

STATE OF LOUISIANA

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NO. 2017-KA-0809

VERSUS

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COURT OF APPEAL

BRADLEY B. PARVEZ

*

FOURTH CIRCUIT

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STATE OF LOUISIANA

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JENKINS, J., CONCURS IN PART AND DISSENTS IN PART

I concur in the affirmation of defendant’s conviction. I dissent, however, from the majority’s conclusion that the district court imposed an illegally lenient sentence under La. C.Cr.P. art. 893.3(E). I find that the district court complied with the firearm sentence enhancement provisions of La. C.Cr.P. art. 893.3(E) by sentencing defendant to 25 years, of which 20 years shall be served without benefit of parole, probation, or suspension of sentence. The latter part of defendant’s sentence meets the mandatory minimum requirements of La. C.Cr.P. art. 893.3(E)(1)(a) and (2).

“Article 893.3 merely provides for the imposition of a mandatory minimum sentence when a firearm is used in the commission of a felony.” *State v. Washington*, 05-0431, p. 9 (La. App. 4 Cir. 12/7/05), 921 So.2d 139, 144. As this Court discussed in *Washington*, the repeated use in La. C.Cr.P. art. 893.3 of the phrase “mandatory minimum sentence” makes it clear that the enhanced sentences provided by that statute are simply mandatory minimum sentences for the crimes for which the defendant has been convicted. *Id.*; *see also*, *State v. Brown*, 03-0732, pp. 7-8 (La. App. 4 Cir. 7/23/03), 853 So.2d 665, 669-70.

In this case, the district court sentenced defendant to 25 years in accordance with the sentencing statute of La. R.S. 14:31, the crime for which defendant was

convicted. Then, in compliance with the firearm sentencing enhancement provisions of La. C.Cr.P. art. 893.3(E)(1)(a) and (2), the district court found that defendant discharged a firearm during the commission of a violent felony and imposed 20 years of defendant's sentence to be served without benefit of parole, probation, or suspension of sentence. While I note that the district court had the authority and discretion under La. C.Cr.P. 893.3(E) to impose the entire 25 year sentence without benefits, I find no error in the district court's sentencing of defendant in accordance with both the sentencing statute of La. R.S. 14:31 and the sentence enhancement provisions of La. C.Cr.P. art. 893.3(E)(1)(a) and (2). *See State v. Taylor*, 34,823, pp. 5-6 (La. App. 2 Cir. 7/11/01), 793 So.2d 367, 369-70; *State v. King*, 563 So.2d 449, 458 (La. App. 1st Cir. 1990). Accordingly, I would affirm defendant's conviction and sentence.