NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NUMBER 2006 KA 0590

STATE OF LOUISIANA

VERSUS

CLIFTON JERMAINE ANDERSON

Judgment Rendered: November 3, 2006

Appealed from the
Sixteenth Judicial District Court
in and for the Parish of St. Mary, State of Louisiana
Trial Court Number 159,298

Honorable Charles L. Porter, Judge Presiding

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BEFORE: CARTER, C. J., WHIPPLE AND McDONALD, JJ.

McDonald, J. agrees in part and concurs in part with reasons.

WHIPPLE, J.

The defendant, Clifton Jermaine Anderson, was originally charged by bill of information with armed robbery with the use of a firearm (counts one and two), in violation of LSA-R.S. 14:64 and LSA-R.S. 14:64.3 (firearm enhancement penalty). The State later amended the bill of information to also charge the defendant with possession of a firearm or carrying a concealed weapon by a convicted felon (count three), in violation of LSA-R.S. 14:95.1. The defendant entered pleas of not guilty as to all charges. After a trial by jury, the defendant was found guilty as charged on all counts. The State filed a habitual offender bill of information. Following a hearing on the defendant's motion for a new trial, the trial court denied the defendant's motion. The defendant objected to the ruling. The defendant was subsequently adjudicated a second felony habitual offender on count one. The trial court sentenced[1] the defendant to forty years at hard labor without the benefit of parole, probation, or suspension of sentence for the armed robbery conviction (count 1); five years at hard labor without the benefit of parole, probation, or suspension of sentence for the firearm enhancement conviction (count 2); and twelve and one-half years at hard labor without the benefit of parole, probation, or suspension of sentence for the felon in possession of a firearm conviction (count 3). The court ordered the firearm enhancement sentence to run consecutively to the armed robbery sentence, and further ordered the felon in possession of a firearm sentence to run concurrently with the armed robbery sentence and the firearm enhancement sentence.

Based on the defendant's adjudication as a second felony habitual offender,

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[1]The defendant was originally sentenced on April 17, 2003, to forty-nine years. In an unpublished opinion by this Court, we found the forty-nine-year sentence to be illegally lenient. We also found that the trial court failed to impose sentences on counts two and three. The appeal was dismissed and the matter remanded for resentencing. See State v. Anderson, 2005-0250 (La. App. 1st Cir. 11/4/05), 913 So. 2d 894 (unpublished opinion).

the trial court vacated the armed robbery sentence and, under LSA-R.S. 15:529.1, imposed a sentence of forty-nine and one-half years imprisonment at hard labor, without the benefit of probation, parole, or suspension of sentence. This sentence was ordered to be served consecutively to the firearm enhancement sentence and concurrently with the felon in possession of a firearm sentence.

The defendant now appeals, arguing that the evidence is insufficient to support the convictions, that the trial court erred in denying his motion for new trial, and that he received ineffective assistance of counsel. For the following reasons, we affirm the convictions, habitual offender adjudication, and the armed robbery sentence. We amend the firearm enhancement sentence, affirm as amended, and remand with instructions. We vacate the felon in possession of a firearm sentence and remand for resentencing.

FACTS

On January 26, 2002, at about 7:30 p.m., a man, wearing a black ski mask and carrying a blue Wal-Mart bag, later identified as the defendant, entered the New Wave Video Store in Franklin, St. Mary Parish, and robbed Wendy Jones, the video store clerk, at gunpoint. The defendant took between $150.00 and $200.00.

Rodney Chapman testified that he was a customer at the video store when the robbery occurred. He testified that the robber had on a black ski mask, a black hood, black jeans, and black gloves. The robber also had a black gun and a blue Wal-Mart bag. Rodney testified that he knew the defendant from the neighborhood. He further testified that from the size and height of the robber, he could not say that the robber was the defendant. He stated, "The size didn't match up."

Sergeant Regina Trinity of the Franklin Police Department testified at trial that she investigated the armed robbery of the video store. After Sergeant Trinity interviewed Damon Johnson, Effie Wilks, and Deidra James, the defendant was

developed as a suspect. Sergeant Trinity showed Effie a photographic lineup of possible suspects, which included a picture of the defendant. Effie identified the defendant as the person who robbed the video store employee.

