NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA	*	**NO. 2010-KA-1465**
VERSUS	*	**COURT OF APPEAL**
JOHNNIE CAUSEY	*	**FOURTH CIRCUIT**
	*	**STATE OF LOUISIANA**

*** * * * * * ***

APPEAL FROM
CRIMINAL DISTRICT COURT ORLEANS PARISH
NO. 488-121, SECTION "I"
Honorable Karen K. Herman, Judge

* * * * * *

Charles R. Jones
Judge

* * * * * *

(Court composed of Chief Judge Joan Bernard Armstrong, Judge Charles R. Jones, and Judge Dennis R. Bagneris, Sr.)

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JUNE 15, 2011

AFFIRMED

The appellant, Johnny Causey, appeals his conviction and sentence for the unauthorized use of a motor vehicle. Having reviewed and considered the record herein, we affirm his conviction and sentence.

The state of Louisiana charged Johnnie Causey by bill of information with one count of unauthorized use of a movable, a violation of La. R.S. 14:68. At his arraignment on July 29, 2009, Causey entered a plea of not guilty. On January 13, 2010, Causey withdrew his not guilty plea and entered a plea of guilty under *North Carolina v. Alford*, 400 U.S. 25, 91 S.Ct. 160, 27 L.Ed.2d 162 (1970).[1] On June 1, 2010, Causey was sentenced to five years at hard labor with credit for time served. On the same date, Causey was multiple billed as a quadruple offender based on prior convictions for possession of cocaine,[2] possession of a stolen automobile,[3] and possession of marijuana, third offense.[4] Causey was adjudicated a quadruple offender and resentenced to twenty (20) years at hard labor without benefit of

[1] An *Alford* or "best interest" plea is one in which the defendant pleads guilty while maintaining his innocence.

[2] The defendant pled guilty to possession of cocaine on June 7, 2002, in proceedings bearing No. 430-428 "L" of the docket of the Orleans Parish Criminal District Court.

[3] The defendant pled guilty to possession of a stolen automobile on August 9, 2002, in proceedings bearing No. 431-201 "L" of the docket of the Orleans Parish Criminal District Court.

[4] The defendant pled guilty to drug possession on October 21, 2004, in proceedings bearing No. 452-669 "L" of the docket of the Orleans Parish Criminal District Court.

probation, parole or suspension of sentence, with credit for time served. Causey filed a Motion for Appeal on June 9, 2010.

NOPD Officer, Evan Cox, testified regarding the underlying facts of this case. Officer Cox testified that on April 4, 2009, around 11:15 p.m., an off–duty NOPD officer reported that he observed Causey and another man pushing an off-road motorcycle across Prytania Street to the rear dumpster of a nearby closed business location. Officer Cox testified that the off-duty officer advised a passing patrol unit, which contained Officer Cox. Officer Cox testified that he then approached and detained Causey, conducting a pedestrian investigation until the off-duty officer arrived on the scene. When the off-duty officer arrived, he positively identified Causey as one of the people he saw pushing and stowing the motorcycle behind the closed business location. Officer Cox testified that he completed a field identification form, obtaining the name of Causey, and impounded the motorcycle. Causey was not arrested on the scene because there had been no report of a stolen off-road motorcycle. Additionally, because the motorcycle did not require registration, Officer Cox was unable to ascertain the name of its owner. The next morning, however, the NOPD received a report from the victim that his off-road motorcycle had been stolen from his residence the previous night. Based on that report, Officer Cox issued a warrant for Causey's arrest.

A review of the record reveals there is one error patent related to the bill of information failing to state the value of the motorcycle. We shall discuss this error patent in the first assignment of error of Causey.

In his first assignment of error, Causey argues that his conviction should be set aside because the bill of information filed against him is defective.

Specifically, Causey notes that the bill fails to specify the value of the motorcycle he was charged with using without authorization.

Generally, a valid, unqualified plea of guilty waives all non-jurisdictional defects in the proceedings prior to the plea. *State v. Crosby*, 338 So.2d 584, 588 (La. 1976). A validly entered guilty plea waives any right a defendant might have had to question the merits of the state's case and the factual basis underlying the conviction. *State v. Bourgeois*, 406 So.2d 550, 552 (La. 1981). A validly entered guilty plea also dispenses with any appellate review of the state's case against the defendant. *State v. Hardy*, 39,233, p. 1 (La. App. 2 Cir.1/26/05), 892 So.2d 710, 712. A defendant may be allowed appellate review if at the time he enters a plea of guilty, he expressly stipulates that he does not waive his right to appeal a previous adverse ruling in the case. *Crosby,* 338 So.2d at 591.

