

Fifth Circuit Court of Appeal
State of Louisiana

No. 25-KA-197

STATE OF LOUISIANA

versus

LIONEL MATUTE DESANTOS

ON APPEAL FROM THE TWENTY-FOURTH JUDICIAL DISTRICT COURT
PARISH OF JEFFERSON, STATE OF LOUISIANA
NO. 24-2346, DIVISION "I"
HONORABLE NANCY A. MILLER, JUDGE PRESIDING

December 22, 2025

TIMOTHY S. MARCEL
JUDGE

Panel composed of Judges Marc E. Johnson,
John J. Molaison, Jr., and Timothy S. Marcel

CONVICTION AFFIRMED;
FINANCIAL OBLIGATION VACATED;
REMANDED WITH INSTRUCTIONS;
SENTENCE AFFIRMED

TSM
MEJ
JJM

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COUNSEL FOR PLAINTIFF/APPELLEE,
STATE OF LOUISIANA

Honorable Paul D. Connick, Jr.
Thomas J. Butler
Andrea F. Long
Leo M. Aaron

COUNSEL FOR DEFENDANT/APPELLANT,
LIONEL M DESANTOS

Mary Constance Hanes

MARCEL, J.

Defendant Lionel Matute Desantos, appeals his conviction and sentence for introducing or possessing contraband in a correctional center in violation of La. R.S. 14:402. The trial court sentenced Defendant to ten years imprisonment at hard labor, to be served consecutively with any other sentence, and imposed a five hundred dollar fine.

For the following reasons, we affirm Defendant's conviction, however, we vacate the financial obligation imposed on Defendant as part of his sentence, and remand for the district court to conduct the financial hardship hearing required by La.C.Cr.P. art. 875.1(C)(1). In all other respects, Defendant's sentence is affirmed.

FACTS AND PROCEDURAL HISTORY

On June 6, 2024, the Jefferson Parish District Attorney filed a bill of information charging Defendant with introducing or possessing contraband (shank) in a correctional center in violation of La. R.S. 14:402. Defendant was arraigned on June 14, 2024, and pled not guilty.

On January 14, 2025, the case proceeded to jury trial. At trial, the State presented the testimonies of several witnesses, including Deputy James Clinton, Lieutenant Timothy Berrian, Deputy Kamrynn Richardson, and Deputy Hunter Langley. The State also presented several exhibits including, State's Exhibit 1, a video surveillance recording of the incident; State's Exhibits 2A-AH, photographs of the scene and the shanks; and State's Exhibits 3, 4 and 5, which were the physical contraband (shanks).

Deputy James Clinton testified that on April 28, 2024, he was assigned to investigate an inmate stabbing in Housing Unit 4 of the Jefferson Parish Correctional Center. As part of his investigation, he viewed the surveillance video recording and spoke with responding deputies. Deputy Clinton testified that the

video recording captured the Defendant reaching into his waistband, removing a shank and stabbing the victim. The victim retreated into cell-3, where the Defendant continued stabbing him. A short time later, video surveillance captured Defendant walking from the cell to the shower area and place a shank beneath a toilet. During Deputy Clinton's testimony, the surveillance video recording was broadcasted and admitted into evidence as State's Exhibit 1. Deputy Clinton identified the individuals in the video, including the victim and the Defendant.

Lieutenant Timothy Berrian, the assistant watch lieutenant for inmate security at the Jefferson Parish Correctional Center was also on duty on April 28, 2024. An eight-year veteran officer at the correctional center, his duties included responding to inmate disturbances. Lieutenant Berrian testified that he, along with another officer, responded to a radio call on that day of a fight in Housing Unit 4. Upon arrival, he observed an inmate bleeding. Lieutenant Berrian described the wrapping the victim's puncture wounds in paper towels then sending him to the medical department.

Thereafter, the officers initiated a lockdown to investigate the incident. Lieutenant Berrian reviewed video surveillance recordings of the fight. The video footage captured what he described as "unusual fighting motions." He explained that the assailants' hands "would come down from overhead and these were as if they were trying to stab somebody." The video then showed Defendant getting on his knees next to the toilet closest to the shower and placing an object underneath it. Officers conducting a search of the area recovered a shank beneath that toilet.

Deputy Kamrynn Richardson testified that she was the last officer to respond to the attack on April 28, 2024, at the Jefferson Parish Correctional Center. She recalled being alerted to the presence of a shank near a toilet by an inmate worker. While the video surveillance recording was broadcasted to the jury, Deputy

Richardson testified that she went to the location described by the inmate worker and recovered a shank from the floor near the toilet closest to the shower area.

