

NOT DESIGNATED FOR PUBLICATION

**STATE OF LOUISIANA
COURT OF APPEAL, THIRD CIRCUIT**

11-0473

STATE OF LOUISIANA

VERSUS

IVAN E. GOUDEAU

*** * * * ***

**FOURTEENTH JUDICIAL DISTRICT COURT
PARISH OF CALCASIEU, NO. 20122-09
HONORABLE G. MICHAEL CANADAY, DISTRICT
JUDGE**

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**JIMMIE C. PETERS
JUDGE**

*** * * * ***

Court composed of John D. Saunders, Jimmie C. Peters, and Marc T. Amy, Judges.

AFFIRMED.

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PETERS, J.,

A jury convicted the defendant, Ivan E. Goudeau, of aggravated rape, a violation of La.R.S. 14:42, and attempted second degree murder, a violation of La.R.S. 14:27 and La.R.S. 14:30.1. The trial court subsequently sentenced the defendant to life imprisonment for the aggravated rape conviction and to fifty years for the attempted second degree murder conviction. The trial court ordered that both sentences be served at hard labor and without the benefit of parole, probation, or suspension of sentence. In his one assignment before this court, the defendant asserts that the trial court erred in allowing a non-unanimous verdict for the attempted second degree murder conviction. For the following reasons, we reject the defendant's assignment of error and affirm the defendant's conviction and sentence for the attempted second degree murder conviction.

The State of Louisiana charged the defendant with both offences by a grand jury indictment filed on June 4, 2009. Trial on the merits began on October 5, 2010, and the jury returned guilty verdicts on both counts on October 8, 2010. The jury verdict on the attempted second degree murder charge was not unanimous. Instead, the jury split eleven to one in favor of conviction.

Louisiana Constitution Article I, § 17, provides that any criminal prosecution where the punishment is necessarily confinement at hard labor shall be tried before a jury of twelve persons, ten of whom must concur to render a verdict. *See also*, La.Code Crim.P. art. 782. In this case, the verdict complies with that constitutional and statutory mandate. Additionally, the defendant did not complain or challenge the verdict at the trial level on the grounds of the Sixth and Fourteenth Amendments of the United States Constitution. That being the case, we will not consider the issue on appeal. *State v. Hatton*, 07-2377 (La. 7/1/08), 985 So.2d 709.

DISPOSITION

For the foregoing reasons, we affirm the defendant's conviction for attempted second degree murder in all respects.

AFFIRMED.

This opinion is NOT DESIGNATED FOR PUBLICATION. Rules 2-16.2 and 2-16.3, Uniform Rules—Courts of Appeal.