Fifth Circuit Court of Appeal
State of Louisiana

No. 25-KA-115

STATE OF LOUISIANA

versus

LEON J RUFFIN JR AKA "MOOKIE MOOK"

ON APPEAL FROM THE TWENTY-FOURTH JUDICIAL DISTRICT COURT
PARISH OF JEFFERSON, STATE OF LOUISIANA
NO. 23-3496, DIVISION "N"
HONORABLE STEPHEN D. ENRIGHT, JR., JUDGE PRESIDING

December 23, 2025

MARC E. JOHNSON

JUDGE

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

AFFIRMED;
REMANDED WITH INSTRUCTIONS TO CORRECT UCO

MEJ
JJM
TSM

TRUE COPY

MORGAN NAQUIN
DEPUTY CLERK

COUNSEL FOR DEFENDANT/APPELLANT,
LEON J. RUFFIN, JR. AKA MOOKIE MOOK

G. Paul Marx

COUNSEL FOR PLAINTIFF/APPELLEE,
STATE OF LOUISIANA

Honorable Paul D. Connick, Jr.
Thomas J. Butler
Juliet L. Clark

JOHNSON, J.

Defendant, Leon J. Ruffin, Jr., aka “Mookie Mook”, seeks review of his convictions and sentences in the 24th Judicial District Court. For the following reasons, we affirm.

FACTS AND PROCEDURAL HISTORY

The following facts were adduced at trial. On the evening of Sunday, July 9, 2023, Deedra Duplessis and her fiancé, Gannon Johnson, were at their home in Avondale, Louisiana. Surveillance footage showed Mr. Johnson outside assisting Leon Ruffin Jr., who was having trouble with a black sedan rented in his niece's name. After they finished jumpstarting the vehicle, Ruffin, also known as “Mookie Mook,” pulled a gun from under a white towel and shot Johnson multiple times. After hearing the shots, Ms. Duplessis ran outside, found Johnson dead, and returned to the house. Defendant, from inside the rental vehicle, fired at her before driving away. Police later found a bullet in a household closet. Police identified Ruffin from fingerprints on the victim's car and DNA found on a cigarette butt at the scene. The rental vehicle’s GPS system and surveillance footage of the license plate, along with information obtained from Defendant’s cell phone, placed him in the area when the shooting occurred. Detectives Steven Keller and Scott Bradley testified that four spent 9mm cartridge casings were found outside of the home — two in the driveway and two in the street.

After Defendant’s arrest on July 13, 2023, his home at 2801 Holiday Drive was searched pursuant to a warrant. Detective Blaine Howard searched Ruffin's home and found his ID, black shoes, shorts, and a black shirt with white trim, matching the clothing worn by the suspect during the homicide. The detective acknowledged that neither gun powder nor blood splatter was found on the clothing. He stated the shirt was unique due to its trim, though the

other clothing items were common.

Detective Howard indicated surveillance video police obtained of the home on Holiday Drive showed Defendant arriving around 9:18 pm[1] on the night of the murder in a black sedan. The still shot of the Holiday Drive video showed Defendant carrying a white towel as he exited the vehicle. Earlier, while testifying about still photos from the scene of the crime, Detective Howard stressed the importance of the white towel, as Defendant used it to conceal the handgun. No white towel or gun was found at Defendant's residence. Howard confirmed that disposing of the gun would be obstruction of justice.

Detective Steven Keller interviewed Defendant after Mirandizing him as a part of his investigation on July 20, 2023. Defendant initially claimed he learned of Johnson's death from his nephew's girlfriend and "Mitch," an acquaintance from jail, who said Johnson had been shot. He stated his ex-wife drove him to the scene, where Mitch met them, and together they watched the investigation.

