Fifth Circuit Court of Appeal
State of Louisiana

No. 25-KA-9

STATE OF LOUISIANA

versus

RONALD S. NEWTON

ON APPEAL FROM THE TWENTY-FOURTH JUDICIAL DISTRICT COURT
PARISH OF JEFFERSON, STATE OF LOUISIANA
NO. 22-5971, DIVISION "P"
HONORABLE LEE V. FAULKNER, JR., JUDGE PRESIDING

December 23, 2025

FREDERICKA HOMBERG WICKER

JUDGE

Panel composed of Judges Susan M. Chehardy,
Fredericka Homberg Wicker, and Jude G. Gravois

CONVICTION AND SENTENCE ON COUNT FOUR REVERSED; MATTER REMANDED FOR CORRECTION OF UNIFORM COMMITMENT ORDER AS TO COUNTS TWO AND THREE

FHW
SMC

GRAVOIS, J., CONCURS IN PART AND DISSENTS IN PART, WITH REASONS

JGG

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WICKER, J.

Defendant Ronald S. Newton appeals his conviction for obstruction of justice in violation of La. R.S. 14:130.1. Because we find the evidence was insufficient to support Defendant's conviction for obstruction of justice, we reverse the conviction and sentence on this count.

BACKGROUND

Procedural History

On December 8, 2022, a Jefferson Parish Grand Jury indicted Defendant with the first-degree murder of Earl Ellsworth III in violation of La. R.S. 14:30 (count one); two counts of possession of a firearm by a convicted felon in violation of La. R.S. 14:95.1 (counts two and three); and obstruction of justice in violation of La. R.S. 14:130.1 (count four). At arraignment, Defendant pled not guilty.

On March 19, 2024, after a two-day trial, a twelve-person jury found Defendant guilty as charged on all counts. On April 3, 2024, the trial court sentenced Defendant to life imprisonment without the benefit of parole, probation, or suspension of sentence as to count one; twenty years imprisonment at hard labor as to counts two and three; and ten years imprisonment at hard labor as to count four—all sentences were ordered to run concurrently.

On September 20, 2024, Defendant filed an application for post-conviction relief claiming ineffective assistance of counsel and denial of constitutional rights due to his counsel's alleged failure to appeal his conviction and sentence. Thereafter, defense counsel filed for an out-of-time appeal, which the trial court granted on October 4, 2024, and then accordingly denied Defendant's APCR as moot.

Trial Evidence

On August 25, 2022, what began as a fistfight between feuding factions of the Newton family, ended with Defendant shooting and killing Earl Ellsworth. One faction of the Newton family lived, or spent time, in the house of Defendant's

mother, Nia Newton, at 6432 Millender Drive in Marrero. Living there along with Nia were her daughter, Defendant and his minor child, and Aniah Newton who is Nia's niece and Defendant's cousin. Defendant's girlfriend, Ferrionne Recasner, also spent time at the Millender house. The other faction of the Newton family lived, or spent time, in the Sandpiper Apartment Complex, Apartment 102, at 2416 Pasadena Avenue in Metairie. Anastasia Newton lived there with her boyfriend Khalil Jackson. Earl Ellsworth, who was Anastasia Newton's best friend, also spent time at the Pasadena apartment. Nia Newton is Anastasia Newton's aunt, Defendant is her cousin, and Aniah Newton is her younger sister.

At trial, the State called fifteen witnesses including Anastasia Newton, Khalil Jackson, and Aniah Newton, through whose testimony the first-degree murder of Earl Ellsworth by Defendant is told in clear detail. The State also called Officer Chris Ohlmeyer, who was the first deputy to arrive at the murder scene; Detective Anthony Buttone, who was the lead homicide detective; two other detectives who assisted in the investigation; the deputy coroner who conducted the autopsy of Earl Ellsworth; the firearms examiner who tested the weapons and bullets found; and the digital forensic specialist who analyzed Defendant's cell phone data. In addition to recalling some of the State's witnesses, the Defense also called Nia Newton to testify on behalf of Defendant.

The events of August 25, 2022, as well as the immediate aftermath, are recounted through the trial testimony of those witnesses, below.

1. The Fight

Anastasia Newton testified that on the afternoon of August 25, 2022, she had a verbal and then physical altercation with Defendant's girlfriend, Ferrionne Recasner. The verbal dispute began on Instagram and escalated when Anastasia Newton drove from her Pasadena apartment across the river to the Millender house where Ferrionne Recasner lived. Anastasia Newton's boyfriend, Khalil Jackson, and

her best friend, Earl Ellsworth, accompanied her.

Upon arrival, Anastasia Newton and Ferrionne Recasner started to fistfight. Friends from both sides eventually joined in. Nia Newton joined the fight to support Ferrionne Recasner. Khalil Jackson and one other friend joined to support Anastasia Newton. Earl Ellsworth did not participate in the fight, but he did record it. The fight concluded when Anastasia kicked Ferrionne and rammed her head into the ground. Anastasia then drove back across the river to her Pasadena apartment with Khalil Jackson and Earl Ellsworth.

Nia Newton and Khalil Jackson's testimony, as well as Jefferson Parish Sheriff's Office (JPSO) evidence, such as the 9-1-1 call, confirm Anastasia Newton's account of the verbal and physical fight. The two witnesses and physical evidence confirmed that Anastasia Newton instigated an altercation with Ferrionne Recasner and drove across the river to the Millender house to fight her; that Earl Ellsworth recorded the fight but did not participate; and that following the fistfight, Anastasia Newton returned to her Pasadena apartment with Khalil Jackson and Earl Ellsworth.

Neither Defendant nor Aniah Newton was present at the Millender house during the fight; Aniah Newton was at school and Defendant was at work. Aniah Newton testified that after school, she saw Defendant return to the Millender house from work. He appeared angry, retrieved a gun from inside the house, and then left with Ferrionne Recasner and two other women. Believing Defendant intended to attack her sister, Anastasia Newton, due to the earlier fight, Aniah Newton drove to the Pasadena apartment to warn her sister. Nia Newton also testified that she saw Defendant return home from work that day. She recalled that he left the Millender house with a gun, but she did not remember the gun ever having been inside her house.

