STATE OF LOUISIANA

VERSUS

TRAVIS JOSEPH VICKNAIR

NO. 24-KA-470

FIFTH CIRCUIT

COURT OF APPEAL

STATE OF LOUISIANA

ON APPEAL FROM THE FORTIETH JUDICIAL DISTRICT COURT
PARISH OF ST. JOHN THE BAPTIST, STATE OF LOUISIANA
NO. 21,369, DIVISION "B"
HONORABLE NGHANA LEWIS, JUDGE PRESIDING

May 21, 2025

SCOTT U. SCHLEGEL
JUDGE

Panel composed of Judges Fredericka Homberg Wicker,
John J. Molaison, Jr., and Scott U. Schlegel

AFFIRMED; REMANDED WITH INSTRUCTIONS;
MOTION TO WITHDRAW GRANTED

SUS
FHW
JJM

COUNSEL FOR PLAINTIFF/APPELLEE,
STATE OF LOUISIANA
Bridget A. Dinvaut
Geoffrey M. Michel

COUNSEL FOR DEFENDANT/APPELLANT,
TRAVIS VICKNAIR
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SCHLEGEL, J.

Defendant, Travis Joseph Vicknair, appeals his convictions and sentences for four counts of first degree rape in violation of La. R.S. 14:42, two counts of sexual battery in violation of La. R.S. 14:43.1, and one count of oral sexual battery in violation of La. R.S. 14:43.3. His appellate counsel filed a brief pursuant to *Anders v. California*, 386 U.S. 738, 87 S.Ct. 1396, 18 L.Ed.2d 493 (1967), and a motion to withdraw alleging that there are no non-frivolous issues to raise on appeal. After a thorough review of the record, we agree with counsel's assessment, affirm defendant's convictions and sentences, remand on errors patent review with instructions, and grant appellate counsel's motion to withdraw as counsel of record for defendant.

Procedural History

On December 6, 2021, a grand jury indicted defendant on four counts of first degree rape of R.D.[1] in violation of La. R.S. 14:42 (counts one through four), two counts of sexual battery in violation of La. R.S. 14:43.1 (count five (E.K.) and count seven (R.D.)), and oral sexual battery of R.D. in violation of La. R.S. 14:43.3 (count six). Defendant pled not guilty at arraignment.

On September 19, 2023, the case proceeded to trial before a twelve-person jury. The next day, the jury found defendant guilty as charged on all counts. On October 23, 2023, the trial court sentenced defendant to life imprisonment on each of counts one through four, and to imprisonment for 25 years on each of counts five through seven. The trial court ordered all the sentences to be served concurrently and to be served without benefit of parole, probation, or suspension of sentence.

[1] The victims in this case are identified by their initials, in the interest of protecting minor crime victims and victims of sexual offenses, as set forth in La. R.S. 46:1844(W)(3). *See State v. Diaz*, 20-381 (La. App. 5 Cir. 11/17/21), 331 So.3d 500, 507 n.7, *writ denied*, 21-1967 (La. 4/5/22), 335 So.3d 836; *see also* Uniform Rules of Court - Courts of Appeal, Rule 5-2.

On April 3, 2024, defendant filed a *pro se* motion for an out-of-time appeal, which the judge granted on April 15, 2024. His appointed appellate counsel filed a brief in conformity with the procedure outlined in *State v. Bradford*, 95-929 (La. App. 5 Cir. 6/25/96), 676 So.2d 1108, 1110-11, asserting that he thoroughly reviewed the district court record and cannot find any non-frivolous issues to raise on appeal. Accordingly, pursuant to *Anders*, *supra*, and *State v. Jyles*, 96-2669 (La. 12/12/97), 704 So.2d 241, appointed appellate counsel requests permission to withdraw as counsel of record for defendant.

Facts

Tiffini Duplantis testified that she was the aunt of R.D. and E.K. (who are brother and sister). She testified that on October 19, 2021, she was given a journal by the victims' older sister that caused her concern. Ms. Duplantis notified her parents and Ashley Kenyon, her sister-in-law.

