

SUPREME COURT OF LOUISIANA

No. 07-KP-0634

STATE OF LOUISIANA

v.

WILLIS THOMAS

On Writ of Certiorari to the
24th Judicial District Court,
Parish of Jefferson

PER CURIAM:

Granted. The judgment of the district court granting respondent's motion for suspension of sentence and probation is vacated, respondent's sentence of life imprisonment at hard labor is reinstated, and this case is remanded to the district court for purposes of once more rendering that sentence executory.

When the legislature added the offense of second degree murder to the Criminal Code and provided a sentence of life imprisonment at hard labor without eligibility for parole, probation, or suspension of sentence for 20 years, 1973 La. Acts 111, it did not, by negative implication, give an inmate the right to apply for suspension of sentence and probation after serving 20 years of his life term, or repeal La.C.Cr.P. art. 893, 1966 La. Acts 310, to the extent that it expressly denies a trial court the authority to suspend a sentence after a defendant has begun to serve it. Repeals by implication are not favored in law, State v. Piazza, 596 So.2d 817, 819 (La. 1992)("[T]here is a presumption against implied repeal, based on the theory that the legislature envisions the whole body of law when it enacts new

legislation."), and Louisiana law has long provided that a court may amend a sentence within the legal limits of its discretion only "prior to the beginning of execution of the sentence." La.C.Cr.P. art. 881(A); see also former La. R.S. 15:526 (1950) (same); 1928 La.C.Cr.P. art. 526 (same).

Although 1973 La. Acts 111, § 4 specifically provided that "[a]ll laws or parts of laws in conflict herewith are hereby repealed," the sentencing provisos in La. R.S. 14:30.1 and La.C.Cr.P. art. 893 did not, in fact, conflict but were complementary, the former providing that a defendant convicted of second degree murder would have to serve at least 20 years of his life sentence without eligibility for parole, probation, or suspension of sentence, and the latter providing that in any case he would have to serve the entire term of imprisonment without benefit of suspension of sentence or probation once his sentence became executory. The legislature thereby specifically provided that an offender convicted of second degree murder would have to serve a minimum of 20 years imprisonment at hard labor without regard to any changes in La.C.Cr.P. art. 893 with respect generally to suspension of sentences in felony cases. In fact, La.C.Cr.P. art. 893 has not changed over the years to the extent that it precludes suspension of executory terms of imprisonment in felony cases, and, in any event, only six years after it added second degree murder to the Criminal Code, the legislature then eliminated eligibility for parole, probation, or suspension of sentence altogether from its sentencing provisions. See 1979 La. Acts 74.