2. The Murder

Anastasia Newton testified that after returning to her Pasadena apartment, a warning call from her brother prompted her to look through her front door's peephole. She saw Defendant standing outside, knocking and holding a gun. Anastasia told Defendant to "chill out" through the closed door, refusing him entry. She stated Defendant then kicked the door open and forced his way into the apartment.

Once Defendant was inside, Anastasia ran into her bedroom to retrieve her gun—an orange gun stored inside a bag with the magazine detached but in the same bag because the gun does not have a safety. Khalil Jackson and Earl Ellsworth followed her into the bedroom, and the three then moved into the bathroom. In the bathroom, Khalil and Earl attempted to remove the gun and magazine from the bag while Anastasia hid further inside the bathroom closet. From the closet, Anastasia heard the bathroom door open and ended her call with her brother to dial 9-1-1. As she did, Earl opened the closet door, and Anastasia saw blood coming from his mouth. Earl told her to call the police. Anastasia remained in the bathroom closet until the police arrived. She identified the victim as her friend, Earl Ellsworth, and the perpetrator as her cousin, Defendant Ronald Newton.

Khalil Jackson's testimony corroborated the events at the Pasadena apartment. He testified that he saw Defendant kick the apartment door open, after which he, Anastasia Newton, and Earl Ellsworth ran through the bedroom into the bathroom. They closed the bathroom door, and Anastasia hid in the closet. Khalil stated that Earl Ellsworth hid with Anastasia's gun in the bathroom tub, and Khalil held the door shut to prevent Defendant from entering. He heard banging at the bathroom door and then saw Defendant kick it open.

Once inside the bathroom, Defendant pistol-whipped Khalil Jackson on the forehead, causing him to fall. Khalil stated he did not hear or see much after that,

and did not hear any gunshots. While still on the ground, Khalil saw Defendant leave the apartment. Khalil identified the victim as Earl Ellsworth and the perpetrator as Defendant Ronald Newton.

Aniah Newton testified that she drove to the Pasadena apartment after the Millender fistfight to warn her sister, Anastasia. When she arrived, she saw the apartment door had been kicked in. She saw Defendant and his girlfriend, Ferrionne Recasner, and confirmed she saw Defendant had a gun. Aniah did not see Defendant fire the gun but heard gunshots. After the shots, Aniah attempted to enter the bathroom. Upon opening the door, she saw Khalil's bloody face. Ferrionne Recasner then dragged Aniah back out, and they returned to the Millender house.

JPSO Officer Chris Ohlmeyer testified that he received a call at 7:31 p.m. reporting that "somebody was killed" at the Pasadena apartment. He responded at 7:39 p.m. Upon arrival, Officer Ohlmeyer observed that the door was slightly ajar, showing signs of forced entry. He first encountered Khalil Jackson, who had blood on his shirt, and secured him outside. Continuing inside, the Officer located Anastasia Newton, who was yelling frantically and appeared scared, inside the bedroom's bathroom closet. He then found the body of a man, later identified as the victim, Earl Ellsworth, on the bathroom floor, appearing deceased. Police found an orange gun on the floor next to the victim.

3. The Obstruction (Tampering)

JPSO Detective Anthony Buttone, the lead homicide investigator, interviewed Anastasia Newton and Khalil Jackson separately. Both witnesses identified Defendant Ronald Newton as the perpetrator and provided his Millender house address. During her interview, Anastasia Newton expressed concern for her sister, Aniah Newton, who lived at the Millender house. Detective Buttone dispatched patrol officers and detectives to the residence. He also learned about the earlier fistfight at the Millender house before the murder and later interviewed Aniah

Newton.

JPSO Detective Harold Wischan, a homicide investigator, documented the shooting at the Pasadena apartment. He identified a photograph of an orange 9mm SCCY pistol found unattached to its magazine near the victim's foot. Detective Wischan also identified a photograph of a spent 9mm cartridge casing. JPSO Detective Darvelle Carter assisted the investigation by collecting surveillance video from the apartment complex and doorbell camera footage from the Millender house. Detective Carter also identified a photograph of a 9mm Taurus firearm recovered from the Millender house.

Doorbell camera video from the Millender house captured key events. At 4:40 p.m., the motion-activated doorbell camera captured Anastasia Newton approaching the house just before the ensuing fistfight. The fight itself occurred outside the camera's motion range. Post-fight, the camera captured Nia Newton placing a 9-1-1 call and leaving the house with a firearm. At 6:37 p.m., Defendant clocked out of work and returned home. The doorbell camera captured him approaching the house and then leaving shortly thereafter with a firearm, which appeared to be a rifle. He is captured wearing the same neon green reflective vest he wore to work. He is seen leaving the house with Ferrionne Recasner and two other women.

The surveillance video from the Pasadena apartment complex also captured key events of the complex's exterior entrance. At 7:27:35 p.m., the video captured Defendant, still wearing his reflective work vest, approaching the complex with several women, including Aniah Newton, Ferrionne Recasner, and two others. The group entered the interior hallway leading to Apartment 102. At 7:29:43 p.m., the video showed Defendant running from the complex in his reflective vest. Detective Buttone observed that Defendant appeared to be trying to conceal his face by holding the vest up as he ran out. Detective Buttone saw Defendant and the other individuals

run out of the camera's view. Anastasia Newton called 9-1-1 at 7:30 p.m.

Following the homicide, the doorbell camera at Millender captured Defendant and Ferrionne returning to Millender and later leaving the residence with bags. Detective Buttone confirmed Defendant and Ferrionne Recasner were gone by the time police arrived.

On August 30, 2022, five days after the murder, U.S. Marshals located and apprehended Defendant and Ferrionne Recasner at a Best Western on Magazine Street in New Orleans. The hotel room contained Defendant's social security card, Texas ID, two cell phones, and a firearm "sighting mechanism." No firearms were recovered. Detectives found Ferrionne's black Honda Accord near the Best Western hotel. Detective Buttone testified that Defendant was in this vehicle on the night of the homicide, as seen in the surveillance videos. Investigators found Ferrionne's identification and Defendant's work boots inside the vehicle, which matched the boots he wore in the surveillance videos. An August 29, 2022 surveillance video from the Best Western showed Defendant wearing a mask that police later located in Ferrionne Recasner's vehicle. The hotel room rental agreement was in her name.