Ms. Kenyon testified that she was not married, but that Steven Vicknair was her significant other. She explained that defendant was Steven Vicknair's step-father and that Connie Vicknair was Steven's mother, whom her children called "Mimi." She said that she has four children, two of whom were the victims: R.D. and E.K. Ms. Kenyon testified that on October 19, 2021, she became aware that there was a possibility that at least one of her children was being sexually abused. She talked to E.K., and then immediately called the police.

Ms. Kenyon later brought R.D. and E.K. to the Audrey Hepburn Center for forensic interviews. She further testified that before October 19, she trusted defendant enough to allow her children to go to his home. Ms. Kenyon said that R.D. went to defendant's home almost every day. She said that R.D. and defendant liked to participate in outdoor activities like fishing, hunting, and riding four-wheelers. She stated that E.K. did not want to go there as much because there were too many rules.

Sarah McLennan, a contract forensic interviewer at the Audrey Hepburn Center, testified that on October 22, 2021, she conducted separate videotaped interviews of R.D. and E.K.

The videotaped forensic interviews were played for the jury. In his interview, R.D. said that defendant put his penis in R.D.'s "butt" and that defendant touched R.D.'s penis with his hands and his mouth. He said that these incidents occurred inside "Mimi's house" and outside her house in the shed. R.D. stated that E.K. told him that defendant also touched her "wrong."

In her forensic interview. E.K. said that defendant had touched her inappropriately, that it happened more than one time, that it started the night before her ninth birthday, that it stopped approximately two months before the interview, and that it happened at defendant's house. She explained that defendant touched and rubbed her "private part" in the front and not the place where you "pee." E.K. said that defendant touched her through her panties but underneath her pants.

Dr. Paige Culotta, a child abuse pediatrician at the Audrey Hepburn Center, testified that on October 22, 2021, she performed physical examinations of R.D. and E.K. She testified that E.K. refused the genital examination, so she conducted a head-to-toe skin examination but did not find any injuries. Dr. Culotta stated that she performed a full examination of R.D., which she found was normal. She explained that the majority of the examinations she conducted were normal examinations because many times there were delays in disclosure of the sexual abuse. Based on the totality of available information, including the history from the caregiver and the children in conjunction with the physical exams and lab work, she diagnosed that R.D. and E.K. had been subjected to child sexual abuse.

R.D., who was ten years old at the time of trial, testified that defendant raped him more than three times. R.D. further testified that defendant touched his penis with defendant's hands and mouth, and that defendant also put his penis in R.D.'s

"butt." He stated that defendant started raping him when he was about five years old. He also asserted that the last time it happened was approximately two years before the trial. R.D. testified that the first time something happened, defendant touched R.D.'s penis while they were sitting on the couch at defendant's home. He also said that defendant raped him in the shed a couple of times. R.D. said that defendant would pull R.D.'s pants down, put him on the barrel in the shed, and then put his penis in R.D.'s "butt." R.D. said that he told the truth in his forensic interview.

E.K., who was fourteen at the time of trial, testified that she told the truth in her forensic interview. She testified that defendant was her stepdad's stepdad. E.K. identified the writing in her journal as being authored by her and read out loud a statement from it: "August 28th, today I was touched in place that were [*sic*] uncomfortable." She testified that she was referring to defendant touching her vagina on the couch at her Mimi's (her stepdad's mom's) house. E.K. said that this was not the first time it happened, and that the first time it happened was the night before her ninth birthday. E.K. testified that this happened more than once, but she did not remember how many times.

Detective Katie Evans of the St. John Parish Sheriff's Office was an investigator in the case. She testified that she observed the forensic interviews of R.D. and E.K. and that she later received documentation of the forensic interviews from the Audrey Hepburn Center. She prepared and was granted an arrest warrant for defendant. The defendant's home and shed were searched. Detective Evans stated that she and her team also took photographs of defendant's home where the incidents occurred, including a shed and barrels located behind it.

Once defendant was arrested, Detective Evans met with him and another detective at the Criminal Investigations Division in an interview room. She advised defendant of his rights. Defendant signed the waiver of rights form and

gave a statement, which was audio and video recorded. She testified that in his statement, defendant admitted that he sucked on R.D.'s "pee-pee" in the shed, and that R.D's "pee-pee" was his penis. She stated that defendant also admitted that he had anal sex with R.D. "approximately four times." She further testified that defendant admitted that he touched the outside, top part of E.K.'s "p*ssy," underneath her pants but on top of her underwear.