Causey correctly argues that the value of the moveable at issue is determinative of whether violation of the statute is a felony or a misdemeanor, which in turn determines his right to a trial by jury and his sentence exposure. In support of his argument, Causey cites *State v. Olivier,* 2003-1589 (La. App. 3 Cir. 6/16/04), 879 So.2d 286, wherein the Third Circuit found that the failure to allege a monetary value in the bill of information rendered the bill ineffective. The Third Circuit also set aside the conviction and sentence and remanded the case to allow the State to amend the bill of information to properly charge the offense.

However, Causey's reliance on *State v. Olivier, supra,* is misplaced. While this Court took notice of *Olivier,* this Court addressed a similar omission in *State v. Kenniston,* 2007-0849 (La. App. 4 Cir. 1/16/08), 976 So.3d 226. On appeal, *Kenniston* framed the issue as a motion to correct an illegal sentence, arguing that because the bill of information did not allege an amount, he could only be

sentenced under the misdemeanor provision of La. R.S. 14:202. Thus, he argued, his four-year sentence was illegally excessive.

However, this Court rejected the argument in *Kenniston,* and we distinguished *Olivier,* citing *State v. Guidry*, 93-1091 (La. App. 1 Cir. 4/8/94), 635 So. 2d 731, wherein the First Circuit found that the failure to allege the amount of damages in a charge of arson was harmless error and did not require vacating the defendant's guilty plea because the defendant was advised of the sentencing range by the court. *Kenniston,* p. 7, 976 So.2d at 230.

In the instant case, the bill of information did not allege the amount that was the value of the items. Causey pled guilty, and the court sentenced him to four years at hard labor, suspended, and placed him on probation. When Causey's probation was subsequently revoked, he moved to reconsider his sentence. The court denied his motion, and he appealed. The bill of information in this case states that Causey "committed unauthorized use of a moveable, to wit: a 2008 Yamaha, belonging to Ryan Bergeron." Even though the bill of information does not allege the value of the motorcycle at issue, Causey has not been prejudiced by the omission because he was aware at every stage of the proceedings that the amount involved was greater than $1,000. Further, Causey filed a Motion for Preliminary Examination, (a remedy restricted to felony offenses. See La. Const. Art. 1, § 14;[5] La. C.Cr.P. art. 292[6]), and he was advised during the course of the preliminary examination hearing that the offense charged was a felony.

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[5] La. Const. Article I, § 14 provides:
Right to Preliminary Examination

> Section 14. The right to a preliminary examination shall not be denied in felony cases except when the accused is indicted by a grand jury.

[6] La. C.Cr.P. art. 292, entitled, *Order for preliminary examination before and after indictment* provides in pertinent part:

> The court, on request of the state or the defendant, shall immediately order a preliminary examination in felony cases unless the defendant has been indicted by a grand jury.

Throughout the guilty plea process, Causey was advised of the felony grade of the charged offense and the sentencing range. The title of the waiver form executed by Causey is "Felony Waiver of Constitutional Rights Plea of Guilty Form," and the case caption at the top of the form identifies the violated statute as "14:68(2),"[7] which is the felony grade for violation of the statute. Moreover, the third paragraph of the waiver of rights form notes the sentencing range of zero to five years: further, during the guilty plea colloquy, the district court specifically advised Causey that the sentencing range is zero to five years.[8]

Furthermore, a review of the transcript of Causey's guilty plea does not indicate that Causey reserved his right to appellate review of the sufficiency of the bill of information filed against him, and as such, he has waived any objections thereto. Moreover, the transcript of the *Boykin* colloquy supports the finding of the district court that Causey's guilty plea was voluntarily and intelligently entered. Therefore, this assignment of error is without merit.

In his second assignment of error, Causey argues that the evidence is insufficient to support his habitual offender conviction. In the multiple bill of information filed against Causey, the State averred that in addition to having been convicted of unauthorized use of a moveable in this case on January 13, 2010, Causey had three prior convictions. The predicate convictions listed in the multiple bill consisted of a 2002 guilty plea to possession of cocaine (case No. 430-428), a 2002 guilty plea to possession of a stolen automobile valued in excess

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[7] La. R.S. 14:68, entitled, *Unauthorized use of a movable*, provides in pertinent part:

> B. Whoever commits the crime of unauthorized use of a movable having a value of one thousand dollars or less shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both. Whoever commits the crime of unauthorized use of a movable having a value in excess of one thousand dollars shall be fined not more than five thousand dollars, or imprisoned with or without hard labor for not more than five years, or both.