Detective Buttone confirmed that the orange SCCY gun (Anastasia's gun) and the Taurus gun were not the murder weapon. He stated the murder weapon was a newer model Glock handgun that police never recovered. Erin Campbell, a stipulated expert in firearms and tool mark examination from the East Baton Rouge Parish Sheriff's Office, testified that she compared the two firearms (9mm SCCY and 9mm Taurus) to the fired cartridge casing found on the bathroom floor, and confirmed that neither firearm fired the cartridge. The cartridge had a distinct marking consistent with a "newer model Glock." Campbell also examined the bullet recovered from the victim's body. Neither the Taurus nor SCCY firearms could have fired the bullet because the rifling was different. The bullet was also consistent with a newer model Glock.

JPSO Detective Dustin Ducote, a stipulated expert in mobile device forensics, extracted data from two cell phones (Samsung and Apple iPhone) seized from Defendant's hotel room. According to the call logs, Defendant and Ferrionne made and received various calls from each other between 4:45 p.m.–7:00 p.m. on August 25, 2022. At 7:01 p.m., Defendant called Ferrionne and spoke for nineteen minutes. Defendant then missed a call from Ferrionne at 7:27 p.m., and called her back at 7:33 p.m. Defendant called his mother, Nia Newton, at 7:47 p.m. Detective Buttone testified that Defendant's AT&T cell phone records, as well as the cell tower records, reflected that, on the day of the murder, Defendant was at work during the day, went to the Millender house after work, then went to the Pasadena apartment, and then returned home to the Millender house.

Detective Ducote testified that he located a photo on Defendant's phone that was taken on July 23, 2022. He stated that the data revealed that the photo was not taken by Defendant's phone and was sent to him by someone else. The geographic location showed that it was taken on the Westbank of Jefferson Parish. The photo depicted Defendant with three firearms in front of him, one on his waistband, and one in his hand. Another photo was located of Defendant posing differently with the firearms. The data revealed that the photos were received by Defendant's phone on July 24, 2022, and saved to the phone. Defendant posted the photos on August 10, 2022 and captioned it, "Stop playing. If I tell him, get 'em, it's dead meat." Detective Buttone testified that, in the photograph of Defendant with his firearms taken from the cell phone data, one of the guns depicted was consistent with the gun Defendant was seen carrying in the surveillance video when he left the Millender house prior to the homicide.

A message recovered from Defendant's Samsung phone (activated post-homicide) sent on August 28, 2022, stated, "I really can't pop out bro…I got some sh** over my head I'm dealing with right now but I got a room in the French

Quarters…I gotta really run it wit you gang frfr." Another message from August 29, 2022, stated, "I'm still in the French Quarters but different spot." Defendant was apprehended by U.S. Marshals on August 30, 2022. To date, the murder weapon has not been recovered.

ANALYSIS

Assignment of Error

In his sole assignment of error, Defendant asserts that "The evidence was insufficient to establish that Newton had the specific intent to obstruct justice merely by leaving the scene with the firearm he brought there." Defendant argues that his action of leaving the crime scene with the firearm in his possession did not support a finding of specific intent to obstruct justice. He argues that to the contrary, specific intent was negated by the fact that he left the murder scene without picking up the shell casing that he left there and the lack of evidence that he sought to intimidate any of the witnesses to the shooting. He argues that in *State v. Ramirez-Delgado*, 24-119 (La. App. 5 Cir. 12/18/24), 409 So.3d 953, this Court held that "merely leaving the scene of the crime with the murder weapon" without more, cannot support an obstruction conviction. He also argues that *Ramirez-Delgado* and *State v. Scott*, 23-22 (La. App. 4 Cir. 8/30/23), 372 So.3d 42, *writs denied*, 23-1317, 23-1318 (La. 3/19/24), 381 So.3d 707, held that leaving shell casings at the scene and not intimidating or harming eyewitnesses to the shooting contradict a finding of specific intent to distort the results of a police investigation.

The State replies that the jury's decision to convict for obstruction of justice was entirely rational. The State argues that Defendant's disposal of the weapon was proven by circumstantial evidence, and it supported the jury's finding. It avers that this Court's decision in *Ramirez-Delgado* was not instructive and has little factual parity with this case. The State argues that the logical inference in the instant matter is that Defendant disposed of the murder weapon hoping to obstruct the murder

investigation. The State argues that the instant matter is far more in line with this Court's recent decision in *State v. Lopez*, 23-335 (La. App. 5 Cir. 8/21/24), 398 So.3d 167, *writ denied*, 24-1187 (La. 1/14/25), 398 So.3d 650. The State avers that the assignment is without merit.

In *Jackson v. Virginia*, the Supreme Court of the United States explained that, in reviewing the sufficiency of the evidence, an appellate court must determine if the evidence, whether direct or circumstantial, or a mixture of both, viewed in the light most favorable to the prosecution, was sufficient to convince a rational trier of fact that all the elements of the crime have been proven beyond a reasonable doubt. 443 U.S. 307, 319, 99 S.Ct. 2781, 61 L.Ed.2d 560 (1979). Evidence may be either direct or circumstantial. Circumstantial evidence consists of proof of collateral facts and circumstances from which the existence of the main fact can be inferred according to reason and common experience. *State v. Gatson*, 21-156 (La. App. 5 Cir. 12/29/21), 334 So.3d 1021, 1034. When circumstantial evidence is used to prove the commission of an offense, La. R.S. 15:438 provides that "assuming every fact to be proved that the evidence tends to prove, in order to convict, it must exclude every reasonable hypothesis of innocence." *State v. Woods*, 23-41 (La. App. 5 Cir. 11/15/23), 376 So.3d 1144, 1155, *writ denied*, 23-1615 (La. 5/29/04), 385 So.3d 700. This is not a separate test from the *Jackson* standard set out by the Supreme Court, but rather provides a helpful basis for determining the existence of reasonable doubt. All evidence, both direct and circumstantial, must be sufficient to support the conclusion that the defendant is guilty beyond a reasonable doubt. *Id*.