Defendant's statement was played for the jury. The statement corroborated Detective Evans's testimony. In his statement, defendant admitted that he anally raped R.D. four times. He also admitted to putting his mouth on R.D.'s penis. Defendant stated that the oral and anal sex occurred with R.D. ten to twelve times. He also stated that he touched E.K.'s "p*ssy" with his hand in her clothes. Additionally, defendant admitted to viewing child pornography and to touching the penis of another young boy, who was ten years old at the time.

Defendant did not provide any witnesses and chose not to testify on his own behalf. The twelve-person jury unanimously found defendant guilty on all charges.

Anders Brief

Under the procedure adopted by this Court in *State v. Bradford,* 95-929 (La. App. 5 Cir. 6/25/96), 676 So.2d 1108, 1110-11, appointed appellate counsel has filed a brief asserting that he has thoroughly reviewed the trial court record and cannot find any non-frivolous issues to raise on appeal. Accordingly, pursuant to *Anders*, *supra,* and *State v. Jyles,* 96-2669 (La. 12/12/97), 704 So.2d 241, appointed counsel requests permission to withdraw as counsel of record.

In *Anders,* the United States Supreme Court stated that appointed appellate counsel may request permission to withdraw if he finds his case to be wholly frivolous after a conscientious examination of it. The request must be accompanied by "'a brief referring to anything in the record that might arguably support the appeal'" so as to provide the reviewing court "with a basis for

determining whether appointed counsel have fully performed their duty to support their clients' appeals to the best of their ability" and to assist the reviewing court "in making the critical determination whether the appeal is indeed so frivolous that counsel should be permitted to withdraw." *McCoy v. Court of Appeals of Wisconsin, Dist. 1,* 486 U.S. 429, 439, 108 S.Ct. 1895, 1902, 100 L.Ed.2d 440 (1988), *citing Anders*, 386 U.S. at 744, 87 S.Ct. at 1400.

In *Jyles*, *supra*, the Louisiana Supreme Court stated that an *Anders* brief need not tediously catalog every meritless pre-trial motion or objection made at trial with a detailed explanation of why the motions or objections lack merit. The Louisiana Supreme Court explained that an *Anders* brief must demonstrate by full discussion and analysis that appellate counsel "has cast an advocate's eye over the trial record and considered whether any ruling made by the trial court, subject to the contemporaneous objection rule, had a significant, adverse impact on shaping the evidence presented to the jury for its consideration." *Id.*

When conducting a review for compliance with *Anders*, an appellate court must conduct an independent review of the record to determine whether the appeal is wholly frivolous. *Bradford*, 676 So.2d at 1110. That review should include an examination of (1) the bill of information to insure the defendant was properly charged; (2) all minute entries to insure the defendant was present at all crucial stages of the proceedings, the jury composition and verdict were correct, and the sentence is legal; (3) all pleadings that are in the record; and (4) all transcripts to determine if any ruling provides an arguable basis for appeal. *Id.* at 1110-11.

If, after an independent review, the reviewing court determines there are no non-frivolous issues for appeal, it may grant counsel's motion to withdraw and affirm the defendant's conviction and sentence. However, if the court finds any legal point arguable on the merits, it may either deny the motion and order the

court-appointed attorney to file a brief arguing the legal point(s) identified by the court or grant the motion and appoint substitute appellate counsel. *Id.*

Analysis

Defendant's appellate counsel asserts that after a conscientious and thorough review of the trial court record, he could find no non-frivolous issues to raise on appeal and could find no trial court rulings that would arguably support the appeal. Counsel states that the indictment shows that defendant was properly charged and that the minute entries reflect that defendant appeared at all crucial stages of the proceedings against him. As to motions that were filed, counsel points out that after entering not guilty pleas, defendant's trial counsel filed several motions, including motions to suppress evidence, identification, and confession. Counsel asserts that the trial court held a hearing and properly ruled upon each motion. Counsel explains that the trial was properly conducted, that the verdicts rendered by the twelve-person jury were unanimous and in proper form, and that the trial court imposed legal sentences within the statutory ranges after the proper delays.