Initially, Defendant told Detective Keller that he sold drugs to Gannon for the past six or seven months. Also, Gannon never mentioned to him having any "beef" with anyone, but he had heard from others that he may have had conflict with or owed money to others. He said that he heard about someone needing a jump, and a rumor that he had killed Gannon. Defendant claimed that he drove his niece's car to Eighth Street to pick up a misdelivered package and then to a restaurant on Magazine Street; he called a friend who never showed to meet him there for dinner. He estimated he had returned home by 8:15 p.m. that evening.

[1] Detective Howard testified that the time stamp on the video was 20:05 (8:05 p.m.), an hour and thirteen minutes slow.

Detective Keller informed Defendant that the police received a call about the shooting at 8:41 p.m. Defendant denied going to Gannon's house before the homicide occurred. The detective then told him that they had a picture of the car used by the person that got the jump. Detective Keller showed Defendant a few stills from the surveillance videos; one of the pictures was of a man touching the hood of Gannon's silver Lexus. Defendant acknowledged that touching the car would leave fingerprints, and the detective informed him that he was a match for the prints.

As Defendant was confronted with the evidence against him, he admitted that it looked like he was guilty but denied being the perpetrator. After approximately an hour and a half had passed, Defendant explained that the "plug" believed Gannon planned to rob him, and during a conversation on Friday, July 7, the plug told Defendant that Gannon needed to be "handled". Defendant stated that Mitch gave him the gun, but he did not know any of its specifications. He then said that the gun was "a nine", which Detective Keller explained on the stand meant it was a 9 mm, which matched the casings found at the scene. Defendant told the Detective that he gave Mitch the gun back on Sunday night, but not at the scene of the homicide. Defendant told the detective that he met with Mitch two other times that night at different locations. Defendant stated he was arrested before he was compensated. In the video of the interview, Detective Keller left and another detective entered the room. Defendant confirmed that he killed Gannon with the gun provided by Mitch, and that he was supposed to be compensated for his actions, but he was arrested first. Detective Keller returned with a photograph; Defendant identified the person in the picture as "Mitch" (Mitchell Hardin), a person who Detective Keller testified police had been investigating for narcotics distribution. The police obtained a search warrant for Hardin's cell phone records. The records

contained location data – Detective Keller testified that both Hardin and Defendant were at the scene of the crime after the homicide, but at different points in time, and their location records did not indicate they were together at any time after the homicide.

On November 2, 2023, a Jefferson Parish grand jury returned an indictment charging Defendant, Leon J. Ruffin Jr., a/k/a "Mookie Mook," with second degree murder in violation of La. R.S. 14:30.1 (count one), possession of a firearm by a convicted felon in violation of La. R.S. 14:95.1 (count two), aggravated assault with a firearm in violation of La. R.S. 14:37.4 (count three), aggravated criminal damage to property in violation of La. R.S. 14:55 (count four), and obstruction of justice in violation of La. R.S. 14:130.1 (count five). Defendant was arraigned and pled not guilty on November 3, 2023.

Voir dire and jury selection took place on September 16, 2024; two days later, the jury found Defendant guilty as charged on all counts.

Defendant moved for a new trial and a post-verdict judgment of acquittal on October 21, 2024. Both motions were denied. His counsel waived delays, and Defendant was sentenced to life imprisonment at hard labor without the benefit of parole, probation, or suspension of sentence as to count one; and twenty years imprisonment at hard labor without the benefit of parole, probation, or suspension of sentence as to count two. The judge ordered the sentences on counts one and two to run concurrently. Defendant was sentenced to ten years imprisonment at hard labor as to count three; and fifteen years imprisonment at hard labor as to count four. The judge ordered the sentences for counts three and four to run concurrently, but consecutively with the sentences for counts one and two. As to count five, Defendant was sentenced to forty years imprisonment at hard labor to be served consecutively with the sentences imposed for counts one through four. That same day after

sentencing, Defendant filed a motion for appeal, which the trial court granted on October 28, 2024.