Effie testified at trial that she knew the defendant. The defendant would visit her house and was friends with her boyfriend, Joseph Webster. On the day of the robbery, the defendant came to her house looking for Joseph. Joseph was at Effie's for a little while before going to a pool hall. At that point, only Effie and her friend, Deidra, were at her house, so the defendant left. Effie's house is on the same street as the video store. Effie and Deidra were walking to the Chevron Store to buy something when they saw the defendant and Damon talking by a tree, located between Effie's house and the video store. When they stopped to talk to the defendant and Damon, Effie observed that the defendant was holding a ski mask and a handgun in his hand. Effie and Deidra left, went to the Chevron Store, and then went back to Effie's house. About ten minutes later, the defendant returned to Effie's house. Effie testified that the defendant had the mask on when he entered her house and had a Wal-Mart bag from which he retrieved the handgun. A short time later, the police arrived at the scene and were walking near or around Effie's house. The defendant told Effie and Deidra to be quiet. The defendant walked to the back of Effie's house, and Effie and Deidra left and went to Deidra's mother's house, and then to the pool hall to meet Joseph.

Deidra testified that she remembered standing by a tree with Effie, Damon, and the defendant. She did not mention that the defendant was holding a mask or a gun. Deidra testified that after she and Effie returned to Effie's house, the defendant came in later with a mask and a gun. Deidra testified that she knew the video store employee was going to be robbed because Effie told her that someone was going to rob the video store and give Effie some of the money.

Sergeant Trinity testified that after the robbery, Deidra told Trinity that Effie

had disclosed to Deidra that someone was going to rob the video store and give Effie some of the money. Sergeant Trinity testified that, according to Deidra, the person who came to Effie's house was an unknown black male and that, at no time during Sergeant Trinity's interview with Deidra did she identify the defendant as that person. On cross-examination, Effie denied that she told Deidra that she knew the video store was going to be robbed or that she was going to get some of the money from the robbery.

Damon Johnson testified that on the day of the robbery he was talking to Effie and Deidra in the "City Video" parking lot when the defendant approached them and began talking to them. Damon had never seen the defendant before. Damon testified that the defendant "had came up and everything and I saw a gun sticking out on the side of his hood, or whatever he had on, a hood or something." After talking, Damon left and went to the Chevron Store next door. Damon testified that as he was walking back across the street to go home, he saw the defendant pull out a gun and rob the video store employee. Damon went to the Chevron Store and told the employee there that someone had just robbed the video store employee. Later, Damon told the police what he had witnessed.

Deondra Johnson was working at the Chevron Store on the night of the robbery. He testified that Damon came in the store and told him that he had witnessed an armed robbery. Later that evening, after 9:00 p.m., the defendant came into the Chevron Store. Deondra stated he knew the defendant from having lived in the same town with him. Deondra testified that the defendant used the phone and then asked him if he wanted to purchase a .380 gun for $100.00. Deondra told the defendant he did not want to purchase a gun and that he already owned a weapon. The defendant did not show Deondra a gun.

Stacey Callery, the defendant's cousin, testified that the defendant called her to come pick him up. She picked him up from the Chevron Store at approximately

9:45 p.m. on the night of the robbery. She testified that the defendant made no unusual comments or remarks about anything that happened that night.

Sandi Jack, the defendant's ex-wife who was married to the defendant at the time of the armed robbery, testified that, on the night of the robbery, the defendant was at home with her playing video games with her children until about 8:30 p.m. She testified he left at about 8:30 p.m. that night to get some cigarettes and to talk to a friend. According to Jack, he returned home at approximately 10:00 p.m.

The defendant did not testify.

ASSIGNMENT OF ERROR NO. 1

In his first assignment of error, the defendant avers the evidence was insufficient to support the conviction of armed robbery. Specifically, the defendant contends there was no physical evidence, namely the weapon or the money, to link him to the armed robbery of the video store employee.

A conviction based on insufficient evidence cannot stand as it violates Due Process. See U.S. Const. amend. XIV; La. Const. art. I, § 2. In reviewing claims challenging the sufficiency of the evidence, this Court must consider "whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." Jackson v. Virginia, 443 U.S. 307, 319, 99 S. Ct. 2781, 2789, 61 L. Ed. 2d 560 (1979). See also LSA-C.Cr.P. art. 821(B); State v. Mussall, 523 So. 2d 1305, 1308-1309 (La. 1988). The Jackson v. Virginia standard of review, incorporated in Article 821, is an objective standard for testing the overall evidence, both direct and circumstantial, for reasonable doubt. When analyzing circumstantial evidence, LSA-R.S. 15:438 provides that the factfinder must be satisfied the overall evidence excludes every reasonable hypothesis of innocence. State v. Patorno, 2001-2585, p. 5 (La. App. 1st Cir. 6/21/02), 822 So. 2d 141, 144.