Appellate counsel filed a motion to withdraw as attorney of record that states he has notified defendant of the filing of this motion and his right to file a *pro se* brief in this appeal. Additionally, this Court sent defendant a letter informing him that an *Anders* brief had been filed and giving him a deadline to file a *pro se* supplemental brief. Defendant has not filed a brief as of the date of this opinion.

The State filed a brief in this matter, concurring with appellate counsel's assertion that there are no non-frivolous issues for appeal.

Our independent review of the record supports appellate counsel's assertion that there are no non-frivolous issues to be raised on appeal. The bill of indictment correctly charged defendant and plainly and concisely stated the essential facts constituting the charged offenses. The indictment sufficiently identified defendant and the crimes charged. *See generally* La. C.Cr.P. arts. 464-466. The record

reflects that defendant appeared at each stage of the proceedings against him, including his arraignment, motion hearing, trial, and sentencing. We further find that the jury was properly comprised of twelve members, that the offenses were properly joined, and that the jury reached unanimous verdicts on each of the seven counts.

Defense counsel filed omnibus pretrial motions, including a motion to suppress the statement, a motion to suppress the evidence, a motion to suppress the identification, a motion for preliminary examination, and a motion for discovery. On the hearing on December 7, 2022, defendant's trial counsel explained that because everything was done in accordance with the law, she was waiving those motions. Further, as to the motion to suppress evidence, namely the confession, it was clear from the record that defendant was advised of his Miranda rights, waived them, and proceeded to give a free and voluntary statement. As such, the trial court judge was correct in denying the motion to suppress and allowing the statement to be entered into evidence.

Additionally, the State filed a notice of intent to introduce evidence under La. C.E. art. 412.2, which sought to introduce evidence that defendant admitted in his statement to viewing child pornography and to having a sexual relationship with a minor other than the minor victims in the instant case. Defendant admitted in his statement that he had viewed child pornography and that he touched the penis of another young boy, who was ten years old at the time. Thus, the trial court properly granted the State's motion and admitted this evidence at trial because these acts reflect sexually assaultive behavior or a lustful disposition toward children under Article 412.2. In our review of all transcripts in the record, including those from the motion hearings and trial, we find no ruling which would support an arguable basis for appeal.

Our review of the record for sufficiency of evidence pursuant to *State v. Raymo*, 419 So.2d 858, 861 (La. 1982), establishes that the evidence presented was sufficient under the *Jackson* [2] standard to establish the essential statutory elements of first-degree rape, sexual battery, and oral sexual battery. *See* La. R.S. 14:42; La. R.S. 14:43.1; La. R.S. 14:43.3. Additionally, the sentences imposed are within the sentencing ranges prescribed by the statutes. Considering the facts and circumstances in this case, the sentences imposed, to be run concurrently, are not unconstitutionally excessive. As such, defendant's sentences do not provide a basis for appeal in this matter. *See State v. Tenner*, 24-51 (La. App. 5 Cir. 10/16/24), 398 So. 3d 761, 766 (upholding sentences that were within the sentencing ranges prescribed by applicable statutes.)

Our review indicates that appellate counsel's brief demonstrates by full discussion and analysis that he has complied with the requirements of *Anders, supra*. Accordingly, appellate counsel's motion to withdraw as attorney of record is granted.

Errors Patent Review

We reviewed the record for errors patent according to La. C.Cr.P. art. 920; *State v. Oliveaux*, 312 So.2d 337 (La. 1975); and *State v. Weiland*, 556 So.2d 175 (La. App. 5 Cir. 1990).

Sex Offender Registration

The record reflects that the trial court failed to inform defendant of the sex offender registration requirements in accordance with La. R.S. 15:540, *et seq.* Defendant was convicted of four counts of first degree rape in violation of La. R.S. 14:42; two counts of sexual battery in violation of La. R.S. 14:43.1; and one count

[2] The test for sufficiency of the evidence under *Jackson v. Virginia*, 443 U.S. 307, 319, 99 S. Ct. 2781, 2789, 61 L. Ed. 2d 560 (1979), is "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." (Emphasis in original.)

of oral sexual battery in violation of La. R.S. 14:43.3. These offenses are defined as sex offenses under La. R.S. 15:541(24). La. R.S. 15:543(A) requires that the trial court notify a defendant charged with a sex offense in writing of the registration requirements of La. R.S. 15:542.

