

Judgment rendered September 30, 2026.
Application for rehearing may be filed
within the delay allowed by Art. 922,
La. C. Cr. P.

No. 57,058-KA

COURT OF APPEAL
SECOND CIRCUIT
STATE OF LOUISIANA

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STATE OF LOUISIANA	Appellee
versus	
JOHNNY EUGENE GILSTRAP, JR.	Appellant

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Appealed from the
Twenty-Sixth Judicial District Court for the
Parish of Bossier, Louisiana
Trial Court No. 254,308

Honorable Michael Owens Craig, Judge

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LOUISIANA APPEALS AND WRIT SERVICE	Counsel for Appellant
By: Remy V. Starns Justin C. Harrell	

J. SCHUYLER MARVIN District Attorney	Counsel for Appellee
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RICHARD R. RAY
KYLE A. JOHNSTON
Assistant District Attorneys

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Before STONE, STEPHENS, and ELLENDER, JJ.

STEPHENS, J.,

This criminal appeal arises from the 26th Judicial District Court, Parish of Bossier, the Honorable Michael O. Craig, Judge, presiding. The defendant, Johnny Eugene Gilstrap, Jr., pled guilty to ten counts of possession of pornography involving juveniles pursuant to a plea agreement with the State. The trial court imposed ten-year hard labor sentences for each count and ordered the sentences to run concurrently. Gilstrap appeals, urging that this cumulative ten-year sentence is constitutionally excessive. For the reasons set forth below, we affirm the judgment of the trial court and remand with instructions.

FACTS AND PROCEDURAL HISTORY

On March 3, 2025, Gilstrap was charged by bill of information with 30 counts of possession of pornography involving juveniles, a violation of La. R.S. 14:81.1. Gilstrap initially entered a plea of not guilty on March 27, 2025, but withdrew this plea on September 22, 2025, and entered a plea of guilty to ten counts of possession of pornography involving juveniles after a *Boykin* colloquy with the trial court. During the plea colloquy, the trial court was informed that the State and Gilstrap had entered into an agreement whereby the remaining 20 counts would be dismissed, there would be a 15-year sentencing cap, and the sentences imposed would run concurrently. Gilstrap informed the trial court that he understood the sex offender registration statutes outlining the requirements for registering as a sex offender as well as statutory notification requirements he would have to follow as a registered sex offender. He initialed each page of the informatory documents setting forth that his attorney had reviewed the documents with him and that he understood them. The trial court ordered

Gilstrap to be served with a copy of those documents.¹ Following Gilstrap's guilty plea, the trial court ordered a pre-sentence investigation ("PSI") report.

On January 23, 2026, the trial court held a sentencing hearing and ultimately ordered Gilstrap to serve ten years at hard labor on each count of possession of pornography involving juveniles and declared that the sentences were to run concurrently. The trial court articulated its reasons for the sentence imposed, stating that it had reviewed the PSI report as well as the letters submitted by friends and family on behalf of Gilstrap. The court also allowed Gilstrap's wife to make a statement prior to sentencing, and the court considered Gilstrap's statement made to the Office of Probation and Parole discussing his addiction and his request for leniency. The court noted Gilstrap's prior conviction of three counts of possession of child pornography in June 2019 and the five-year hard labor sentence Gilstrap received following this conviction.

The trial court considered Gilstrap's alleged addiction, stating that it understood addiction was a difficult thing regardless of the type of addiction. However, it concluded that resisting an addiction is not impossible. The court also noted Gilstrap's prior conviction and the prison time served, stating that the purpose of prison is to serve as a deterrent. The court concluded Gilstrap had not been deterred from repeating the conduct considering he ignored what his body and his brain were telling him and downloaded pornography on his digital devices. The court reasoned that

¹ In compliance with La. R.S. 15:543, the minutes reflect that the Sex Offender Registration and Notification to Sex Offender documents were reviewed, signed, and served.

though it understood Gilstrap asking for leniency, it was not warranted in this case.

Although Gilstrap was not involved in the production of the material, the court explained that if people want to see child pornography, children will continue to be victims of the individuals taking the pictures and committing the acts. The trial court stated that it considered the sentencing guidelines of La. C. Cr. P. art. 894.1, the social information, the statements given by family and loved ones, Gilstrap's statement to the Office of Probation and Parole, and the fact that Gilstrap's conduct is a second offense involving the same behavior. Taking these things into account, the court sentenced Gilstrap to ten years at hard labor with credit for time served for each of the ten counts and ordered the sentence imposed on each count to run concurrently with all others. Gilstrap filed a motion to reconsider sentence on February 20, 2026, which the trial court ultimately denied. Gilstrap now appeals.

DISCUSSION

In his sole assignment of error, Gilstrap argues that his ten-year sentence for ten counts of possession of pornography involving juveniles is constitutionally excessive. He maintains that the record reflects substantial and un rebutted evidence of mitigating circumstances. Though Gilstrap understands the seriousness of the charges against him, he urges that he was not engaged in the production or distribution of these materials. He insists that he accepted responsibility for his actions and entered a guilty plea six months after his arraignment. Gilstrap asserts that the trial court dwelled exclusively on his prior conviction for child pornography possession in

Texas in 2019 and focused solely on the fact that his previous incarceration failed to deter his conduct.

In response, the State contends that the trial court was within its discretion in imposing the sentence, it had the benefit of a detailed PSI report, it adequately considered the sentencing guidelines and gave reasons for the sentence imposed, and it imposed a sentence within the agreed-upon sentencing range, issuing the statutory minimum sentence allowed for a second or subsequent offense.