The directive that the evidence be viewed in the light most favorable to the prosecution requires the reviewing court to defer to the actual trier of fact's rational credibility calls, evidence weighing, and inference drawing. *State v. Aguilar*, 23-34 (La. App. 5 Cir. 11/15/23), 376 So.3d 1105, 1108. This deference to the fact-finder precludes a reviewing court from deciding whether it believes a witness or whether

the conviction is contrary to the weight of the evidence. *State v. McKinney*, 20-19 (La. App. 5 Cir. 11/4/20), 304 So.3d 1097, 1102. As a result, under the *Jackson* standard, a review of the record for sufficiency of the evidence does not require the reviewing court to determine whether the evidence at the trial established guilt beyond a reasonable doubt, but rather whether, upon review of the whole record, any rational trier of fact would have found guilt beyond a reasonable doubt. *Id.* at 1103.

In making this determination, a reviewing court will not re-evaluate the credibility of witnesses or re-weigh the evidence. *Woods*, 376 So.3d at 1157. Indeed, the resolution of conflicting testimony rests solely with the trier of fact, who may accept or reject, in whole or in part, the testimony of any witness. *State v. Lavigne*, 22-282 (La. App. 5 Cir. 5/24/23), 365 So.3d 919, 940. Thus, in the absence of internal contradiction or irreconcilable conflicts with physical evidence, the testimony of one witness, if believed by the trier of fact, is sufficient to support a conviction. *State v. Sly*, 23-60 (La. App. 5 Cir. 11/2/23), 376 So.3d 1047, 1072, *writ denied*, 23-1588 (La. 4/23/24), 383 So.3d 608.

Here, Defendant was convicted of obstruction of justice in violation of La. R.S. 14:130.1,[1] which defines the crime as:

> A. The crime of obstruction of justice is any of the following when committed with the knowledge that such act has, reasonably may, or will affect an actual or potential present, past, or future criminal proceeding as described in this Section:
>
> (1) Tampering with evidence with the specific intent of distorting the results of any criminal investigation or proceeding which may reasonably prove relevant to a criminal investigation or proceeding. Tampering with evidence shall include the intentional alteration, movement, removal, or addition of any object or substance either:
>
> (a) At the location of any incident which the perpetrator knows or has good reason to believe will be the subject of any investigation by state, local, or United States law enforcement officers; or
>
> (b) At the location of storage, transfer, or place of review of any such evidence.

[1] The law in effect at the time of the crime was La. R.S. 14:130.1, as amended by Acts 2021, No. 212 § 1.

La. R.S. 14:130:1(A)(1). In count four of the indictment, the State alleged that between August 25, 2022 and August 30 2022, Defendant violated La. R.S. 14:130.1 in that he "obstructed justice in a first degree murder investigation, by intentionally removing the 9mm semi-automatic handgun he used to shoot the victim, Earl Ellsworth III, from the crime scene when he knew or had good reason to know the weapon may prove relevant to a criminal investigation or proceeding by state, local or United States law enforcement officers with the knowledge that such act has, reasonably may, or will affect an actual or potential present, past or future criminal proceeding[.]"

"Specific intent" is the state of mind that exists when circumstances indicate the offender actively desired prescribed criminal consequences to follow his act. La. R.S. 14:10(1). Under La. R.S. 14:130.1(A)(1), obstruction of justice is a specific intent crime. *Lopez*, 398 So.3d at 181. To support a conviction, the State must prove more than the mere removal of evidence from a crime scene; the State must also prove that such removal was done with "the specific intent of distorting the results of any criminal investigation or proceeding which may reasonably prove relevant to a criminal investigation or proceeding." La. R.S. 14:130.1(A)(1); *Lopez*, 398 So.3d at 167. The knowledge requirement of obstruction of justice is met if the perpetrator merely knows that an act "reasonably may" affect a criminal proceeding. The statute does not require the criminal proceeding actually be affected; the perpetrator just must know and understand that the act reasonably may affect the proceeding. *State v. Loggins*, 23-519 (La. App. 5 Cir. 10/30/24), 397 So.3d 1265, 1280.

In *Scott*, 372 So.3d at 54–55, cited by Defendant, the defendant in that case argued there was insufficient evidence to convict him of obstruction of justice because the State did not definitively prove he removed the firearm from the crime scene. The State asserted that the evidence was sufficient to convict the defendant

of obstruction of justice because there was ample evidence for the jury to conclude that he fled the scene with the assault rifle he used to shoot the victims. Video surveillance showed the defendant fleeing the scene, yet there was no footage of him leaving the rifle there. Moreover, the crime lab searched the crime scene for the defendant's rifle but never recovered it. Based on those circumstances, the State argued that a rational juror could infer the defendant took his rifle with him when he left the crime scene.

In *Scott*, the Fourth Circuit explained that, assuming the State established that the defendant fled the crime scene with his assault rifle, this evidence was not sufficient to prove beyond a reasonable doubt that he possessed the specific intent to distort the police investigation. 372 So.3d at 54–55. The court stated that the hypothesis that the defendant had the specific intent to distort the results of the police investigation when he left the crime scene was contradicted by the fact that he left behind shell casings (instead of collecting the shell casings ejected from his rifle), video surveillance (instead of destroying the video surveillance that documented his presence in the neighborhood shooting at the SUV), and witnesses (instead of harming the witnesses that were outside on the street at the time of the shooting incident). The court explained that from this evidence, a rational juror could have inferred that, in taking the firearm with him, the defendant gave no thought to interfering with the results of a criminal investigation or proceeding. Therefore, the Fourth Circuit found that the evidence was insufficient to support the conviction for obstruction of justice and vacated it accordingly.