ASSIGNMENTS OF ERROR

On appeal, Defendant urges the following assignments of error:

1. The guilty verdict for count 5, obstruction of justice, lacked sufficient evidence.

2. The court imposed an excessive penalty by issuing a life sentence for murder (count 1), plus the 40 years for obstruction of justice (count 5) to be served consecutively to counts one through four as well as additional sentences for aggravated assault (count 3) and criminal damage to property (count 4).

Defendant argues that he cannot be prosecuted for obstruction of justice based solely on not leaving the weapon at the scene, and contends the court abused its discretion by imposing a life sentence and consecutive terms, including 40 years for obstruction of justice.

The State counters that Defendant shot the victim multiple times without any provocation, then left the scene with the murder weapon. Police never recovered the weapon, despite searches of Defendant's residence, his wife's truck, and the rental vehicle he used to drive to and from the scene, a few days after the homicide. The State argues the logical inference is that Defendant disposed of the murder weapon to obstruct the investigation. It contends that, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of obstruction of justice beyond a reasonable doubt.

Regarding Defendant's second claim, the record reflects that Defendant did not object to the sentences imposed, did not specifically object to the consecutive nature of the sentences, and did not file a motion to reconsider sentence. Thus, the State argues, Defendant is not entitled to a review of the consecutive nature of his sentences on appeal. Therefore, it contends that this Court may only conduct a bare

review of Defendant's sentences for unconstitutional excessiveness, and Defendant is not entitled to relief.

LAW AND DISCUSSION

Sufficiency of the Evidence and Obstruction of Justice Conviction

Defendant argues his obstruction of justice conviction must be reversed. He maintains that, under Louisiana law, the fact that he did not leave the weapon at the crime scene after the shooting, or the absence of the gun on a public street after the shooting, does not incriminate him. Defendant indicates he did not have the specific intent to commit an obstruction of justice, and some evidence was left at the scene untampered. He also suggests that another person may have removed the gun from the rental vehicle after he returned the car to its owner.

The State counters that specific intent could be inferred. The State explains that the gun was not in the rental vehicle, Defendant's home, or his wife's vehicle. The State contends Defendant did not realize the police would find his finger-prints on the hood of the victim's vehicle or recover the cigarette he smoked. It argues "the logical inference is that the Defendant removed the gun from the crime scene and disposed of the murder weapon, hoping to obstruct the murder investigation."

Defendant properly challenged the sufficiency of the evidence and filed a motion for post-verdict judgment of acquittal pursuant to La. C.Cr.P. art. 821, along with a motion for new trial, on October 21, 2024. *See State v. Kestle*, 24-192 (La. App. 5 Cir. 3/5/25), 411 So.3d 30, 38, *writ denied*, 25-431 (La. 6/3/25), 410 So.3d 785. A post-verdict judgment of acquittal shall be granted only if the court finds that the evidence, viewed in a light most favorable to the State, does not reasonably permit a finding of guilty. *Id*. Defendant did not plead arguments for either motion with particularity, but averred that the evidence was insufficient to sustain the jury's verdict(s).

At the hearing held a few days later, Defense counsel re-iterated that the

evidence was insufficient. The prosecutor contended there was an overwhelming amount of evidence, including video, fingerprints, DNA, cell phone data, and Defendant's confession that proved his guilt. She recalled that the jury unanimously found Defendant guilty as charged. The judge explained that in his eleven years on the bench and in his time as a prosecutor, he had not seen a case with this much evidence before he denied the motions.

