11/8/96), 694 So.2d 336, 346.

In this case, Beck admitted to killing the victim. The State argued that the fact that Beck took the time and effort to manually strangle the victim demonstrated specific intent to kill. The judge took into consideration that Beck stated that he did not intend to kill the victim, and exhibited remorse in his confession, and therefore found Beck guilty of manslaughter instead of second-degree murder. However, the court also stated that it took into consideration Beck's actions after he killed the victim. The facts that he sought to hide his crime, stole the victim's car and then burned the car with the victim's body inside weighed heavily against Beck in the eyes of the court. There was adequate compliance with La. C.Cr.P. art. 894.1.

Other Circuit Courts of Appeal have upheld forty-year sentences for manslaughter convictions. See *State v. Holmes,* 1999-0631 (La. App. 1 Cir. 2/18/00), 754 So.2d 1132; *State v. Johnson,* 38,415 (La. App. 2 Cir. 7/14/04), 878 So.2d 869; *State v. Findlay,* 2006-1051 (La. App. 3 Cir. 2/7/07), 949 So.2d 609 and *State v. Batiste,* 06-869 (La. App. 5 Cir. 4/11/07), 958 So.2d 24. The sentence imposed herein is not excessive. Therefore, we find that this assignment of error is without merit.

In his pro se assignment of error, Beck contends that the trial court erred in denying his Motion to Suppress the Confession. He argues that the State failed to prove that he knowingly and voluntarily waived his Fifth Amendment rights and his right to counsel.

Before the state may introduce a confession into evidence, it must demonstrate that the statement was free and voluntary and not the product of fear, duress, intimidation, menace, threats, inducements or promises. La. R.S. 15:451; La.C.Cr.P. art. 703(D); *State v. Simmons,* 443 So.2d 512, 515 (La.1983). If a

statement is a product of custodial interrogation, the state additionally must show that the person was advised before questioning of his right to remain silent; that any statement he makes may be used against him; and, that he has a right to counsel, either retained or appointed. *Miranda v. Arizona, supra*. When claims of police misconduct are raised, the state must specifically rebut the allegations. *State v. Vessell*, 450 So.2d 938, 942-943 (La.1984). A trial court's finding as to the free and voluntary nature of a statement carries great weight and will not be disturbed unless not supported by the evidence. *State v. Benoit*, 440 So.2d 129, 131 (La.1983). Credibility determinations lie within the sound discretion of the trial court and its rulings will not be disturbed unless clearly contrary to the evidence. *Vessell, supra* at 943. When deciding whether a statement is knowing and voluntary, a court considers the totality of circumstances under which it is made. *State v. Lavalais*, 95-0320, p. 6 (La.11/25/96), 685 So.2d 1048, 1053.

In this case, Beck maintains that the police violated his attorney's instructions that the police were not to question him about the victim's disappearance.

At the hearing on the Motion to Suppress, Det. Brazley related that when Beck arrived at the police station with his attorney, the attorney told the detective that the police were not to question Beck concerning the victim's disappearance. Det. Brazley said that he adhered to the attorney's instruction. However, after the attorney left, Beck told the detective that he wanted to meet with his parents. Det. Brazley transported Beck to his father's place of business in East New Orleans where he was allowed to speak with his family in private. After Beck and Det. Brazley returned to the police station, Beck advised Det. Brazley that he wanted to make a statement. The detective reminded the defendant of his attorney's

instructions not to speak to the police. Nevertheless, Beck continued to insist that he wanted to make a statement because he "was tired [of the guilt] and "just [couldn't] take it no more". At that point, Det. Brazley read Beck his rights and asked him if he understood and wanted to waive his rights. Beck responded affirmatively. Pursuant thereto, Beck signed the Rights of Arrestee form.

After reviewing the transcript of Beck's statement, there is nothing to indicate that Beck did not knowingly and intelligently waive his rights. The statement clearly indicates that Det. Brazley read Beck his rights prior to the interrogation. Prior to questioning Beck, the detective advised him that he was under investigation for the victim's disappearance and reminded him that his attorney advised him not to make a statement. Further, the statement shows that Det. Brazley had Beck read aloud the rights he was waiving as listed on the Rights of Arrestee form. Det. Brazley then asked Beck whether he was coerced or threatened into making a statement. Beck denied any coercion or threats, and stated that he was making the statement freely and voluntarily. Det. Brazley specifically asked Beck: "And do you understand that you're waiving your rights against your counselor's advice?" Beck answered "yes". The detective continued: "Which mean [sic], and you still want to make a statement although your attorney told you not to?" Again, Beck answered "yes".

The district court did not err in allowing Beck's confession to be admitted into evidence. A review of the record supports a finding that the confession was knowingly, intelligently, and voluntarily made. Thus, we find that this assignment

of error is meritless.

DECREE

Ahmed Beck's conviction and sentence are affirmed.

AFFIRMED