[8] The district court also advised Causey of the State's intention to bill him as a multiple offender and the twenty-year minimum sentence imposed if he were found to be a quadruple offender.

of $500.00 (case No. 431-201), and a 2004 guilty plea to third offense possession of marijuana (case No. 452-669). Causey argues that the evidence is insufficient to prove beyond a reasonable doubt that he was the person convicted of possession of cocaine in 2002 as alleged in the multiple bill. He also argues that he was deprived of his right to a jury trial on the multiple bill.

In 1993, the Louisiana Legislature enacted La. R.S. 15:529.1(D)(1)(b) to establish "the procedure to be followed to attack the validity of a prior conviction" and "to set forth burdens of proof." 1993 La. Acts 1993, No. 896. La. R.S. 15:529.1(D)(1)(b) provides as follows:

> Except as otherwise provided in this Subsection, the district attorney shall have the burden of proof beyond a reasonable doubt on any issue of fact. The presumption of regularity of judgment shall be sufficient to meet the original [2000-2700 La.App. 4 Cir. [PG17] burden of proof. If the person claims that any conviction or adjudication of delinquency alleged is invalid, he shall file a written response to the information. A copy of the response shall be served upon the prosecutor. A person claiming that a conviction or adjudication of delinquency alleged in the information was obtained in violation of the Constitutions of Louisiana or of the United States shall set forth his claim, and the factual basis therefor, with particularity in his response to the information. The person shall have the burden of proof, by a challenge to a previous conviction or adjudication of delinquency which is not made before sentence is imposed may not thereafter be raised to attack the sentence.

To prove that a defendant is a multiple offender, the state must establish by competent evidence that there is a prior felony and that the defendant is the same person who was convicted of the prior felony. *State v. Chaney*, 423 So.2d 1092, 1103 (La. 1982). Where the prior conviction resulted from a plea of guilty, the state must show that the defendant was advised of his constitutional rights and that

he knowingly waived those rights prior to this plea of guilty, as required by *Boykin v. Alabama*, 395 U.S. 238, 89 S.Ct. 1709, 23 L.Ed.2d 274 (1969).

The Louisiana Supreme Court adopted a scheme for the burden of proof in habitual offender proceedings in *State v. Shelton*, 621 So.2d 769 (La. 1993). This scheme was succinctly summarized in *State v. Conrad*, 94-232, pp. 3-4 (La. App. 5 Cir. 11/16/94), 646 So.2d 1062, 1064, as follows:

> If the defendant denies the multiple offender allegations then the burden is on the State to prove (1) the existence of a prior guilty plea, and (2) that defendant was represented by counsel when the plea was taken. Once the State proves those two things, the burden then shifts to the defendant to produce affirmative evidence showing (1) an infringement of his rights, or (2) a procedural irregularity in the taking of the plea. Only if the defendant meets that burden of proof does the burden shift back to the State to prove the constitutionality of the guilty plea. In doing so, the State must produce either a 'perfect' transcript of the Boykin colloquy between the defendant and the judge or any combination of (1) a guilty plea form, (2) a minute entry, or (3) an 'imperfect' transcript. If anything less than a 'perfect' transcript is presented, the trial court must weigh the evidence submitted by the defendant and the State to determine whether the State met its burden of proof that defendant's prior guilty plea was informed and voluntary.

Various methods are available to prove that the defendant is the same person convicted of the prior felony offense, including testimony from witnesses, expert opinion regarding the fingerprints of the defendant when compared with those in the prior record, or photographs [contained] in the duly authenticated record. *State v. Henry*, 96-1280 (La. App. 4 Cir. 3/11/98), 709 So.2d 322, 326.

To support the predicate cocaine conviction in this case, the State introduced the following evidence from that conviction: the bill of information; the guilty plea form executed by Causey, the minute entry reflecting that Causey entered a plea of guilty; the docket master; the screening action form; and the arrest register.