The constitutional standard for sufficiency of the evidence is whether, upon viewing the evidence in a light most favorable to the prosecution, any rational trier of fact could find that the State proved all the essential elements of the crime beyond a reasonable doubt. *Jackson v. Virginia*, 443 U.S. 307, 99 S.Ct. 2781, 61L.Ed.2d 560 (1979); *State v. Johnson*, 23-309 (La. App. 5 Cir. 12/27/23), 379 So.3d 771, 775. This 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. Howard*, 24-145 (La. App. 5 Cir. 12/18/24), 409 So.3d 915, 930, *writ denied*, 25-96 (La. 4/8/25), 405 So.3d 566. This deference to the fact-finder does not permit a reviewing court to decide whether it believes a witness or whether the conviction is contrary to the weight of the evidence. *Id*. Further, a reviewing court errs by substituting its appreciation of the evidence and the credibility of witnesses for that of the fact-finder and overturning a verdict based on an exculpatory hypothesis of innocence presented to, and rationally rejected by, the jury. *Id*. 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 trial established guilt beyond a reasonable doubt, but whether, upon review of the whole record, any rational trier of fact would have found guilt beyond a reasonable doubt. *Id.*; *State v. Reed*, 24-59 (La. App. 5 Cir. 12/30/24), 409 So.3d 980, 994, *writ denied*, 25-150 (La. 9/10/25), 415 So.3d 1279.

Evidence may be either direct or circumstantial. *State v. Ford*, 24-197 (La. App. 5 Cir. 2/26/25), 406 So.3d 652, 668, *writ denied*, 25-356 (La. 5/20/25), 409 So.3d 216. 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. Salvant*, 24-205 (La. App. 5 Cir. 3/19/25), 411 So.3d 74, 88, *writ denied*, 25-485 (La. 9/16/25), 416 So.3d 473. When circumstantial evidence is used to prove the commission of an offense, La. R.S. 15:438 provides, "[A]ssuming every fact to be proved that the evidence tends to prove, in order to convict, it must exclude every reasonable hypothesis of innocence." *Id*.

Defendant was convicted of obstruction of justice in violation of La. R.S. 14:130.1[2], which provides the following:

> 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[.]

In count five of the indictment, the State alleged that Defendant "did obstruct justice in a murder investigation by tampering with evidence to wit: by intentionally

[2] The statute has been amended since the commission of the offense. "A Defendant is to be tried under the statute in effect at the time of the commission of the crime." *State v. Weaver*, 01-467 (La. 1/15/02), 805 So.2d 166, 170; *State v. Do*, 16-439 (La. App. 5 Cir. 12/14/16), 208 So.3d 1048, 1052 n.4, *writ denied*, 17-354 (La. 11/13/17), 229 So.3d 924. However, the amendments to the statute did not alter the substance at issue here.

removing and/or disposing of a firearm used in the murder with the knowledge that such act and/or acts may reasonably affect or will affect an actual potential present, past or future criminal proceeding[.]"

Under La. R.S. 14:130.1(A)(1), obstruction of justice is a specific intent crime. "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). *State v. Lopez*, 23-335 (La. App. 5 Cir. 8/21/24), 398 So.3d 167, 181, *writ denied*, 24-1187 (La. 1/14/25), 398 So.3d 650. 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*, *supra*. "The statute appears to anticipate that perpetrators will flee. What elevates flight to obstruction is additional conduct aimed at concealing or destroying evidence." *State v. Bowie*, 24-700 (La. App. 4 Cir. 7/1/25), -- So.3d --, 2025 WL 1806684 at *11 (Belsome, J., concurring).

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 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.

An appellate court's primary function is not to redetermine the defendant's guilt or innocence in accordance with its appreciation of the facts and credibility of the witnesses. Rather, the appellate court's function is to review the evidence in the light most favorable to the prosecution and determine whether there is sufficient evidence to support the jury's conclusion. *State v. Veillon*, 19-606, p. 7 (La. App. 5 Cir. 7/29/20), 297 So.3d 1091, 1099, *writ denied,* 20-1297 (La. 2/9/21), 310 So.3d

178. The credibility of witnesses is within the sound discretion of the trier of fact, who may accept or reject, in whole or in part, the testimony of any witness; the credibility of the witnesses will not be reweighed on appeal. *Id.* When there is conflicting testimony about factual matters, the resolution of which depends on a determination of credibility of the witnesses, this is a matter of the weight of the evidence, not its sufficiency. *Id*.