Louisiana Revised Statute 14:64 provides in pertinent part:

A. Armed robbery is the taking of anything of value belonging to another from the person of another or that is in the immediate control of another, by use of force or intimidation, while armed with a dangerous weapon.

Armed robbery is a general intent crime. In general intent crimes, the criminal intent necessary to sustain a conviction is shown by the very doing of the acts which have been declared criminal. State v. Payne, 540 So. 2d 520, 523-524 (La. App. 1st Cir.), writ denied, 546 So. 2d 169 (La. 1989).

The trier of fact is free to accept or reject, in whole or in part, the testimony of any witness. Moreover, when there is conflicting testimony about factual matters, the resolution of which depends upon a determination of the credibility of the witnesses, the matter is one of the weight of the evidence, not its sufficiency. The trier of fact's determination of the weight to be given evidence is not subject to appellate review. State v. Taylor, 97-2261, pp. 5-6 (La. App. 1st Cir. 9/25/98), 721 So. 2d 929, 932.

In the case at hand, despite the inability of the police to find the weapon used or the money taken in the robbery, the trial testimony, which constituted both direct and circumstantial evidence, established that the defendant committed the armed robbery. The direct evidence consisted of the eyewitness testimony of Damon, who testified that he saw the defendant enter the video store, pull out a gun, and rob the employee. The circumstantial evidence consisted of the testimony of Effie and Deidra, who testified that the defendant walked into Effie's house with a mask and a gun. Effie also testified that, in addition to the mask and gun, the defendant had a Wal-Mart bag. Positive identification by only one witness may be sufficient to support the defendant's conviction. State v. Eames, 97-0767, p. 6 (La. App. 1st Cir. 5/15/98), 714 So. 2d 210, 215, writ denied, 98-1640 (La. 11/6/98), 726 So. 2d 922.

It is obvious from the finding of guilt that the jury concluded that the

testimony of Effie, Damon, and Deidra was credible and sufficiently reliable to establish the defendant's guilt, despite any discrepancy in Effie's testimony regarding her possible knowledge of the robbery before it occurred. It is also clear that the jury rejected Sandi's alibi testimony and any claim that the defendant was at home playing video games with Sandi's children until 8:30 p.m. As the verdict reflects, the jury apparently chose to believe Damon's eyewitness testimony, as well as Effie's and Deidra's testimony, over Sandi's alibi testimony.

As an appellate court, we will not reweigh the evidence to overturn a factfinder's determination of guilt. State v. Taylor, 97-2261 at p. 6, 721 So. 2d at 932. Moreover, we are constitutionally precluded from acting as a "thirteenth juror" in assessing what weight to give evidence in criminal cases. See State v. Mitchell, 99-3342, p. 8 (La. 10/17/00), 772 So. 2d 78, 83. The fact that the record contains evidence which conflicts with the testimony accepted by a trier of fact does not render the evidence accepted by the trier of fact insufficient. State v. Quinn, 479 So. 2d 592, 596 (La. App. 1st Cir. 1985).

After a thorough review of the record, we find that the evidence supports the jury's verdict. Viewing the evidence in the light most favorable to the State, any rational trier of fact could have found beyond a reasonable doubt, and to the exclusion of every reasonable hypothesis of innocence, that the defendant was guilty of armed robbery.

This assignment of error is without merit.

ASSIGNMENT OF ERROR NO. 2

In his second assignment of error, the defendant argues the trial court abused its discretion in denying his motion for new trial. Specifically, the defendant contends that the trial court should have granted the motion on the ground of jury misconduct, or at least should have ordered an evidentiary hearing on the matter.

