

Judgment rendered September 19, 2007
Application for rehearing may be filed
within the delay allowed by Art. 922,
La. C.Cr.P.

No. 42,514-KA

COURT OF APPEAL
SECOND CIRCUIT
STATE OF LOUISIANA

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STATE OF LOUISIANA

Appellee

versus

MEEKER FULLER

Appellant

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Appealed from the
Twenty-Sixth Judicial District Court for the
Parish of Bossier, Louisiana
Trial Court No. 128,311

Honorable Parker Self, Jr., Judge

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LARRY JOHNSON

Counsel for
Appellant

J. SCHUYLER MARVIN
District Attorney

Counsel for
Appellee

JOHN M. LAWRENCE
Assistant District Attorney

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Before CARAWAY, PEATROSS and MOORE, JJ.

NOT DESIGNATED FOR PUBLICATION.
Rule 2-16.3, Uniform Rules, Courts of Appeal.

CARAWAY, J.

The defendant, Meeker Fuller, pled guilty to the amended charge of attempted second degree murder and was sentenced to 40 years' imprisonment at hard labor. The defendant now appeals his sentence. We affirm.

Facts

At approximately 8:00 a.m. on July 19, 2004, Fuller went to Seal Craft, Inc. The business is located at 1207 Airport Drive in Shreveport, which is actually in Bossier Parish. There the defendant confronted the victim, Tamika Summage, a woman with whom he apparently had a past relationship. Fuller shot Summage five times with a handgun. He then fled the place of business in a vehicle, which he later abandoned not far away. The handgun was also recovered. The defendant was apprehended nearby shortly thereafter and was arrested for the shooting. Summage later died from her wounds.

Fuller was charged by bill of indictment with second degree murder, which is punishable by a mandatory sentence of life imprisonment. La. R.S. 14:30.1. As part of a plea bargain agreement, Fuller was allowed to plead guilty to the reduced charge of attempted second degree murder. A pre-sentence investigation report (PSI) was ordered. At the sentencing hearing, the trial court noted that it had reviewed the information contained in the PSI, the written statement given by the victim's mother and Fuller's written statement of apology. The trial court also noted the defendant's first felony offender status, his age and current situation, and the fact that the deceased

victim was survived by four children who will now be reared by their grandmother. Based on the evidence before the court, the information contained in the PSI, the sentencing guidelines and the serious nature of the crime, the trial court sentenced the defendant to a term of 40 years' imprisonment at hard labor.¹ The trial court opined that the sentence fit the crime that was committed and the crime to which he was allowed to plead guilty.

The defendant assigns as error that the sentence is excessive. He notes that the guilty plea to attempted second degree murder was to avoid the mandatory life sentence for a conviction of second degree murder. The defendant argues, however, that the sentence of 40 years' imprisonment at hard labor is, in effect, a life sentence for the 33-year-old defendant. The defendant contends that a review of the mitigating factors in this case will reveal that the sentence should be vacated and the matter remanded for the imposition of a non-excessive sentence particularized to this offender and offense.

The law regarding excessive sentence claims is well settled.² The

¹Although the trial court failed to state that this sentence shall be served without benefits, this will be automatically corrected by operation of La. R.S. 15:301.1.

²The test imposed by the reviewing court in determining the excessiveness of a sentence is two-pronged. First, the record must show that the trial court took cognizance of the criteria set forth in La. C. Cr. P. art. 894.1. The trial judge is not required to list every aggravating or mitigating circumstance so long as the record reflects that he adequately considered the guidelines of the article. *State v. Smith*, 433 So. 2d 688 (La. 1983); *State v. Dunn*, 30,767 (La. App. 2d Cir. 6/24/98), 715 So. 2d 641. 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, remand is unnecessary even where there has not been full compliance with La. C. Cr. P. art. 894.1. *State v. Lanclos*, 419 So. 2d 475 (La. 1982); *State v. Hampton*, 38,017 (La. App. 2d Cir. 1/28/04), 865 So. 2d 284, *writs denied*, 04-0834 (La. 3/11/05), 896 So. 2d 57 and 04-2380 (La. 6/3/05), 903 So. 2d 452. The important elements which should be considered are the defendant's personal history (age, family ties, marital status, health, employment record), prior criminal record, seriousness of offense and the likelihood of rehabilitation. *State v. Jones*, 398 So. 2d 1049 (La. 1981); *State v. Haley*, 38,258 (La. App. 2d Cir. 04/22/04), 873 So. 2d 747, *writ denied*, 04-2606 (La. 06/24/05),

record shows that the trial court took cognizance of the criteria set forth in La. C. Cr. P. art. 894.1 in tailoring this sentence to the defendant. The defendant did avoid a life sentence and gained much benefit by his plea. Furthermore, when Fuller's execution of this mother of four and his punishment are viewed in light of the harm done to society by domestic violence, the defendant's sentence does not shock the sense of justice. On this record, it cannot be said that the defendant's sentence is unconstitutionally excessive.

The sentence is affirmed.

AFFIRMED.

904 So. 2d 728. There is no requirement that specific matters be given any particular weight at sentencing. *State v. Jones*, 33,111 (La. App. 2d Cir. 3/1/00), 754 So. 2d 392, writ denied, 00-1467 (La. 2/2/01), 783 So. 2d 385.

Second, a sentence violates La. Const. art. 1, §20 if it is grossly out of proportion to the seriousness of the offense or nothing more than a purposeless and needless infliction of pain and suffering. *State v. Smith*, 01-2574 (La. 1/14/03), 839 So. 2d 1; *State v. Dorthey*, 623 So. 2d 1276 (La. 1993); *State v. Bonanno*, 384 So. 2d 355 (La. 1980). A sentence is considered grossly disproportionate if, when the crime and punishment are viewed in light of the harm done to society, it shocks the sense of justice. *State v. Weaver*, 01-0467 (La. 1/15/02), 805 So. 2d 166; *State v. Lobato*, 603 So. 2d 739 (La. 1992); *State v. Hogan*, 480 So. 2d 288 (La. 1985); *State v. Bradford*, 29,519 (La. App. 2d Cir. 4/2/97), 691 So. 2d 864.