In *Ramirez-Delgado*, 409 So.3d at 961–63, cited by Defendant, this Court found that the evidence was insufficient to prove that the defendant intentionally moved or removed the gun from the scene or that he did so with specific intent of distorting the results of a criminal investigation or proceeding. In that case, the defendant left the crime scene with the murder weapon in a vehicle registered to his

name, drove to the airport, and then left the gun in the vehicle. Video surveillance showed the defendant leaving the crime scene in said vehicle. The defendant did not collect the shell casing from the crime scene, destroy any surveillance video of him, or harm the person who witnessed the shooting. There was no testimony or evidence that the defendant discussed hiding or destroying the gun with anyone after the shooting. As a result, this Court found that the evidence presented did not show that, in taking the gun with him, the defendant gave any thought to interfering with the results of a criminal investigation or proceeding. In support of its holding, this Court cited to *Scott* as well as other Fourth Circuit cases, to demonstrate that "[o]ther cases have required more than merely leaving the scene of the crime with the murder weapon to support an obstruction of justice conviction." 409 So.3d at 962.

Specifically, this Court pointed out that in *State v. Alexander*, 23-540 (La. App. 4 Cir. 4/23/24), 401 So.3d 105, *writ denied*, 24-665 (La. 12/11/24), 396 So.3d 968, *cert. denied*, 2025 WL 1603621 (2025), the defendant was convicted of second-degree murder and obstruction of justice, where the gun used in the shooting was never recovered. In affirming the obstruction of justice conviction, the Fourth Circuit in *Alexander* acknowledged its prior decision in *Scott*, but pointed out that in the case currently before it the State had presented additional evidence that the defendant had also deleted records of a phone call to a cab company requesting transportation to the area where the murder occurred. This Court also pointed out that in *State v. Bethley*, 22-849 (La. App. 4 Cir. 6/21/23), 368 So.3d 1148, 1155, *writ denied*, 23-965 (La. 1/17/24), 377 So.3d 242, the Fourth Circuit emphasized that, during the defendant's testimony, he responded evasively to questions about the whereabouts of the firearm and never provided a direct answer. The court concluded that it was reasonable to infer from this evidence that the defendant left the crime scene with the firearm knowing it would be important to a criminal investigation.

In *Lopez*, 398 So.3d at 181–82, cited by the State, this Court found the

evidence sufficient to support the jury's obstruction of justice conviction. In that case, the jury viewed video evidence and heard witness testimony identifying the defendant as the shooter. Another witness testified that, after the shooting, the defendant kept the gun when he exited the vehicle. The jury also heard testimony that the defendant fled to Florida, where he was ultimately apprehended, but the gun was never found. Based on the evidence presented, this Court found the jury was satisfied that the State met its burden of proving the defendant intended to interfere with the investigation, and that, in applying the appropriate standard for evaluating the sufficiency of the evidence, it could not say the jury erred in finding the defendant guilty of obstruction of justice beyond a reasonable doubt. *But see id.* at 185–88 (Wicker, J., dissenting) (disagreeing with the majority's decision to affirm the conviction and sentence for obstruction of justice because, even if the defendant had removed the gun from the scene of the shooting, the evidence was insufficient to prove that he had the specific intent to distort the results of a criminal proceeding).

In *State v. Lee*, 24-419 (La. App. 5 Cir. 5/28/25), 415 So.3d 487, 492–94, *writ denied*, 25-870 (La. 12/9/25), -- So.3d --, 2025 WL 352526, *1, this Court also upheld the defendant's conviction for obstruction of justice. There, the defendant was found guilty of second-degree murder of the victim in a hotel room, where there were no witnesses to the murder itself and no direct evidence to tie him to a murder weapon. The murder weapon was not located, but spent casings were found in the hotel room that matched the same brand and caliber as a bag of ammunition found in the defendant's possession. Evidence on the defendant's cell phone also produced a photograph of the victim's firearm (taken on the night of the murder), which the defendant was attempting to trade for another firearm, one week after the murder. This Court explained why these facts were sufficient to uphold the defendant's conviction for obstruction of justice, stating:

> Circumstantial evidence consists of proof of collateral facts and circumstances from which the existence of the main fact can be inferred according to reason and common experience. *Jacobs*, 67 So.3d at 551. In this instance, we can infer that the defendant murdered the victim and removed the murder weapon from the scene of the crime. We can also infer that, when removing the gun from the crime scene and making it impossible to locate, the defendant intended to thwart the police investigation that followed.

Id. at 493–94.

In the instant case, the State alleged in count four of the indictment that, between August 25, 2022 and August 30 2022, Defendant violated La. R.S. 14:130.1 in that he "obstructed justice in a first degree murder investigation, by intentionally removing the 9mm semi-automatic handgun he used to shoot the victim, Earl Ellsworth III, from the crime scene when he knew or had good reason to know the weapon may prove relevant to a criminal investigation or proceeding by state, local or United States law enforcement officers with the knowledge that such act has, reasonably may, or will affect an actual or potential present, past or future criminal proceeding[.]" We find that the State did not present sufficient evidence to prove beyond a reasonable doubt that Defendant removed the gun from the crime scene with the specific intent to distort the results of any criminal investigation or proceeding relevant to an investigation.

Three witnesses, Anastasia and Aniah Newton, and Khalil Jackson, testified that Defendant had a gun at the time of the homicide. Cell phone location evidence provided that at the time of the homicide, Defendant's phone was hitting the tower closest to the Pasadena apartment. Testimony reflected that a fired cartridge casing found at the scene and a bullet recovered from the victim's body were not fired from either Anastasia's orange SCCY firearm located at the scene or the Taurus firearm located at Defendant's residence. Testimony showed both the casing and bullet were consistent with being fired from a newer model Glock firearm, but that such a firearm was never recovered. And video surveillance showed Defendant enter the

apartment complex where the victim was shot and leave shortly before the 9-1-1 call was made.

In sum, this evidence shows that Defendant left behind evidence of the crime (*i.e.,* the shell casing and bullet), surveillance video of him during the commission of the crime, and multiple eye witnesses to the crime, including his cousins, Anastasia and Aniah, who could (and did) easily identify him as the perpetrator. Yet there is no evidence that Defendant attempted to pick up the shell casing, destroy the surveillance cameras, or harm or threaten to harm Anastasia, Aniah, or the other witnesses. There is also no evidence showing that Defendant attempted to hide or destroy the gun after the crime. Finally, there is no evidence showing what Defendant's state of mind was in taking the gun from the crime scene—no cell phone records showing he tried to trade the gun (as in *Lee*), no deleted cell phone records (as in *Alexander*), and no testimony or confession by Defendant (as in *Bentley*).