At the hearing on the motion for new trial, both the prosecutor and defense

counsel indicated that a juror had informed them that several jurors had passed by or visited the crime scene.[2] The prosecutor indicated that, prior to this hearing, the juror had met with the prosecutor, the defense counsel, and the trial judge in chambers to discuss what the juror had seen or heard.[3]

In denying the motion for new trial, the trial judge stated in pertinent part:

> [I]f proffered, the evidence or a statement by the juror who had some concerns about certain statements or certain actions made during the deliberation of the case and some observations either occurring before deliberation and after deliberation, none that have been brought to the attention of the Court fit the requisite under Article 851 for a granting of a new trial, in the sense that the Court was of the impression that a juror first made an observation that certain jurors had indicated, during deliberation, that they had passed or had been to the scene of the crime and that she was not a resident of the City of Franklin and that she did not know or was not very familiar with the area and that the discussion came up that several jurors had either passed in front of or actually visited the location of the scene of the crime during the trial phase, the evidentiary phase. . . . So there was nothing brought to the Court that gives the Court the indication that the verdict that was returned by the jury in this case was invalid or that there was extraneous prejudicial information improperly brought to the juror's attention. . . . So, all in all, my impression of the proffered statement of this juror would be that there was not extraneous prejudicial information brought to the jury which resulted in an improper verdict in this matter.

We agree with the trial court. The assertion by the defendant that several jurors commented that "they had passed or been to the crime scene" does not establish that any injustice was done to the defendant or that he was prejudiced in any way. See LSA-C.Cr.P. art. 851. There is nothing in the record to support the defendant's unsubstantiated allegations of juror misconduct.

As the trial court correctly concluded, defendant failed to establish with any specificity or particularity his allegations of prejudicial juror misconduct. See State v. Richardson, 91-2339, pp. 3-5 (La. App. 1st Cir. 5/20/94), 637 So. 2d 709,

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[2]It is not clear whether this unnamed "juror" served on the jury. Defense counsel and the trial judge referred to her as a "juror," whereas the prosecutor referred to her as "one of the prospective jurors."

[3]Because the conversation between the judge, the prosecutor, the defense counsel and the juror occurred in chambers, the nature, extent and substance of the interview of the juror is not of record.

712-713. See also LSA-C.E. art. 606(B).

The trial court's decision on a motion for new trial will not be disturbed absent a clear abuse of discretion. State v. Williams, 521 So. 2d 629, 632 (La. App. 1st Cir. 1988). Given the record before us, we find no abuse of discretion in the trial court's denial of the motion for new trial.

This assignment of error is without merit.

ASSIGNMENT OF ERROR NO. 3

In his third assignment of error, the defendant argues he received ineffective assistance of counsel. Specifically, the defendant contends that defense counsel failed to request a severance of the offense of possession of a firearm by a convicted felon.

The defendant contends that, since he did not testify at trial, the jury would not have heard about his prior conviction[4] but for defense counsel allowing his felon in possession of a firearm charge to be tried with the other charges. According to the defendant, as a result of defense counsel's failure to move for the severance, the defendant was denied a fair trial.

In Strickland v. Washington, 466 U.S. 668, 687, 104 S. Ct. 2052, 2064, 80 L. Ed. 2d 674 (1984), the United States Supreme Court enunciated the test for evaluating the competence of trial counsel:

> First, the defendant must show that counsel's performance was deficient. This requires showing that counsel made errors so serious that counsel was not functioning as the "counsel" guaranteed the defendant by the Sixth Amendment. Second, the defendant must show that the deficient performance prejudiced the defense. This requires showing that counsel's errors were so serious as to deprive the defendant of a fair trial, a trial whose result is reliable. Unless a defendant makes both showings, it cannot be said that the conviction or death sentence resulted from a breakdown in the adversary process that renders the result unreliable.

In evaluating the performance of counsel, the "inquiry must be whether

[4]At the outset of the trial, the State and defense counsel stipulated to the defendant's conviction of simple burglary on November 12, 1998.

counsel's assistance was reasonable considering all the circumstances." State v. Morgan, 472 So. 2d 934, 937 (La. App. 1st Cir. 1985) (citing Strickland v. Washington, 466 U.S. at 688, 104 S. Ct. at 2065). Failure to make the required showing of either deficient performance or sufficient prejudice defeats the ineffectiveness claim. State v. Robinson, 471 So. 2d 1035, 1038-1039 (La. App. 1st Cir.), writ denied, 476 So. 2d 350 (La. 1985).

A claim of ineffective assistance of counsel is more properly raised by an application for postconviction relief in the district court, where a full evidentiary hearing may be conducted. However, where the record discloses sufficient evidence to decide the issue of ineffective assistance of counsel when raised by assignment of error on appeal, it may be addressed in the interest of judicial economy. State v. Carter, 96-0337, p. 10 (La. App. 1st Cir. 11/8/96), 684 So. 2d 432, 438.