In its review of a sentence for excessiveness, an appellate court uses a two-pronged approach. First, the record must show that the trial court used the criteria set forth in La. C. Cr. P. art. 894.1. *State v. Andrews*, 56,402 (La. App. 2 Cir. 8/27/25), 419 So. 3d 432; *State v. Harper*, 54,173 (La. App. 2 Cir. 1/12/22), 332 So. 3d 799; *State v. Scroggins*, 52,323 (La. App. 2 Cir. 9/25/19), 280 So. 3d 841. 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 art. 894.1. *State v. Smith*, 433 So. 2d 688 (La. 1983); *State v. Andrews, supra*; *State v. Harper, supra*; *State v. Couch*, 53,956 (La. App. 2 Cir. 6/30/21), 321 So. 3d 541. The important elements that should be considered are the defendant's personal history, prior criminal record, seriousness of the offense, and the likelihood of rehabilitation. *State v. Jones*, 398 So. 2d 1049 (La. 1981); *State v. Harper, supra*; *State v. Couch, supra*.

Where a defendant has pled guilty to an offense which does not adequately describe his conduct or has received a significant reduction in potential exposure to confinement through a plea bargain, the trial court has great discretion in imposing even the maximum sentence possible for the

pled offense. *State v. Lanclos*, 419 So. 2d 475 (La. 1982); *State v. Andrews*, *supra*; *State v. Harper*, *supra*.

Second, the court must determine whether the sentence is excessive by constitutional standards. *Id.* A sentence violates La. Const. art. I, § 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. *Id.* For a sentence to be considered excessive by constitutional standards, a reviewing court must find that the penalty is so grossly disproportionate to the severity of the crime as to shock the sense of justice or that the sentence makes no reasonable contribution to acceptable penal goals and, therefore, is nothing more than the needless imposition of pain and suffering. *State v. Griffin*, 14-1214 (La. 10/14/15), 180 So. 3d 1262; *State v. Andrews*, *supra*.

La. R.S. 14:81.1 provides, in pertinent part:

A. (1) It shall be unlawful for a person to produce, promote, advertise, distribute, possess, or possess with the intent to distribute child sexual abuse materials.

....

E. (1)(b) On a second or subsequent conviction for the intentional possession of child sexual abuse materials, the offender shall be fined not more than seventy-five thousand dollars and imprisoned at hard labor for not less than ten years nor more than forty years, without benefit of parole, probation, or suspension of sentence.

In support of his position, Gilstrap notes his service in the United States Army National Guard for nine years, as well as his devotion to being a father and husband. Gilstrap also highlights that he had three character witnesses, including a certified peer support specialist and mental health professional who attested to Gilstrap's positive personal qualities as well as

his willingness to assist others. Although Gilstrap suggests that the trial court relied exclusively on his prior conviction in determining his sentence, the record clearly reflects that the trial court properly considered other factors listed in La. C. Cr. P. art. 894.1. The trial court noted Gilstrap's character reference letters as well as Gilstrap's statements made relative to possessing the pornographic material. Furthermore, the court emphasized that Gilstrap's previous sentence failed to deter similar, future conduct, and it considered the serious nature of the offense committed by Gilstrap. The exchange in the record clearly shows that the trial court properly exercised its broad discretion and used art. 894.1 in particularizing the sentence in relation to Gilstrap and the crime he committed, satisfying the first prong of an excessive sentence review.

Despite Gilstrap's claim that his ten-year sentence is excessive, his initial sentencing exposure prior to his plea agreement with the State was greater than 100 years considering that he was originally charged with 30 counts of possession of pornography involving juveniles. Not only did Gilstrap benefit from the agreement with the State, but the trial court exercised its broad discretion in imposing concurrent ten-year sentence for each of the ten counts of possession of pornography involving juveniles. Furthermore, the court also gave Gilstrap credit for time served. We cannot say that this ten-year cumulative sentence is excessive by constitutional standards. In fact, the ten-year sentence is the minimum sentence required by La. R.S. 14:81.1(E)(1)(b). Given these reasons and the trial court's broad discretion in sentencing, this assignment of error is without merit.

ERROR PATENT REVIEW

Pursuant to La. C. Cr. P. art. 920, the record reflects two errors patent. First, the trial court failed to clearly articulate the restriction of benefits as mandated by La. R.S. 14.81.1(E)(1)(b). Because the trial court failed to restrict benefits at the sentencing hearing, the minutes and the Uniform Sentencing Commitment Order do not reflect the required benefit restrictions.

Second, the commitment order fails to acknowledge that Gilstrap must comply with the Sex Offender Registration Statute as a condition of his sentence. While the record contains oral notification, written notification, and minute entry of Gilstrap's sex offender registration and notification requirements, the designated line on the Uniform Sentencing Commitment Order acknowledging Gilstrap's compliance with the sex offender registration statutes was left unchecked.

Because of these errors, we remand this matter for a proper restriction of benefits and instruct the trial court to amend the minutes and the commitment order to reflect the restriction of benefits. Similarly, the trial court must correctly complete the Uniform Sentencing Commitment Order by indicating that Gilstrap must comply with the sex offender registration statutes.

CONCLUSION

For the reasons expressed herein, the convictions and sentences of the defendant, Johnny Eugene Gilstrap, Jr., are affirmed. This matter is remanded to the trial court to correct the sentence, the minutes, and the Uniform Sentencing Commitment Order related to the restriction of benefits

and to note Gilstrap's compliance with the sex offender registration statutes as a sentence condition on the commitment order.

AFFIRMED; REMANDED WITH INSTRUCTIONS.