Judgment rendered November 18, 2026.
Application for rehearing may be filed
within the delay allowed by Art. 922,
La. C. Cr. P.

No. 57,157-KA

COURT OF APPEAL
SECOND CIRCUIT
STATE OF LOUISIANA

* * * * *

STATE OF LOUISIANA — Appellee

versus

VICTOR MATURE WASHINGTON — Appellant

* * * * *

Appealed from the
First Judicial District Court for the
Parish of Caddo, Louisiana
Trial Court No. 406,060

Honorable Donald E. Hathaway, Jr., Judge

* * * * *

LOUISIANA APPEALS AND WRIT SERVICE
By: Remy V. Starns
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Assistant District Attorneys — Counsel for Appellee

* * * * *

Before PITMAN, COX, and THOMPSON, JJ.

PITMAN, C. J.

Defendant Victor Mature Washington unconditionally pled guilty to operating a vehicle while intoxicated-third offense ("DWI-third offense"), a violation of La. R.S. 14:98.3. He was sentenced to five years at hard labor, one year without benefits, and fined $2,000. He appeals his sentence as constitutionally excessive. For the following reasons, we affirm.

FACTS

On February 20, 2026, Defendant pled guilty to DWI-third offense, a violation of La. R.S. 14:98.3. No agreement as to sentence was made, but the trial court thoroughly discussed the statute and the sentence which could be imposed. Defendant indicated he still wanted to plead guilty. The assistant district attorney recited the factual basis for the charge as follows:

> The State of Louisiana charges that on or about January 4, 2025, Victor Washington committed the offense of R.S. 14:98.3, operating a vehicle while intoxicated third offense, when he unlawfully operated a motor vehicle while under the influence of alcoholic beverages. Mr. Washington exhibited signs of impairment such as slurred speech, horizontal gaze nystagmus. Officers also noted the strong odor of alcoholic beverages as well as open containers of alcohol in Mr. Washington's vehicle.
>
> Give this Court to understand that Mr. Washington had been previously convicted of DWI first offense in the 26th JDC, docket 159335, on March 18th of 2008. He was also convicted in Shreveport City Court of DWI, 2024DW04929.

The trial court determined that Defendant agreed with the factual basis of the charge, that his plea was voluntary and knowingly made and that he waived his constitutional rights. He acknowledged that no plea bargain agreement had been entered and that sentencing was left to the trial court's discretion. Sentencing was deferred until a later date. No presentence investigation ("PSI") was ordered. The state then dismissed three pending cases–Docket Nos. 406,421; 405,426; and 406,420.

Sentencing was held on April 23, 2026. The trial court noted that Defendant pled guilty and that the bill of information listed two prior convictions. Defendant's criminal history showed multiple arrests for DWI and that a bill of information for DWI-third offense had been dismissed upon entry of this plea in the case at bar. The trial court explained the penalties for violating La. R.S. 14:98.3, i.e., a fine of $2,000 and imprisonment with or without hard labor for not less than one year and not more than five years. At least one year of the sentence imposed had to be served without benefit of parole, probation or suspension of sentence. The trial court noted it was required to consider La. C. Cr. P. art. 894.1(A), paragraphs 1, 2 and 3, and found those applicable to this case. It further found that there was an undue risk that during a period of suspended sentence or probation Defendant would commit another crime, that he needed correctional treatment and that a lesser sentence would deprecate the seriousness of the offense.

The trial court questioned Defendant about his age, his family history, his education and his work history and found that he was employed at the time he was arrested for this crime. It discussed the aggravating and mitigating circumstances applicable to the case and determined that Defendant "knowingly created a risk of death or great bodily harm to more than person [sic]." It stated Defendant was "persistently involved in similar offenses not already considered in his criminal history or as part of multiple offender adjudications" and noted that he had multiple arrests and convictions for DWI, DWI-second offense and DWI-third offense. It stated

that a copy of Defendant's criminal history "will be filed into the record with this memorandum under seal."[1]

The trial court addressed possible mitigating circumstances beyond those already provided and considered whether Defendant's criminal conduct caused or threatened serious harm and stated, "That doesn't apply." It found no strong provocation for Defendant's acts and then stated that none of the listed possible mitigating circumstances applied in the case.

Thereafter, the trial court sentenced Defendant to pay a $2,000 fine as mandated by statute and to serve five years at hard labor, one of which was to be served without benefit of probation, parole or suspension of sentence, with credit being given for time served. The sentence was to be served concurrently with any sentence he was "backing up."

Defendant's attorney asked the trial court if it was imposing the maximum sentence even though Defendant had pled guilty. The trial court replied, "Have you seen his criminal history?" It then stated that Defendant was a danger to society and a menace, that he needed to stop drinking and driving and that this sentence was the only way it could accomplish that goal. It ordered Defendant's criminal history to be filed in the record under seal so it could be considered on appeal.

Defendant filed a motion to reconsider sentence and asserted that the sentence imposed was constitutionally excessive. The motion was denied. This appeal followed.

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[1] The attached exhibit under seal indicates that Defendant was a convicted felon with no less than 15 arrests spanning back to 1985, including attempted simple burglary, simple burglary, attempted second degree murder and possession of a firearm by a convicted felon. Further, he had 7 arrests for DWI, including 2 prior DWI-third offenses, and 1 which included child endangerment. His arrests/convictions for DWI span more than two decades.