Consequently, there is no evidence in the record that Defendant gave any thought whatsoever to interfering with the results of a criminal investigation or proceeding. As this Court found in *Ramirez-Delgado* and the Fourth Circuit found in *Scott*, such evidence—or lack thereof—is insufficient to support an obstruction of justice conviction. Even if Defendant removed the gun from the scene of the shooting, the evidence was insufficient to prove he had the specific intent to distort the results of a criminal proceeding. Based on this evidence, a rational juror could have inferred that, in taking the firearm with him, Defendant gave no thought to interfering with the results of a criminal investigation or proceeding. For these reasons, we find that the evidence was insufficient to support Defendant's conviction for obstruction of justice and we reverse the conviction and sentence on this count.

Errors Patent

We reviewed the record for errors patent in accordance with 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).

1. Failure to Advise of Post-Conviction Relief

Neither the sentencing transcript nor the sentencing minute entry provide that Defendant was advised of the time to file an application for post-conviction relief. La. C.Cr.P. art. 930.8 provides that a defendant shall have two years after the judgment of conviction and sentence has become final to seek post-conviction relief. Further, La. C.Cr.P. art. 930.8(C) provides in pertinent part: "At the time of sentencing, the trial court shall inform the defendant of the prescriptive period for post-conviction relief either verbally or in writing[.]" 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. *State v. Britton*, 22-476 (La. App. 5 Cir. 5/10/23), 366 So.3d 652, 665.

However, because Defendant filed a timely application for post-conviction relief, we find the error is moot. *See State v. Ledet*, 20-258 (La. App. 5 Cir. 1/27/21), 310 So.3d 810, 825–26 (finding that the trial court's conflicting advisal as to the time to file an application for post-conviction relief was moot because the defendant had timely filed an application for post-conviction relief); *State v. Staggers*, 03-655 (La. App. 5 Cir. 10/28/03), 860 So.2d 174, 179 (finding that while it was true that the defendant was not initially advised of the two-year prescriptive period for filing an application for post-conviction relief under La. C.Cr.P. art. 930.8, he timely filed an application for post- conviction relief, and thus, the error was moot).

2. Count One - Hard Labor

For a violation of first-degree murder, La. R.S. 14:30(C)(2) provides that if the district attorney does not seek a capital verdict, the offender shall be punished by life imprisonment at hard labor without benefit of parole, probation, or suspension of sentence. Although the *nunc pro tunc* sentencing minute entry reflects that

Defendant's sentence for first-degree murder was to be served at hard labor, the transcript does not reflect that the trial court specified that the sentence was to be served at hard labor. *See State v. Lynch*, 441 So.2d 732, 734 (La. 1983) (finding that, where there is a discrepancy between the transcript and the sentencing minute entry, the transcript prevails).

However, because La. R.S. 14:30(C)(2) mandates hard labor, and there is no discretion allowed, we find that the trial court's failure to state that Defendant's sentence was to be served at hard labor is harmless and no corrective action is required. *See State v. Thach*, 24-437 (La. App. 5 Cir. 4/2/25), 2025 WL 984582, at *15 (finding that, if the applicable sentencing statute allows discretion, the failure to indicate whether the sentence is to be served at hard labor is an impermissible indeterminate sentence).

3. Sentence on Each Count - Counts Two and Three

The record reveals a question as to whether Defendant received an individual sentence as to his convictions for possession of a firearm by a convicted felon on counts two and three. The sentencing transcript reflects that the trial judge stated, "Counts two and three, the Court sentences the defendant to twenty years Department of Corrections at hard labor." It appears that the trial judge imposed one twenty-year sentence for counts two and three. Ordinarily, the trial court must impose a separate sentence for each count on which a defendant is convicted. *State v. Harris*, 23-233 (La. App. 5 Cir. 12/27/23), 379 So.3d 152, 159–60, *writ denied*, 24-118 (La. 4/23/24), 383 So.3d 607 (citing *State v. Collins*, 04-751 (La. App. 5 Cir. 11/30/04), 890 So.2d 616, 620). While the trial court's failure to impose a sentence for each count is considered a patent sentencing error, an exception exists to the general rule that, "[w]hen the sentences for a conviction on each count would more appropriately be concurrent rather than consecutive, and the term for the imprisonment is reasonable under the circumstances, the single sentence will not

affect the substantial rights of the defendant, and remand for clarification or resentencing is not necessary." *State v. Garcie*, 17-609 (La. App. 5 Cir. 4/11/18), 242 So.3d 1279. Moreover, La. C.Cr.P. art. 883 provides that sentences for two or more convictions based on the same transaction, or constituting parts of a common scheme or plan, are to be served concurrently, unless the trial court expressly directs that some or all be served consecutively.

In the instant matter, all of Defendant's convictions appear to constitute parts of a common scheme or plan. Count two alleged that Defendant possessed a 9mm semi-automatic handgun on August 25, 2022. Count three alleged that Defendant possessed a short barrel semi-automatic style rifle between July 23, 2022 to August 25, 2022. A photo of Defendant on his phone depicted him with multiple firearms. Evidence provided that the photo was taken on July 23, 2022. Detective Buttone testified that one of the firearms on the ground, the rifle, was consistent with the one Defendant was seen leaving with on surveillance at the Millender address on August 25, 2022. Additionally, after imposing the sentences for all of Defendant's convictions, the trial court stated that the sentences "are to run concurrently with each other." Further, when considering the uniform commitment order (UCO) signed by the trial judge, it appears he intended to sentence Defendant on each count. Thus, despite the trial court's failure to impose a separate sentence for each count of possession of a firearm by a convicted felon, remand is unnecessary. *See Harris*, 379 So.3d at 160–61 (finding that there was no need to remand the matter for clarification despite the failure of the trial court to impose a separate sentence for each count of obstruction of justice at the guilty plea hearing); *see also Garcie*, 242 So.3d 1279; *State v. Hebert*, 02-1252 (La. App. 5 Cir. 4/8/03), 846 So.2d 60, 66; *State v. Batiste*, 517 So.2d 371, 373 (La. App. 5 Cir. 1987).