The trial court's failure to provide the notification constitutes a patent error and warrants a remand for written notification, even when a life sentence has been imposed. *State v. Simoneaux*, 23-400 (La. App. 5 Cir. 7/10/24), 392 So.3d 949, 962, *citing State v. Doucet*, 17-200 (La. App. 5 Cir. 12/27/17), 237 So.3d 598, 609-10, *writs denied*, 18-77 (La. 10/8/18), 253 So.3d 789, and 18-196 (La. 11/5/18), 255 So.3d 1052. Accordingly, we remand this case to the trial court with instructions to the trial judge to inform defendant of the registration requirements for sex offenders by sending appropriate written notice to defendant and to file written proof in the record that defendant received such notice.

Correction of Disposition Dates

The uniform commitment order (UCO) reflects that the disposition date for counts one through four, six, and seven was October 23, 2023. The UCO also reflects that the disposition date for count five was October 24, 2023. However, the transcripts reflect that the disposition date, or date of conviction, was September 20, 2023, and that the sentencing date was October 23, 2023.

Therefore, we remand this case for correction of the UCO to accurately reflect the noted discrepancies. *See State v. Starks*, 20-429 (La. App. 5 Cir. 11/3/21), 330 So. 3d 1192, 1200 (wherein this Court remanded the case correction of the adjudication date in the UCO).

The Clerk of Court for the 40th Judicial District Court is ordered to transmit the original of the corrected UCO to the appropriate authorities in accordance with La. C.Cr.P. art. 892(B)(2) and the Department of Corrections' legal department.

Post-Conviction Relief Advisal

The transcript reflects that at the sentencing on October 23, 2023, the trial judge failed to inform defendant of the prescriptive period to seek post-conviction relief pursuant to La. C.Cr.P. art. 930.8. The trial court brought defendant back on November 8, 2023 to advise him of the prescriptive period to seek post-conviction relief. However, on that date the trial court did not correctly advise defendant. Further, the sentencing minutes for that date are inconsistent.

It is well-settled that if a trial court fails to advise, or provides an incomplete advisal, pursuant to La. C.Cr.P. art. 930.8, the appellate court may correct this error by informing the defendant of the applicable prescriptive period for post-conviction relief by means of its opinion. *Tenner*, 398 So. 3d at 767. Accordingly, we advise defendant that no application for post-conviction relief, including applications that seek an out-of-time appeal, shall be considered if filed more than two years after the judgment of conviction and sentence has become final under the provisions of La. C.Cr.P. arts. 914 or 922.

Decree

For the foregoing reasons, defendant's convictions and sentences are affirmed. This matter is remanded for correction of the Uniform Commitment Order. We also remand the matter to the trial court to notify defendant of the sex offender registration requirements. Appellate counsel's motion to withdraw as attorney of record is granted.

AFFIRMED; REMANDED WITH INSTRUCTIONS; MOTION TO WITHDRAW GRANTED.

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NOTICE OF JUDGMENT AND CERTIFICATE OF DELIVERY

I CERTIFY THAT A COPY OF THE OPINION IN THE BELOW-NUMBERED MATTER HAS BEEN DELIVERED IN ACCORDANCE WITH **UNIFORM RULES - COURT OF APPEAL, RULE 2-16.4 AND 2-16.5** THIS DAY **MAY 21, 2025** TO THE TRIAL JUDGE, CLERK OF COURT, COUNSEL OF RECORD AND ALL PARTIES NOT REPRESENTED BY COUNSEL, AS LISTED BELOW:

Curtis B. Pursell

CURTIS B. PURSELL
CLERK OF COURT

24-KA-470

E-NOTIFIED
40TH DISTRICT COURT (CLERK)
HONORABLE NGHANA LEWIS (DISTRICT JUDGE)
GEOFFREY M. MICHEL (APPELLEE)
PRENTICE L. WHITE (APPELLANT)

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