The allegation of ineffective assistance of counsel raised in the defendant's brief cannot be sufficiently investigated from an inspection of the record alone. Defense counsel's decision to try all charges against the defendant in one trial could have involved matters of trial preparation and/or strategy. For example, perhaps defense counsel felt the defendant had a better chance of acquittal at one jury trial than at two separate trials with two different juries. Regardless, decisions relating to investigation, preparation, and strategy cannot possibly be reviewed on appeal. Only in an evidentiary hearing in the district court, where the defendant could present evidence beyond what is contained in the instant record, could these allegations be sufficiently investigated.[5] Accordingly, this allegation is not subject to appellate review. See State v. Albert, 96-1991, p. 11 (La. App. 1st Cir. 6/20/97), 697 So. 2d 1355, 1363-1364.

[5]The defendant would have to satisfy the requirements of LSA-C.Cr.P. art. 924, et seq., in order to receive such a hearing.

Moreover, even if we were to find deficient performance in defense counsel's failure to move for a severance, the defendant was not prejudiced. Because the use of a weapon is an essential element of the armed robbery charge, evidence that the defendant was armed was not improper. Furthermore, the defendant did not establish that the felon in possession of a firearm charge confused the jury, or that the charge was used by the jury to infer a criminal disposition. See LSA-C.Cr.P. art. 493; see also State v. Morris, 99-3075, pp. 3-7 (La. App. 1st Cir. 11/3/00), 770 So. 2d 908, 913-915, writ denied, 2000-3293 (La. 10/12/01), 799 So. 2d 496, cert. denied, 535 U.S. 934, 122 S. Ct. 1311, 152 L. Ed. 2d 220 (2002).

This assignment lacks merit.

PATENT ERRORS

Whoever is found guilty of violating the provisions of LSA-R.S. 14:95.1 shall be imprisoned at hard labor for not less than ten nor more than fifteen years without the benefit of probation, parole, or suspension of sentence and be fined not less than one thousand dollars nor more than five thousand dollars. LSA-R.S. 14:95.1(B). In the instant matter, the trial court sentenced the defendant to twelve and one-half years at hard labor for the felon in possession of a firearm conviction (count 3), but failed to impose the mandatory fine upon the defendant pursuant to LSA-R.S. 14:95.1(B).

This Court will correct sentencing errors by a trial court that pertain to mandatory sentencing requirements by vacating the sentence and remanding for resentencing in accordance with law. State v. Paoli, 2001-1733, pp. 6-8 (La. App. 1st Cir. 4/11/02), 818 So. 2d 795, 799-800 (en banc), writ denied, 2002-2137 (La. 2/21/03), 837 So. 2d 628. Because the amount of the fine lies in the trial court's discretion, the correction of the sentencing error must be made by the trial court. See State v. Haynes, 2004-1893 (La. 12/10/04), 889 So. 2d 224 (per curiam).

We also note a second patent error in sentencing. At the time of the instant offenses, LSA-R.S. 14:64.3 provided as follows:

> When the dangerous weapon used in the commission of the crime of armed robbery is a firearm, the offender shall be imprisoned for an additional period of five years without benefit of parole, probation, or suspension of sentence. The additional penalty imposed pursuant to this Section shall be served consecutively to the sentence imposed under the provisions of R.S. 14:64.

Louisiana Revised Statute 14:64.3 does not provide for the imprisonment to be served at hard labor. Accordingly, imprisonment at hard labor cannot be imposed under this statute. The trial court erred in imposing hard labor under LSA-R.S. 14:64.3 for count two (firearm enhancement). Additionally, the minutes and the criminal commitment state that the sentence under LSA-R.S. 14:64.3 for count two is to be served at hard labor. Accordingly, we amend the sentence by deleting that provision of the sentence for count two which required that the additional penalty of imprisonment for five years, imposed under LSA-R.S. 14:64.3, be served at hard labor. We remand this case to the trial court for correction of the minutes and the commitment order regarding count two. See State v. Williams, 2001-1398, pp. 6-8 (La. App. 1st Cir. 3/28/02), 815 So. 2d 378, 382-383, writ denied, 2002-1466 (La. 5/9/03), 843 So. 2d 388.