The State also called Officer George Jackson, a custodian of arrest registers for the NOPD, who is also an expert in taking and analyzing fingerprints. At the hearing on the multiple bill on June 1, 2010, Officer Jackson testified that he fingerprinted Causey in court on May 28, 2010, the date originally set for the multiple bill hearing, for purposes of comparison. The officer identified the fingerprints he took on May 28, 2010, as State's Exhibit 1. Moreover, Officer Jackson testified that the fingerprints contained in the arrest registry relating to the cocaine conviction (case No. 430-418) matched the fingerprints on State's Exhibit 1.

However, Causey argues that the State failed to carry its burden of proof that he was the same person convicted in 2002 for possession of cocaine because the bill of information in the cocaine case did not contain any fingerprints. He claims that the fingerprints from the authenticated arrest registry are insufficient to establish identity beyond a reasonable doubt. Causey argues the only source of fingerprints capable of satisfying the evidentiary standard are those on a bill of information. However, we find that Causey is mistaken.

In *State v. Anderson*, 99-1407 (La. App. 4 Cir. 1/26/2000), 753 So.2d 321, the defendant argued that because the fingerprints on the bill of information for a forgery conviction were not suitable for identification, the State failed to meet its burden. However, the State produced the arrest register for the offense. The arrest register contained fingerprints that an officer identified as fingerprints belonging to the defendant. In addition, the State was able to match the arrest register with the certified copy of the forgery conviction through the defendant's name, date of birth, date of offense, and case number and complainant's name. In addition, the defendant's name, date of birth, social security and bureau of identification numbers were the same as the person who pled guilty to the forgery charge. This

Court found this information was sufficient, and that the State met its burden of proving that the defendant was the same person who pled guilty to the forgery charge. Therefore, this portion of Causey's second assignment of error lacks merit.[9]

As for Causey's contention that he was deprived of his right to a jury trial on the multiple bill, there is no constitutional right to a jury trial in multiple billing proceedings. *State v. Smith,* 2005-0375, p. 5 (La. App. 4 Cir. 7/20/05), 913 So.2d 836, 840, citing *Apprendi v. New Jersey, 530* U.S. 466, 120 S.Ct. 2348, 147 L.Ed.2d 435 (2000). In *Apprendi*, the Supreme Court held that "[o]ther than the fact of a prior conviction, any fact that increases the penalty for a crime beyond the prescribed statutory maximum must be submitted to a jury, and proved beyond a reasonable doubt." *Apprendi,* 530 U.S. at 490, 120 S.Ct. at 2362-2363. Under *Apprendi* and its progeny, neither a defendant's status as a habitual offender, nor the existence of prior convictions is required to be submitted to a jury. This Court has repeatedly rejected this same argument advanced by Causey. See *State v. Dunbar,* 2006-1030 (La. App. 4 Cir. 3/19/08), 981 So.2d 51. This argument is without merit.

In his third assignment of error, Causey complains that his sentence is unconstitutionally excessive, arguing that the district court failed to give adequate consideration of La. C.Cr.P. art. 894.1 sentencing guidelines. He requests a remand for resentencing in accordance with law.

We note that this claim was not preserved for appellate review, because Causey did not make an oral objection to the sentence or file a written motion for

[9] La. R.S. 15:529.1(D)(1)(b) places the burden of challenging a predicate conviction in a multiple bill proceeding on the defendant. *See , State v. Cossee,* 95-2218 (La. App. 4 Cir. 7/24/96), 678 So.2d 72. The defendant in this case did not file a written response to the multiple bill of information, nor did he object at the multiple bill hearing as to any of the prior convictions. Accordingly, this argument was not preserved for appeal.

reconsideration of the sentence. La. C.Cr.P. art. 881.1; *State v. Robichaux*, 2000-1234 (La. App. 4 Cir. 3/14/01), 788 So.2d 458. Therefore, this assignment of error has no merit.

