

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NUMBER 2010 KA 1863

STATE OF LOUISIANA

VERSUS

JEANETTE HALL

Judgment Rendered: May 6, 2011

Appealed from the
Twenty-First Judicial District Court
In and for the Parish of St. Helena
State of Louisiana
Docket Number 15192

Honorable Robert Morrison, Presiding

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Jeanette Hall

BEFORE: PARRO, GUIDRY, AND HUGHES, JJ.

Handwritten initials: RP, HB, and a circled symbol.

GUIDRY, J.

The defendant, Jeanette Hall, was charged by bill of information with five counts of forgery, in violation of La. R.S. 14:72.¹ She pled not guilty and was tried by a jury. Immediately prior to retiring the jury for deliberation, counsel for the state noted that it had failed to present any evidence on count three, and the state agreed to dismiss that charge. The defendant was convicted as charged on the remaining four counts. The trial court sentenced the defendant to serve a period of five years at hard labor, but suspended the sentence and placed the defendant on active, supervised probation for five years with special conditions, including payment of restitution. The defendant moved for reconsideration of the sentence. The trial court denied the motion. The defendant now appeals, urging a single assignment of error challenging the sentence imposed.

REVIEW FOR ERROR

This Court reviews the record for error under La. C.Cr. P. art. 920(2). Under Article 920(2), we are limited in our review to errors discoverable by a mere inspection of the pleadings and proceedings without inspection of the evidence. See State v. Price, 2005-2514 (La. App. 1st Cir. 12/28/06), 952 So.2d 112, 123 (en banc), writ denied, 2007-0130 (La. 2/22/08), 976 So.2d 1277.

As previously noted, the defendant was convicted of four counts of forgery. Instead of imposing a separate sentence for each count, the trial court imposed one sentence of five years at hard labor. At the sentencing, the trial court stated, “[i]t is the sentence of the Court that you serve five years at hard labor with the Department of Corrections. That sentence is suspended and you are placed on five years’ supervised probation.”

¹ The five counts of forgery were based upon the defendant’s illegally signing the names of various relatives to an Act of Donation without their permission. Count one involved the illegal signing of the name of Malcolm Franklin, count two, Sonia M. Franklin, count three, Bernadine Richardson, count four, Joan M. Richardson, and count five, Betty J. Richardson. The Act of Donation transferred each person’s interest in ten acres of land in St. Helena Parish to the defendant.

The defendant's convictions of four counts of forgery require the imposition of four separate sentences. See State v. Soco, 94-1099 (La. App. 1st Cir. 6/23/95), 657 So.2d 603. It is well settled that a defendant can appeal from a final judgment of conviction only where a sentence has been imposed. See La. C.Cr.P. art. 912(C)(1); see also State v. Chapman, 471 So.2d 716 (La. 1985) (per curiam). The failure of the trial court to impose a separate sentence for each of the four counts is a sentencing error. See Soco, 657 So.2d at 603; see also State v. Russland Enterprises, Inc., 542 So.2d 154, 155 (La. App. 1st Cir. 1989). In the absence of valid sentences, the defendant's appeal is not properly before this court. Soco, 657 So.2d at 603. Accordingly, the single sentence imposed by the trial court is vacated, and we remand this matter to the trial court for resentencing in conformity with the law.² After resentencing, the defendant may perfect a new appeal.

SENTENCE VACATED; REMANDED FOR RESENTENCING.

² We further note that the defendant is correct in her assertion that the trial court's imposition of restitution as a condition of probation is defective, because the court failed to state a specific amount to be paid. When a trial court suspends the imposition or execution of sentence and places a defendant on probation, the court is required to set the amount of restitution as a certain sum. See La. C.Cr.P. arts. 895(A)(7) & 895.1(A); see also State v. Cortina, 632 So.2d 335, 338 (La. App. 1st Cir. 1993). The trial court cannot delegate the authority to determine the amount of restitution to anyone else. See State v. Hardy, 432 So.2d 865 (La. 1983) (per curiam). On remand, we instruct the trial court to address this error. Additionally, in accordance with La. C.Cr.P. art. 895.1(A)(1), the trial court should also determine the manner in which restitution should be paid, either in a lump sum or in monthly installments, based on the defendant's earning capacity and assets. See State v. McGee, 2008-0395 (La. App. 5th Cir. 10/28/08), 996 So.2d 1191, 1195, writ denied, 2008-2791 (La. 6/5/09), 9 So.3d 868.