CONVICTIONS AND HABITUAL OFFENDER ADJUDICATION AFFIRMED; ARMED ROBBERY SENTENCE (COUNT 1) AFFIRMED; FIREARM ENHANCEMENT SENTENCE (COUNT 2) AMENDED, AFFIRMED AS AMENDED, AND REMANDED WITH INSTRUCTIONS; FELON IN POSSESSION OF A FIREARM SENTENCE (COUNT 3) VACATED AND REMANDED FOR RESENTENCING.

STATE OF LOUISIANA

VERSUS

CLIFTON JERMAINE ANDERSON

STATE OF LOUISIANA

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McDONALD, J., Concurring:

I respectfully concur with the majority's decision concerning the sentence enhancement for the use of a firearm in the commission of an armed robbery. I fully understand and appreciate the decision of the majority to amend the sentence on the firearm enhancement statute (La. R.S. 14:64.3) to delete the reference to hard labor relying on the prior decision of this court in *State v. Williams*, 815 So.2d 378 (La. App. 1st Cir. 3/28/02) and the decision of the Third Circuit in *State v. Wardsworth*, 2004-1572 (La.App. 3 Cir. 2005) 904 So.2d 65.

However, I take this opportunity to address why I believe the *Williams* and *Wardsworth* courts reached the wrong conclusion. While these two cases interpret the term "imprisoned" to mean "without hard labor, none of the other circuits find problems with imposing a sentence at "hard labor" under this statute.[1]

La. R.S. 14:3 controls the interpretation of the articles in the Criminal Code. It states:

> The articles of this Code cannot be extended by analogy so as to create crimes not provided for herein; however, in order to promote justice and to effect the objects of the law, **all of its provisions shall be given a genuine construction, according to the fair import of their words, taken in their usual sense, in connection with the context,** and with reference to the purpose of the provision. (Emphasis added).

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[1]State v. Updite, 38,423 (La. App. 2 Cir. 6/23/94), 877 So.2d 216, writ denied 888 So.2d 229, 2004-1866 (La. 11/24/04); State v. Williams, 34,370 (App. 2 Cir. 2001), 781 So.2d 682; State v. Lewis, 2003-1234 (App. 4 Cir. 6/2/04), 876 So.2d 912, writ denied 2004-1855 (La.11/24/04), 888 So.2d 229; State v. Walker, 01-51 (App. 5 Cir. 5/30/01), 789 So.2d 86, writ denied 2001-1922 (La. 5/10/02), 815 So.2d 834; State v. Hartwell, 03-1214 (App. 5 Cir. 1/27/04), 866 So.2d 899, writ denied 2004-0448 (La. 6/25/04), 876 So.2d 832.

Legislative intent is the fundamental question in all cases of statutory interpretation, and rules of statutory construction are designed to ascertain and enforce the intent of the statute. *State v. Campbell,* 2003-3035 (La.7/6/04), 877 So.2d 112, 117; *State v. Peters,* 2005-2069 (La.App. 1 Cir. 5/5/06), 935 So.2d 201, 203-204. It is presumed that the legislature enacts each statute with deliberation and with full knowledge of all existing laws on the same subject. Thus, legislative language is interpreted by the courts on the assumption that the legislature was aware of existing statutes, rules of construction, and judicial decisions interpreting those statutes. It is further presumed that the legislative branch intends to achieve a consistent body of law. *Id.*

La. R.S. 14:64.3 is a sentence enhancement statute; it does not provide for a separate crime. Arguably it may be interpreted in two different ways. The first is that given it by the *Williams* and *Wardsworth* courts. They are correct that it provides for imprisonment and does not provide for hard labor. The second interpretation is to consider it a sentence enhancement statute. I believe this to be the better view and more consistent with the purpose of the provision and consistent with its context in relation to the armed robbery statute. This enhancement statute only applies to armed robbery. It does not apply to any other criminal statute. It provides that the sentence shall be served consecutively to the sentence imposed by R.S. 14:64, the armed robbery statute. Since it enhances the penalty for armed robbery, its proper context is that it is intended to be served in the same way as the penalty for armed robbery. This is the only common sense interpretation. The word "imprisoned" is not meant to be interpreted as providing the manner in which the sentence is to be served, but is intended to be synonymous with the term "incarcerated" or "confined". Any other interpretation does not do

justice to the basic idea of statututory interpretation and fails to consider its proper context.