Louisiana Constitution of 1974, art. I, § 20 provides, in pertinent part, that "[n]o law shall subject any person to ... excessive ... punishment." Although a sentence is within statutory limits, it can be reviewed for constitutional excessiveness. *State v. Sepulvado*, 367 So.2d 762, 767 (La. 1979). A sentence is unconstitutionally excessive when it imposes punishment grossly disproportionate to the severity of the offense or constitutes nothing more than needless infliction of pain and suffering. *State v. Bonanno*, 384 So.2d 355, 357 (La. 1980). A trial judge has broad discretion when imposing a sentence and a reviewing court may not set a sentence aside absent a manifest abuse of discretion. *State v. Cann*, 471 So.2d 701, 703 (La. 1985). On appellate review of a sentence, the relevant question is not whether another sentence might have been more appropriate but whether the trial court abused its broad sentencing discretion. *State v. Walker*, 2000-3200, p. 2 (La. 10/12/01), 799 So.2d 461, 462. In *State v. Batiste*, 06-0875 (La. App. 4 Cir. 12/20/06), 947 So.2d 810, this Court further explained:

> An appellate court reviewing a claim of excessive sentence must determine whether the trial court adequately complied with the statutory guidelines in La.C.Cr.P. art. 894.1, as well as whether the facts of the case warrant the sentence imposed. *State v. Trepagnier*, 97-2427 (La.App. 4 Cir. 9/15/99), 744 So.2d 181. However, as noted in *State v. Major*, 96-1214, p. 10 (La.App. 4 Cir. 3/4/98), 708 So.2d 813:
>
> > The articulation of the factual basis for a sentence is the goal of [La. C.Cr.P.] 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 [La C.Cr.P.] 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).
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> If the reviewing court finds adequate compliance with art. 894.1, it must then determine whether the sentence the trial court imposed is too severe in light of the particular defendant as well as 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. Landry*, 2003-1671 at p. 8, 871 So.2d at 1239. See also *State v. Bonicard*, 98-0665 (La.App. 4 Cir. 8/4/99), 752 So.2d 184.

Id., 2006-0875 at p. 18, 947 So.2d at 820.

In this case, Causey was charged with unauthorized use of a movable (with a value in excess of one thousand dollars), which carries a maximum sentence of five years at hard labor. La. R.S. 14:68(B). However, under the Habitual Offender Law, the sentence for a quadruple offender is twenty years to life. La. R.S. 15:529.1A(4)(a). Causey herein received the minimum sentence under the Habitual Offender Law.

The minimum sentences imposed on multiple offenders by the Habitual Offender Law are presumed to be constitutional. *State v. Johnson*, 97-1906, pp. 5-6 (La. App. 4 Cir. 3/4/98), 709 So.2d 672, 675. The defendant bears the burden of rebutting the presumption that the mandatory minimum sentence is constitutional. *State v. Short*, 96-2780, p. 8 (La. App. 4 Cir. 11/18/98), 725 So.2d 23, 27. A court may only depart from the minimum sentence if it finds that there is clear and convincing evidence in the particular case before it that would rebut the presumption of constitutionality. *Johnson*, p. 8, 709 So.2d at 677. After reviewing the law and jurisprudence concerning the "rare circumstances" under

which a court may depart from the mandatory minimum sentence, the Louisiana Supreme Court has stated:

> To rebut the presumption that the mandatory minimum sentence is constitutional, the defendant must clearly and convincingly show that:
>
> > [he] is exceptional, which in this context means that because of unusual circumstances, the defendant is a victim of the legislature's failure to assign sentences that are meaningfully tailored to the culpability of the offender, the gravity of the offense, and the circumstances of the case.

State v. Lindsey, 99-3302, 99-3256, p. 5 (La. 10/17/00), 770 So.2d 339, 343.

The defendant bears the burden of rebutting the presumption that the mandatory minimum sentence is constitutional. Where a defendant fails to present clear and convincing evidence to rebut the presumption that the mandatory sentence under the Habitual Offender Law is constitutional, the sentence will be upheld. *State v. Hayden*, 98-2768, p. 15 (La. App. 4 Cir. 5/17/00), 767 So.2d 732, 742.

In this case, though Causey claims that his compulsive use of marijuana, which he claims is the reason for his recidivism, should be considered and warrants a departure from the Habitual Offender Law, he did not present any evidence to rebut the presumption that the mandatory minimum sentence is constitutional. Moreover, this Court and other Circuits have imposed like sentences for quadruple and lesser offenders with similar criminal history. See *State v. Dominick*, 94-1368 (La. App. 4 Cir. 4/26/95), 658 So.2d 1 (twenty year sentence at hard labor imposed upon defendant as quadruple offender following his conviction for theft of property valued between $100 and $500 was not excessive in view of defendant's nine year habit of cocaine and alcohol abuse, his admission that he supported his drug habit

