

2/2/2018 “See News Release 006 for any Concurrences and/or Dissents.”

**SUPREME COURT OF LOUISIANA**

**No. 2017-KO-0671**

**STATE OF LOUISIANA**

**VERSUS**

**MAURICE ANDERSON**

**ON WRIT OF CERTIORARI TO COURT OF APPEAL  
FIRST CIRCUIT, PARISH OF TANGIPAHOA**

**JOHNSON, C.J., would grant the writ application and assigns reasons.**

I would grant defendant’s writ application, finding his 60-year sentence on a theft charge excessive.

In 2014, defendant was convicted of theft over \$1500 and simple battery, charges that stemmed from a burglary and home invasion in 2012. The district court sentenced defendant to 10 years imprisonment at hard labor on the theft conviction, and six months imprisonment in parish jail for simple battery, with the sentences be served consecutively. Following habitual offender proceedings, the district court adjudicated defendant a fourth-felony habitual offender, vacated defendant’s 10-year sentence on the theft charge, and resentenced defendant to 60 years imprisonment at hard labor, without the benefit of probation or suspension of sentence. The court of appeal affirmed defendant’s habitual offender adjudication and sentence. The majority of this court now denies defendant’s writ application.

In this case, the district court based its decision in part on the fact that defendant has an extensive criminal history. Notably, defendant has no convictions for crimes of violence. Louisiana’s habitual offender law is set forth in La. R.S. 15:529.1. The legislature recently amended this statute to provide for a reduction of sentences under the habitual offender law in certain circumstances. In this case, because neither the underlying offense nor any of defendant’s prior convictions

were crimes of violence or sex offenses, defendant would only have been sentenced to 20 years imprisonment under the amended habitual offender statute. *See* La. R.S. 15:529.1(A)(4)(b).

Louisiana law provides that a sentence is unconstitutionally excessive when it imposes punishment grossly disproportionate to the severity of the offense or constitutes nothing more than needless infliction of pain and suffering. *See State v. Bonanno*, 384 So. 2d 355, 357 (La. 1980). Considering defendant was in his 40s when he was sentenced to 60 years imprisonment, his sentence is effectively a life sentence. In my view, the legislature's recent amendment of the habitual offender statute suggests that a life sentence (or any sentence greater than 20 years), when the offender has no prior convictions for crimes of violence or sex offenses, is disproportionate to the gravity of the offense. Defendant should be entitled to the benefit of the ameliorative provisions in the amended habitual offender statute. *See, e.g., State ex rel. John Esteen v. State of Louisiana*, 16-0949 (La. 1/30/18), -- So. 3d --. For these reasons, I find the district court abused its discretion in imposing a 60-year sentence, and defendant's sentence should be set aside.