Deputy Hunter Langley was also on duty at the Jefferson Parish Correctional Center on April 28, 2024. He participated in the search for weapons and located two shanks – one above a light in the bathroom area and another beneath a toilet bowl in cell-9. Deputy Langley confirmed that Deputy Richardson had recovered a third shank.

Jurors viewed the video surveillance recording during the trial and again during deliberations. In addition, the State introduced photographs depicting the scene, the victim’s injuries, inmate identifications, and the recovered shanks. Also admitted into evidence were the three shanks recovered in the investigation.

The jury unanimously found Defendant guilty as charged. On February 3, 2025, the trial court denied Defendant’s motion for new trial and proceeded to sentence Defendant to ten years imprisonment at hard labor, to run consecutively to any other sentence, and imposed a five hundred dollar fine. This timely appeal followed.

ASSIGNMENT OF ERROR

In his sole assignment of error, Defendant argues the trial court abused its discretion in allowing Lieutenant Berrian’s testimony that the video surveillance of the incident showed Defendant making “unusual fighting motions” which would only be made by someone trying to stab another person.

LAW AND ANALYSIS

Generally, a lay witness can only testify to the facts within his knowledge and not to impressions or opinions; however, under certain circumstances, such a witness is permitted to draw reasonable inferences from his personal observations.

State v. Decay, 01-192 (La. App. 5 Cir. 9/13/01), 798 So.2d 1057, 1074, *writ denied*, 01-2724 (La. 8/30/02), 823 So.2d 939. Testimony in the form of opinions or inferences of a witness, who is not testifying as an expert, is limited to those opinions or inferences that are rationally based on the perception of the witness and are helpful to a clear understanding of the testimony or the determination of a fact in issue. La. C.E. art. 701; *State v. Salvant*, 24-205 (La. App. 5 Cir. 3/19/25), 411 So.3d 74, 97-98, *writ denied*, 25-485 (La. 9/16/25), 416 So.3d 473. This Court has held that a law officer may testify as to matters within his personal knowledge acquired through experience without being qualified as an expert. *State v. Spottsville*, 24-26 (La. App. 5 Cir. 10/30/24), 398 So.3d 1249, 1261-62 (citing *State v. Griffin*, 14-251 (La. App. 5 Cir. 3/11/15), 169 So.3d 473). The fact an opinion or inference embraces an ultimate issue in the case does not preclude its admissibility. *State v. Nelson*, 14-252 (La. App. 5 Cir. 3/11/15), 169 So.3d 493, 506-07, *writ denied*, 15-685 (La. 2/26/16), 187 So.3d 468.

The trial court is vested with much discretion in determining whether to admit lay or expert testimony into evidence. *Spottsville*, 398 So.3d at 1262. On appellate review, two pertinent questions are to be answered in determining whether the trial court properly allowed lay opinion testimony: (1) was the testimony speculative opinion evidence or simply a recitation of or inferences from facts based upon the witness' observations; and (2) if the testimony was admitted in error, was the testimony so prejudicial to the defense as to require a reversal. *Nelson*, 169 So.3d at 507. Further, admissibility of opinion testimony, whether lay or expert, must be relevant and is subject to the balancing test set forth in La. C.E. art. 403. *Spottsville*, 398 So.3d at 1262.

Louisiana appellate courts have regularly found no abuse of discretion where a law enforcement officer's opinion testimony is based on his personal observations and experience and is helpful in determining a fact at issue in the

case. In *State v. Perkins*, 23-524 (La. App. 3 Cir. 3/20/24), 381 So.3d 1050, *writ denied*, 24-485 (La. 11/27/24), 396 So.3d 254, the appellate court found admission of an officer's testimony that anal intercourse occurred between the victim and defendant based on the odor of fecal matter was not an abuse of discretion. In upholding the admission of the officer's inferences from his perceptions, the appellate court noted that the record contained a foundation of his experience investigating sexual assault via anal intercourse as a corrections officer. *Id.* at 1063.

In *State v. Freeman*, No. 2007 KA 0363, 2008 WL 2068072 (La. App. 1 Cir. May 2, 2008), the trial court allowed testimony from an officer that the defendant was "in charge" of a drug trafficking operation based the witness' review of audio recordings of transactions with undercover officers. On appellate review, the court found admission of the testimony was not an abuse of discretion, finding the trial record contained the officer's experience, observations, and evidence gathered at the various scenes, which supported the opinion testimony, and that it was helpful to the determination of a fact in issue. *Id.*

In *State v. Handy*, 16-1071 (La. App. 4 Cir. 9/13/17), 226 So.3d 1182, 1197-98, *writ denied*, 18-2096 (La. 9/24/19), 278 So.3d 978, the defendant complained he was unfairly prejudiced by the testimony of two detectives that the glass beaker, baking soda, razorblade, scales, and plastic baggies recovered in their investigation were tools for making and distributing crack cocaine. The appellate court rejected this argument, finding that the detectives' training, twenty-plus years of experience, and personal observations supported their testimony that the defendant possessed with intent to distribute crack cocaine. *Id.*

Returning to the instant case, we now address the two key issues for our consideration in determining whether the trial court abused its discretion by admitting Lieutenant Berrian's testimony. The first issue is whether the testimony

was speculative opinion evidence or merely a recitation of or inferences from facts based on the witness's observations.