DISCUSSION

In his assignments of error, Defendant argues that his sentence, the maximum allowed under the statute, is constitutionally excessive because his arrest was pursuant to a routine traffic stop and not because of an accident. He argues the imposition of the maximum sentence is not supported by the record and that the trial court "invented facts" when it determined that he posed a danger to the public simply by driving while intoxicated, and that he had not been involved in a collision, high speed or driving in any manner which caused a threat to the public. He contends that in La. C. Cr. P. art. 894.1(A), there is no aggravating factor that lists "risk of death," but he acknowledges that La. C. Cr. P. art. 894.1(B)(5) does allow the trial court to consider that an offender knowingly created a risk of death or great bodily harm to more than one person. For these reasons, he asserts that his sentence was grossly disproportionate to his crime.

The state argues that Defendant was arrested after Shreveport Police officers were on patrol in downtown Shreveport and noticed Defendant was "riding the line in the subject's lane of travel." The officers ran the tag on the vehicle Defendant was driving and found he was driving with a suspended license. Upon making the stop, they noted a strong odor of alcoholic beverages and saw open cans of beer in the vehicle. Defendant failed field sobriety tests and refused further testing, including the "walk the line" test and breathalyzer.

The state argues there were no issues with the trial court's decision to impose the maximum sentence on Defendant. It points out Defendant's extensive criminal history, which included seven prior arrests for DWI, two of which were billed as DWI-third offenses. It contends that the trial court

correctly considered the criminal record and concluded that Defendant presented a threat of harm to society. It argues there was no misstatement or misapplication of the factors found in La. C. Cr. P. art. 894.1; the maximum sentence of five years, with one year without benefits, does not shock the sense of justice in light of the potential harm to society if Defendant is allowed to continue to drive the streets of Shreveport under the influence of alcohol.

La. R.S. 14:98.3, DWI-third offense, provides that on a conviction of a third offense violation of R.S. 14:98, regardless of whether the third offense occurred before or after a previous conviction, the offender shall be fined two thousand dollars and shall be imprisoned, with or without hard labor, for not less than one year nor more than five years.

La. C. Cr. P. art. 881.1(B) states that a motion to reconsider sentence shall be oral at the time of sentence or shall be in writing thereafter and shall set forth the specific grounds on which the motion is based. La. C. Cr. P. art. 881.1(E) provides that the failure to make or file a motion to reconsider sentence or to include a specific ground upon which the motion to reconsider sentence may be based, including a claim of excessiveness, precludes the state or defendant from raising an objection to the sentence or from urging any ground not raised in the motion on appeal or review. When a motion to reconsider sentence raises only a claim that the sentence imposed was constitutionally excessive, a defendant is relegated to review of his sentence on that ground alone. *State v. Johnson*, 56,455 (La. App. 2 Cir. 10/1/25), 420 So. 3d 1239, *writ denied*, 25-01410 (La. 9/30/26).

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 the

purposeless infliction of pain and suffering. *Johnson*, *supra*. A sentence is grossly disproportionate if, when the crime and punishment are viewed in light of the harm to society, it shocks the sense of justice. *State v. Trotter*, 55,477 (La. App. 2 Cir. 2/28/24), 380 So. 3d 866.

Ordinarily, appellate review of sentences for excessiveness is a two-step process, the first being an analysis of the trial court's compliance with the sentencing guidelines of La. C. Cr. P. art. 894.1 and second a review of the sentence for constitutional excessiveness. An excessive sentence claim is reviewed by examining whether the trial court adequately considered the guidelines established in La. C. Cr. P. art. 894.1 and whether the sentence is constitutionally excessive. *State v. Dowles*, 54,483 (La. App. 2 Cir. 5/25/22), 339 So. 3d 749. 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. The trial court is not required to list every aggravating or mitigating circumstance, so long as the record reflects that it adequately considered the guidelines of the article. *State v. Smith*, 433 So. 2d 688 (La. 1983); *State v. Croskey*, 53,505 (La. App. 2 Cir. 5/20/20), 296 So. 3d 1151. A presentence investigation report is an aid to help the court, not a right of the defendant, and the court is not required to order a presentence investigation. La. C. Cr. P. art. 875; *State v. Scott*, 50,920 (La. App. 2 Cir. 11/16/16), 209 So. 3d 248, *writ denied*, 17-0353 (La. 11/13/17), 229 So. 3d 478.

The trial court has wide discretion in the imposition of sentences within the statutory limits, and sentences should not be set aside as excessive in the absence of manifest abuse of discretion. *State v. Trotter*, *supra*. Absent specific authority, it is not the role of an appellate court to substitute

its judgment for that of the sentencing court as to the appropriateness of a particular sentence. *Id*.

As a general rule, maximum or near-maximum sentences are reserved for the worst offenders and the worst offenses. *State v. Cozzetto*, 07-2031 (La. 2/15/08), 974 So. 2d 665.

In this case, we find that the trial court clearly articulated its reasons for imposing the maximum sentence under the statute for which Defendant had unconditionally pled guilty, without any agreement as to the potential sentence to be imposed. These reasons included a review of his criminal record, even without a PSI having been ordered, showing that, in addition to other crimes for which he had been arrested, Defendant had been arrested and convicted for DWI many times in the last two decades. These prior arrests and convictions have had no noticeable preventive effect on his compulsion to drive while intoxicated. The trial court correctly noted that when Defendant was driving while intoxicated, he was putting every person on the road at risk of death or great bodily harm.

We find that this sentence is not grossly out of proportion to the seriousness of the offense or nothing more than a purposeless and needless infliction of pain and suffering. Further, we do not consider the sentence to be grossly disproportionate to the harm caused to society, and it does not shock the consciousness. Accordingly, these assignments of error are without merit.

CONCLUSION

For the foregoing reasons, we affirm the conviction and sentence of Defendant Victor Mature Washington.

AFFIRMED.