In *State v. Barnes*, 24-303 (La. App. 5 Cir. 5/28/25), 415 So.3d 519, this Court upheld the conviction for attempted obstruction of justice. The defendant initially lied about possessing the gun and gave statements that were inconsistent with physical evidence. The firearm was not found at the scene, despite the defendant's initial statement that he "probably dropped it" or his later statement that he threw it down before leaving. This Court explained that the defendant was clearly aware that his cousin was shot and killed there, so any gun that had been at the scene would be part of the investigation. He also clearly knew that the gun was evidence that he, a convicted felon, was in illegal possession of a firearm. This Court found that both supported a jury's conclusion that the defendant had the requisite specific intent to remove the gun to prevent its discovery by police.

In the instant case, we find that the State presented sufficient evidence for the jury to find it proved beyond a reasonable doubt that Defendant possessed the specific intent to distort the criminal investigation or proceeding. Defendant is correct – he left behind an abundance of evidence, suggesting otherwise: a shell casing remained in the vehicle Defendant's niece rented for his use after he returned it; his DNA via a cigarette butt, his fingerprints on the victim's vehicle, plus four casings, and a projectile at the scene.

Further, the shooting was captured on the victim's security camera, and there was no evidence that Defendant attempted to obscure or destroy the footage. Also, Defendant knew his own home had security cameras – there was no evidence that

he attempted to obscure or alter the video that captured his return home in the rental vehicle after the murder. Police found the clothing Defendant wore at the time of the shooting in his home. Finally, while Defendant left the scene with the gun, he eventually told the police that the gun's owner, Mitchell Hardin (Mitch), was his plug and gave him the weapon to shoot the victim and he returned it to Mitch. The jury may have inferred that, by using a gun that belonged to someone else, removing it from the scene, and (possibly) giving it back to the person that gave it to him, Defendant intended to thwart the police investigation. *See State v. Harvey*, 21-730 (La. App. 4 Cir. 5/25/22), 345 So.3d 1043, *writ denied*, 22-953 (La. 9/20/22), 346 So.3d 803 (affirming obstruction of justice conviction although the defendant claimed that he gave the gun to someone else after fleeing the scene of the crime).

In the video record of Defendant's statement published to the jury, he told a detective that he returned the weapon to its owner, Mitch, as opposed to getting rid of it to interfere with the investigation. Then, he told Detective Keller that he returned the gun to Mitch Hardin in Woodmere. A few moments later, he stated that he returned the gun another Sunday after the homicide occurred; he met with Mitch at a park in Algiers, and at a Cigarette Express near his mother's place that Sunday but returned the gun back at the park. But Detective Keller's testimony called into question whether Defendant told him the truth about giving the gun back to its alleged owner, Mitch on a subsequent Sunday night. The detective explained that although both Mitch and Defendant returned to the scene at different times that night, watching the investigation unfold, the evidence showed their two cell phone locations were never in the same place at the same time after the night of shooting. The jury may have inferred that Defendant intentionally interfered with the investigation by lying about what he did with the gun after the murder, since his version of events is contradicted by other evidence. *See Barnes*, *supra*.

Here, we find that the State provided sufficient evidence for the jury to find

the State proved beyond a reasonable doubt that Defendant acted with specific intent to hide the murder weapon, or that he was a convicted felon in possession of a weapon despite the fact that not all of Defendant's actions leading up to, and after, the murder of Mr. Johnson were consistent with attempting to thwart the eventual investigation of the crime. *See Id*. Thus, we find that the evidence was sufficient to support Defendant's conviction of obstruction of justice.

Excessiveness of Consecutive Sentences Imposed

Defendant challenges the consecutive nature of his sentences. He acknowledges that a motion to reconsider sentence was not filed but argues that, due to his indigence, counsel's failure to preserve the claim should not prejudice his rights. He contends the entirety of the indictment pertains to a single incident and therefore the sentences should be concurrent.