4. *Mandatory Fine - Counts Two and Three*

The trial judge failed to impose the mandatory fine required by

La. R.S. 14:95.1(B) on counts two and three. At the time the offenses were committed, La. R.S. 14:95.1(B) required a fine of not less than one thousand dollars nor more than five thousand dollars to be imposed. While an appellate court has the authority to correct an illegal sentence, this authority is permissive rather than mandatory. La. C.Cr.P. art. 882. In *Woods*, 376 at 1159, in an error patent review, this Court pointed out that the trial court failed to impose the mandatory fine under La. R.S. 14:95.1. In that case, the defendant was represented by the Louisiana Appellate Project, which represents indigent defendants in non-capital felony cases. Due to the defendant's indigent status, this Court declined to exercise its discretion to remand the matter for imposition of the mandatory fine. *Id.*

In the instant matter, Defendant appears indigent as he is represented by the Louisiana Appellate Project. Defendant was also sentenced to a life sentence for his conviction of first-degree murder. *See State v. Salvant*, 24-205 (La. App. 5 Cir. 3/19/25), 2025 WL 854667 (where although this Court found that the trial court's failure to impose the mandatory fine required by La. R.S. 14:95.1(B) constituted an illegal sentence, it declined to correct the illegal sentence because the defendant also received a life sentence for his conviction of second degree murder, and it was "apparent from the record" that the defendant would be incarcerated for the rest of his life). For these reasons, we decline to exercise our discretion to remand the matter for imposition of the mandatory fine.

5. Failure to Restrict Benefits - Counts Two and Three

When the trial judge sentenced Defendant on counts two and three, he failed to state that benefits were restricted. La. R.S. 14:95.1(B) provides that the penalty for possession of a firearm by a convicted felon shall be imposed without the benefit of probation, parole, or suspension of sentence. Under La. R.S. 15:301.1, the statute's requirement that a defendant be sentenced without the benefit of parole, probation, or suspension of sentence is self-activating, and no correction is required.

State v. Gilbert, 23-121 (La. App. 5 Cir. 11/8/23), 377 So.3d 378, 388, *writ denied*, 23-1640 (La. 5/29/24), 385 So.3d 704. We nevertheless remand the matter to the trial court to correct the sentencing minute entry and the UCO to reflect that counts two and three are to be served without benefit of probation, parole, or suspension of sentence. We also direct the Clerk of Court of the 24th Judicial District Court to transmit the corrected UCO to the officer in charge of the institution to which Defendant has been sentenced and the Department of Correction's legal department. *See State v. Bardell*, 17-274 (La. App. 5 Cir. 11/15/17), 232 So.3d 82, 89–90 (finding that while the statutory restriction of benefits is self-activating, it nonetheless remanded for correction of the sentencing minute entry and UCO to reflect the correct restriction of benefits).

DECREE

For the foregoing reasons, we reverse Defendant's conviction and sentence as to count four for obstruction of justice in violation of La. R.S. 14:130.1, and remand the matter to the trial court for correction of the sentencing minute entry and the Uniform Commitment Order in accordance with the restriction of benefits as to counts two and three.

CONVICTION AND SENTENCE ON COUNT FOUR REVERSED; MATTER REMANDED FOR CORRECTION OF UNIFORM COMMITMENT ORDER AS TO COUNTS TWO AND THREE

Fifth Circuit Court of Appeal
State of Louisiana

No. 25-KA-9

STATE OF LOUISIANA

VERSUS

RONALD S. NEWTON

GRAVOIS, J., CONCURS IN PART AND DISSENTS IN PART, WITH REASONS

I concur with the majority's opinion to affirm defendant's convictions and sentences for one count of first degree murder and two counts of possession of a firearm by a convicted felon, and to remand the matter to the trial court for correction of the sentencing minute entry and the Uniform Commitment Order in accordance with the restriction of benefits as to counts two and three. However, I respectfully dissent from the majority's decision to reverse defendant's conviction and sentence for obstruction of justice. In my opinion, the State presented sufficient evidence to support defendant's conviction on this charge. Accordingly, I would affirm defendant's conviction and sentence for obstruction of justice.

I agree with the State position on appeal that the jury's decision to convict defendant for obstruction of justice was entirely rational. Defendant used a firearm to murder the victim and thereafter fled the scene, hid out for days, and was arrested while hiding out in a hotel in Orleans Parish. The firearm used to murder the victim was never recovered despite the fact that the police searched defendant's residence, defendant's hotel room, and the vehicle that defendant used to drive to and from the murder scene. The firearm had to go somewhere, and the only logical inference in my opinion based upon the circumstantial evidence presented is that defendant committed obstruction of justice by disposing of the murder weapon hoping to obstruct the murder investigation.

Defendant compares this case to this Court's recent decision in *State v. Ramirez-Delgado*, 24-119 (La. App. 5 Cir. 12/18/24), 409 So.3d 953. In *Ramirez-Delgado*, this Court remarked, in part, that taking a murder weapon

from the scene may in and of itself be insufficient to prove the requisite "specific intent of distorting the results of any criminal investigation or proceeding," and under the peculiar facts in that case, found the State's evidence insufficient to sustain the defendant's conviction for obstruction of justice. *Id.* at 963.

In my opinion, *Ramirez-Delgado* is simply not instructive here. In *Ramirez-Delgado*, defendant left the scene of the murder with the firearm at issue, but then proceeded to leave the firearm in his vehicle at an airport where it could be and ultimately was easily found by the police, which arguably cuts against an inference that he had the requisite "specific intent of distorting the results of any criminal investigation or proceeding." *Id.* Here, however, defendant not only fled the scene with the murder weapon, but when defendant was apprehended days later in a hotel in Orleans Parish (after fleeing the scene and hiding out for days), the murder weapon was nowhere to be found (either in defendant's residence, in his hotel room, or in his girlfriend's vehicle at issue). Again, the only logical inference in my opinion is that defendant disposed of the murder weapon hoping to obstruct the murder investigation. Thus *Ramirez-Delgado* has little factual parity with this case in my opinion.