almost entirely by theft and that he shoplifted weekly, if not daily, and the fact that he had been incarcerated four times previously and had resumed stealing after he was released); *State v. Tassin,* 2008-752 (La. App. 3 Cir. 11/5/08), 998 So.2d 278 (twenty year sentence at hard labor imposed upon defendant as quadruple offender following his conviction for simple burglary not excessive); *State v. Boykin,* 36,989 (La. App. 2 Cir. 3/5/2003), 840 So.2d 64 (sentencing defendant as second felony offender to twenty years at hard labor for distribution of cocaine was not constitutionally excessive; although offense involved small amount of cocaine, defendant had numerous arrests and convictions in past two decades and sentence imposed was at lower end of defendant's total sentencing exposure); *State v. Dorsey,* 2004-1358 (La. App. 1 Cir. 3/24/05), 907 So.2d 154 (sentencing defendant, who was convicted of attempted molestation of juvenile, as fourth felony habitual offender to twenty years at hard labor did not result in unconstitutionally excessive sentence; statutes provided that sentence should be no less than twenty years at hard labor and defendant did not specify any unusual circumstances indicating that he was victim of legislature's failure to assign sentences that are meaningfully tailored to culpability of offender, gravity of offense, and circumstances of case). Thus, this assignment of error has no merit.

In his final assignment of error, Causey claims the district court erred in denying his Motion to Withdraw Guilty Plea which he filed prior to sentencing.

A defendant has no absolute right to withdraw a guilty plea. *State v. Essex*, 618 So.2d 574, 578 (La. App. 2 Cir.1993). A trial court may allow a guilty plea to be withdrawn at any time prior to sentencing. La. C.Cr.P. art. 559(A). The withdrawal of a guilty plea is discretionary with the trial court, subject to reversal only if that discretion is abused or arbitrarily exercised. *State v. Essex, supra.*

Reasons supporting the withdrawal of a guilty plea would ordinarily include factors bearing on whether the guilty plea was voluntarily or intelligently made, such as a breach of a plea bargain, inducement, misleading advice of counsel, strength of the evidence of actual guilt or the like. *State v. Griffin*, 535 So.2d 1143, 1145 (La. App. 2 Cir. 1988). Bare allegations of improper representation by counsel and that a plea was induced by threats, promises and intimidation will not support the withdrawal of a guilty plea, especially when the record shows that the guilty plea was made voluntarily and with a full understanding of the nature of the charges as well as the consequences of the plea. *State v. Helsley*, 457 So.2d 707, 713 (La. App. 2 Cir. 1984).

The standard for assessing an ineffective assistance of counsel claim is well-settled; the two-prong standard enunciated in the seminal case of *Strickland v. Washington*, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984), must be applied. In order to prevail, a defendant must establish both that counsel's performance was deficient and that the deficiency prejudiced the defendant. *State v. Jackson*, 97-2220, p. 8 (La. App. 4 Cir. 5/12/99), 733 So.2d 736, 741. As to the former, the defendant must show that counsel made errors so serious that counsel was not functioning as the "counsel" the Sixth Amendment guarantees. *Strickland*, 466 U.S. at 686, 104 S.Ct. at 2064. As to the latter, the defendant must show that "counsel's errors were so serious as to deprive him of a fair trial, i.e., a trial whose result is reliable." *State v. McGee*, 98-1508, p. 4 (La. App. 4 Cir. 3/15/00), 758 So.2d 338, 342. To carry his burden, Causey must show that there is a reasonable probability that, but for counsel's deficient performance the result of the proceeding would have been different; "[a] reasonable probability is a probability

sufficient to undermine confidence in the outcome." *Strickland,* 466 U.S. at 694, 104 S.Ct. at 2068.

Causey claims that his attorney rendered ineffective assistance of counsel because at the time the plea was entered there was no factual basis for the guilty plea. He was represented herein by counsel at the hearing on the plea. Counsel acknowledged that he and Causey had discussed the plea; that Causey understood and waived his rights; and that it was in Causey's best interest to enter the plea because Causey was facing a considerable amount of time based on La. C.Cr.P. art. 15:529.1. Prior to accepting the guilty plea, the district court specifically discussed with Causey the provisions on the waiver of rights form. The judge further verified Causey's initials and signature on the form. The record amply provides a factual basis for Causey's guilty plea. Therefore, we find that Causey did not receive ineffective assistance of counsel. This assignment of error is without merit.

DECREE

For the foregoing reasons, we affirm the conviction and sentence of Johnnie Causey.

AFFIRMED