The State avers that Defendant is not entitled to a review of the consecutive nature of the sentences on appeal. It further argues that the sentences are not constitutionally excessive. Although the State acknowledges that Defendant does not challenge the individual sentences, it provides that each sentence falls within the statutory sentencing range and that the maximum sentences "are neither disproportionate, nor shocking to the sense of justice." The State concludes that no relief is warranted.

At the sentencing hearing, the prosecutor read Ms. Duplessis's victim impact statement into the record. In it, she said Defendant took the love of her life from her, his children, and his grandchildren, and that trauma changed their lives. She stated she often has flashbacks to that horrific day and to seeing Mr. Johnson lying lifeless. Ms. Duplessis observed Defendant's family could still talk to him and visit him, but she is left with only her memories of Mr. Johnson.

The prosecutor then read a statement from Mr. Johnson's grandchildren, Kareem and Kaci Molden. They stated they were sad and mad that they could no

longer see their grandfather, and they miss him every day. Finally, the prosecutor read a letter from Mr. Johnson's daughter, Mariah. She voiced that she hated Defendant, whom she addressed as "murderer", and what he did. She said she hated that Defendant's family and that his friends could still see him while she must visit her father in a box. Finally, Mariah hated that the news called Defendant her father's friend but he never was.

The judge then sentenced Defendant to life imprisonment at hard labor without the benefit of parole, probation, or suspension of sentence as to count one (second degree murder) and twenty years imprisonment at hard labor without the benefit of parole, probation, or suspension of sentence as to count two (possession of a firearm by a convicted felon).The judge ordered counts one and two to run concurrently; counts three and four run concurrently with each other but consecutively to counts one and two. The 40-year sentence for obstruction of justice (count five) is consecutive to the others, all to be served at hard labor.

La. C.Cr.P. art. 881.1(B) provides that a motion for reconsideration of sentence "shall be oral at the time of sentence or shall be in writing thereafter and shall set forth the specific grounds on which the motion is based." La. C.Cr.P. art. 881.1(E) provides that "[f]ailure to make or file a motion to reconsider sentence or to include a specific ground upon which a motion to reconsider sentence may be based including a claim of excessiveness, shall preclude the state or the defendant from raising an objection to the sentence or from urging any ground not raised in the motion on appeal or review."

This Court has held that the failure to file a motion to reconsider sentence, or to state the specific grounds upon which the motion is based, limits a defendant to a bare review of the sentence for unconstitutional excessiveness. *Salvant*, 411 So.3d at 100. This Court has also held that when the consecutive nature of sentences is not specifically raised in the trial court, then the issue is not included in the review

for constitutional excessiveness, and the defendant is precluded from raising the issue on appeal. *Id*.

At sentencing, defendant did not object to the sentences or to the consecutive nature of the sentences. Additionally, a motion to reconsider the sentences was not filed.

In *State v. Adams*, 23-508 (La. App. 5 Cir. 8/14/24), 398 So.3d 143, 146, the defendant did not contend that any sentence on its own was excessive. Rather, he argued that the consecutive nature of his sentences made them excessive. This Court explained that when the consecutive nature of sentences is not specifically raised in the trial court, the issue is not included in the review for unconstitutional excessiveness and that the defendant is precluded from raising the issue on appeal. Accordingly, this Court found that the Defendant was precluded from challenging the consecutive nature of his sentences as excessive and did not address whether each sentence on its own was excessive.

Because Defendant did not file a written motion to reconsider, or make specific oral objections, regarding the consecutive and/or excessive nature of the sentences imposed, we find that he is precluded from challenging the consecutive nature of his sentences, as he did not preserve the issue for review. *See Adams*, *supra*; *State v. Jones*, 12-750 (La. App. 5 Cir. 5/16/13), 119 So.3d 250; *State v. Watson*, 02-1154 (La. App. 5 Cir. 3/25/03), 844 So.2d 198, 212, *writ denied*, 03-1276 (La. 5/14/04), 872 So.2d 506. Nevertheless, we will conduct a bare review of the individual sentences. *See State v. Burl*, 18-698 (La. App. 5 Cir. 10/2/19), 282 So.3d 316, 320, *writ denied*, 19-1948 (La. 7/2/20), 297 So.3d 764; *State v. Scie*, 13-634 (La. App. 5 Cir. 1/15/14), 134 So.3d 9.