In my opinion, the instant matter is far more in line with this Court's recent decision in *State v. Lopez*, 23-335 (La. App. 5 Cir. 8/21/24), 398 So.3d 167, *writ denied*, 24-1187 (La. 1/14/25), 398 So.3d 650. In *Lopez*, 398 So.3d at 182, this Court found the evidence was sufficient to support the obstruction of justice conviction. This Court stated that while viewing the video evidence, the jury heard testimony from a witness, who pointed out that the defendant responded to what was happening with gunshots and also fired the fatal shot. It further stated that another witness testified the defendant kept the gun when he exited the vehicle in question. It asserted the jury also heard testimony that the defendant fled to Florida, where he was ultimately apprehended, and the gun was never found. Based on the evidence presented, this Court found that the State met its burden of proving the defendant intended to interfere with the investigation. This Court further found that in applying the appropriate standard for evaluating sufficiency of the evidence, it could not say the jury erred in finding the defendant guilty of obstruction of justice beyond a reasonable doubt. *Id.*

Further, in *State v. Lee*, 24-419 (La. App. 5 Cir. 5/28/25), 415 So.3d 487, this Court upheld the defendant's conviction for obstruction of justice. *Id.* at 493-94. In *Lee*, the defendant was found guilty of second degree murder of the victim in a hotel room, where there were no witnesses to the murder itself and no direct evidence to tie him to a murder weapon. The murder weapon was not located, but spent casings were found in the hotel room that matched the same brand and caliber as a bag of ammunition found in the defendant's possession. Evidence on the defendant's cell phone also produced a photograph of the victim's firearm (taken on the night of the murder), which the defendant was attempting to trade for another firearm, one week after the murder. This Court stated:

> Circumstantial evidence consists of proof of collateral facts and circumstances from which the existence of the main fact can be inferred according to reason and common experience. In this instance, we can infer that the defendant murdered the victim and removed the murder weapon from the scene of the crime. We can also infer that, when removing the gun from the crime scene and making it impossible to locate, the defendant intended to thwart the police investigation that followed.
>
> (Internal citation omitted.)

Id.

I acknowledge that the evidence showed that defendant left behind evidence of the crime at the crime scene (*i.e.*, the shell casing and the bullet). Further, there was surveillance video of him before and after commission of the crime and multiple eye witnesses to the crime, including his cousins, Anastasia and Aniah, who could (and did) easily identify him as the perpetrator. However, I respectfully disagree with the majority's assertion that because there is no evidence that defendant attempted to pick up the shell casing or the bullet from the crime scene, or destroy the surveillance cameras, or harm or threaten to harm Anastasia, Aniah, or the other witnesses, the State failed to prove beyond a reasonable doubt that defendant had the specific intent to obstruct justice in this case. It is very difficult for me to believe that a person who has just committed a murder in the presence of witnesses who personally knew him would have the presence of mind to recover a shell casing and a bullet from the crime scene, or even have knowledge of or consider attempting to destroy surveillance video of him before and after commission of the crime. Likewise, just because there was no evidence that defendant did not harm or threaten to harm Anastasia, Aniah, or the other witnesses

to the murder does not negate in my opinion that defendant had the specific intent to obstruct justice by disposing of the murder weapon.

Further, it is noteworthy that the obstruction of justice statute (La. R.S. 14:130.1) does not require a multifaceted scheme to thwart an investigation; any one act described by the statute, with the requisite intent, is sufficient to prove obstruction of justice. *See State v. Hoang*, 17-0100 (La. 3/26/19), 282 So.3d 189, 192 ("... the jury was incorrectly instructed that they could find defendant guilty of obstruction if they found he disconnected the video surveillance system *and* removed the license plate (i.e. he committed two acts) when all the law requires is that he commit a single act.") (Emphasis in the original.) The fact that defendant in the instant case appears NOT to have done other acts to hinder the investigation does not negate any other act of obstruction of justice that he may have committed (*i.e.*, disposing of the murder weapon). Thus, the fact that defendant did not attempt to pick up the shell casing or the bullet from the crime scene, or destroy the surveillance cameras, or harm or threaten to harm Anastasia, Aniah, or the other witnesses, should in my opinion have absolutely no bearing whatsoever on whether the State proved beyond a reasonable doubt that defendant committed obstruction of justice by disposing of the murder weapon.

In summary, under the circumstances presented in the instant case, I would conclude that the circumstantial evidence presented proved beyond a reasonable doubt that defendant did act with the specific intent of distorting the result of the criminal investigation. It appears the jury believed defendant was in possession of a firearm as it found defendant guilty of the first degree murder of the victim who died of a gunshot wound. Based on the bullet and fired cartridge casing, testimony reflected that they were not fired from either Anastasia's SCCY firearm found at the scene or the Taurus firearm found at defendant's residence. Testimony reflected that the bullet and casing could have been shot from a newer model Glock. Detective Buttone testified that a Glock was a handgun that could have fit in one's waistband. Testimony provided that the murder weapon was never recovered or found at the house on Millender. Testimony also provided that defendant and Ferrionne returned to the home on Millender for a short time, then left with bags. Evidence provided that defendant was staying at a Best Western in New Orleans, and surveillance revealed he wore a mask when speaking to a front desk agent. It appears defendant was trying to distance himself from the murder. As in *Lee*, I would infer from the evidence presented that defendant removed the murder weapon from the scene of

the crime, and in doing so, made it impossible to locate, thus intending to thwart the police investigation that followed. Accordingly, I would conclude that the evidence was sufficient to support defendant's conviction for obstruction of justice. In my opinion, defendant's assignment on this issue is without merit.

Respectfully, for the foregoing reasons, I would affirm defendant's conviction and sentence for obstruction of justice.

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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 **DECEMBER 23, 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

25-KA-9

E-NOTIFIED
24TH JUDICIAL DISTRICT COURT (CLERK)
HON. LEE V. FAULKNER, JR. (DISTRICT JUDGE)
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THOMAS J. BUTLER (APPELLEE)
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