In this instance, the evidence showed that Lieutenant Berrian had eight years of experience working as the assistant watch lieutenant for inmate security in the correctional center, which included responding to inmate disturbances. On April 28, 2024, he personally responded to the incident, observed the victim's puncture wound, reviewed the contemporaneous video, and described the arm motions as overhead "unusual fighting motions." His opinion was drawn from firsthand observations and experience in handling inmate altercations, and results from the process of reasoning familiar in everyday life, as opposed to a process of reasoning which can be mastered only by specialists in the field. Lieutenant Berrian's testimony also provided the jury with relevant information about the investigation, including his reasoning for taking certain actions and looking for certain things in specific places.

Upon review, we conclude Lieutenant Berrian's testimony regarding Defendant's hand movements during the incident was not speculative opinion evidence. His testimony was an inference based on personal experiences and observations, rationally drawn from his years of experience in handling inmate altercations. Thus, we find the trial court did not abuse its discretion by allowing Lieutenant Berrian to testify as a lay witness under La. C.E. art. 701.

Next, assuming the trial court erred in admitting Lieutenant Berrian's testimony – which we do not – we do not find the testimony was prejudicial to the Defendant. It is not disputed that the victim was stabbed or that the weapon used was a shank. The jurors viewed the same surveillance video recording as the witnesses and could independently assess Defendant's actions and ultimately form their own opinions as to what the motions indicated. The jurors could also

independently decide whether the video recording showed Defendant possessing or hiding the shank beneath the toilet after the fight.

Deputy Clinton, who testified before Lieutenant Berrian, stated the video recording captured the Defendant striking the victim several times with a closed fist, then reach into his waistband, remove a shank, and stab the victim repeatedly. Also in that recording, the Defendant is seen leaving the cell, entering the shower area, and placing the shank under a toilet. Deputy Langley, who also viewed the video of the incident, described the Defendant “doing movements in which it would look like he were to have” a shank.

Considering the surveillance video recording and the cumulative testimonial evidence presented in this case, even if the trial court had erred in admitting Lieutenant Berrian’s testimony, we cannot say the testimony was so prejudicial to the defense as to constitute reversible error. Any arguable error was harmless.

ERRORS PATENT

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).

The trial judge imposed a five hundred dollar fine in this case. La. C.Cr.P. art. 875.1(C)(1) requires the court to conduct a hearing to determine whether payment of any fine, fee, cost, restitution, or monetary obligation would cause substantial financial hardship to the Defendant or his dependents. There is no indication that the trial court conducted such a hearing. Additionally, there is no indication that Defendant waived this judicial determination.

Accordingly, we vacate the financial obligation imposed on Defendant as part of his sentence and remand this case to the trial court for compliance with La.

C.Cr.P. art. 875.1(C)(1). *See State v. Beckendorf*, 24-242 (La. App. 5 Cir. 2/26/25), 406 So.3d 729, 736, *writ denied*, 25-379 (La. 5/20/25), 409 So.3d 222.

DECREE

For the foregoing reasons, we affirm Defendant's conviction, vacate the financial obligation imposed on Defendant as part of his sentence, and remand for the district court to conduct the financial hardship hearing required by La. C.Cr.P. art. 875.1(C)(1). In all other respects, Defendant's sentence is affirmed.

**CONVICTION AFFIRMED;
FINANCIAL OBLIGATION VACATED;
REMANDED WITH INSTRUCTIONS;
SENTENCE AFFIRMED**

JUDGES



FIFTH CIRCUIT
101 DERBIGNY STREET (70053)
POST OFFICE BOX 489
GRETNA, LOUISIANA 70054
www.fifthcircuit.org

(504) 376-1400
(504) 376-1498 FAX

HONORABLE PAUL D. CONNICK, JR.
(APPELLEE)
DISTRICT ATTORNEY
LEO M. AARON (APPELLEE)
ASSISTANT DISTRICT ATTORNEY
TWENTY-FOURTH JUDICIAL DISTRICT
200 DERBIGNY STREET
GRETN, LA 70053