As to count one (second degree murder), Defendant received the mandatory sentence of life imprisonment at hard labor without benefit of parole, probation, or suspension of sentence. *See* La. R.S. 14:30.1. As to count two, whoever is found

guilty of possession of a firearm by a convicted felon shall be imprisoned at hard labor for not less than five nor more than twenty years without the benefit of probation, parole, or suspension of sentence and be fined not less than one thousand dollars nor more than five thousand dollars. La. R.S. 14:95.1. Defendant was sentenced to twenty years imprisonment at hard labor without benefits as to count two. For count three, whoever commits an aggravated assault with a firearm shall be fined not more than ten thousand dollars or imprisoned for not more than ten years, with or without hard labor, or both. La. R.S. 14:37.4. Defendant was sentenced to the maximum term of imprisonment as to count three. Regarding count four, whoever commits the crime of aggravated criminal damage to property shall be fined not more than ten thousand dollars, imprisoned with or without hard labor for not less than one nor more than fifteen years, or both. La. R.S. 14:55. The judge imposed a sentence of fifteen years imprisonment at hard labor as to count four. Regarding the obstruction of justice conviction (count five), the judge imposed the maximum sentence of forty years imprisonment at hard labor. *See* La. R.S. 14:130.1(B)(1).

In reviewing a sentence for excessiveness, the reviewing court shall consider the crime and the punishment considering the harm to society and gauge whether the penalty is so disproportionate as to shock the court's sense of justice, while recognizing the trial court's wide discretion. *Reed*, 409 So.3d at 1007. In reviewing a trial court's sentencing discretion, three factors are considered: 1) the nature of the crime; 2) the nature and background of the offender; and 3) the sentence imposed for similar crimes by the same court and other courts. However, there is no requirement that specific matters be given any particular weight at sentencing. *Id*. Generally, maximum sentences are reserved for cases involving the most serious violations of the offense charged and the worst type of offender. *State v. Melgar*, 19-540 (La. App. 5 Cir. 4/30/20), 296 So.3d 1107, 1115.

Here, the record reflects that Defendant killed the victim, whom he knew for a long time, outside his own home at the behest of his plug, Mitch, in hopes of compensation at some future time. At the time, the victim was helping Defendant, who claimed to have been experiencing car trouble. When the victim's girlfriend opened the door upon hearing the shots, Defendant fired at her. The girlfriend saw the victim dead in front of their home. Defendant left behind ample evidence, but he took the gun he used and allegedly returned it to Mitch. Defendant initially denied his involvement in the murder. Also, Defendant involved his niece in the crimes by having her rent the vehicle he used. Defendant had four prior convictions for armed robbery and was on parole for those convictions at the time of this incident. Following his arrest, while Defendant was awaiting trial, he stole an officer's pepper spray, faked a seizure, pepper sprayed an officer, and stole her police unit. As such, we find that the imposed sentences are not constitutionally excessive, even if addressed individually.

ERRORS PATENT

The record was reviewed 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. 5th Cir. 1990). Two errors, and an additional issue are discussed below.

Defendant's Presence

"Every Defendant has a state and federal constitutional right to be present during his felony trial." *State v. Brown*, 16-998 (La. 1/28/22), 347 So.3d 745, 814, *cert. denied*, -- U.S. --, 143 S.Ct. 886, 215 L.Ed.2d 404 (2023). A defendant charged with a felony shall be present: at the calling, examination, challenging, impaneling, and swearing of the jury; at all times during the trial when the court is determining and ruling on the admissibility of evidence; in trials by jury, at all proceedings when the jury is present; at the rendition of the verdict or judgment, unless he voluntarily absents himself. *See* La. C.Cr.P. art. 831.

Pursuant to La. C.Cr.P. art. 832:

> A. A Defendant initially present for the commencement of trial shall not prevent the further progress of the trial, including the return of the verdict, and shall be considered to have waived his right to be present if his counsel is present or if the right to counsel has been waived and either of the following occur:
>
> (1) He voluntarily absents himself after the trial has commenced, whether or not he has been informed by the court of his obligation to be present during the trial.
>
> (2) After being warned by the court that disruptive conduct will cause him to be removed from the courtroom, he persists in conduct which justifies his exclusion from the courtroom.

Here, Defendant was removed for disruptive conduct before *voir dire* and was absent for the rest of trial and sentencing, which he attended via Zoom. We find his presence was waived under La. C.Cr.P. art. 832(A)(2). The transcript reflects that on September 16, 2024, prior to jury selection, Defendant had an unspecified outburst in open court. The judge told Defendant that it was his final warning and that if he screamed out in court again, he would be found in contempt. Defendant continued to be disruptive, and the judge held him in contempt of court and advised he would be removed if he did not keep quiet, or did anything to disrupt the proceeding. Defendant then had an "inaudible outburst." The judge repeated his warning. After another "inaudible outburst" and then a profane outburst, the judge ordered Defendant's removal from the courtroom.

After Defendant was removed, the judge advised Defendant had forfeited his right to be present for the proceedings. He provided *voir dire* would begin and that if Defendant appeared by Zoom, he would "bring him on." The judge said that otherwise, he had forfeited his right to be present. Defense counsel objected to Defendant's removal and trial proceeding in his absence where a life sentence was possible. The judge noted the objection and explained that Defendant was "clearly simply trying to disrupt the proceedings." The judge reiterated that Defendant heard his warning and disregarded it, thereby making a personal choice by his actions not

to be present for trial.

Later, at a bench conference during *voir dire*, a deputy advised Defendant appeared to have a seizure during preparations to have him appear via zoom. While waiting for medical personnel, Defense counsel moved for a continuance; the State objected. The judge denied the continuance and explained that trial would move forward considering Defendant had already forfeited his right to be in court. The judge advised Defendant had a history of feigning medical injury to be brought to a hospital so he can escape. The judge confirmed that Defendant was on Zoom and could hear the proceedings but would not let the jury see him because of past and potential outbursts.

After that break, counsel informed the judge that he conferred with Defendant over Zoom and that he was non-responsive and appeared half asleep. Counsel noted he was concerned about Defendant's health. The prosecutor joined in the defense's request for Defendant to return to the courtroom. Upon questioning by the judge, a deputy explained that Defendant urinated on himself and his clothes were being cleaned. The judge ruled that court would proceed and that Defendant would be brought back into court when he had proper clothing. The judge told Defendant "in no uncertain terms" that if he had any kind of outburst, he would not be allowed in the courtroom for trial. Defendant indicated he understood.

Defendant was brought back into the courtroom; a deputy had outfitted him with a shock belt in attempts to control his outbursts. The judge said a continuance or a mistrial would not occur. He further explained if Defendant was convicted, the judge had discretion as to whether the sentences would run consecutively or concurrently; he informed Defendant that his actions in the courtroom would be a factor the court considered in making that decision.

Shortly after, the jury returned to the courtroom. Defendant "had an episode of falling out of his chair to the ground." The jury and Defendant were removed.

The judge acknowledged, that as soon as the jury was brought out, Defendant "had what can only be described as another episode that according to what's been related to the Court previously appears to be him attempting to have a seizure." The judge was convinced Defendant was trying to disrupt the proceedings and that there was no medical issue. The judge subsequently barred Defendant from the courtroom for the rest of trial.

Defendant was also sentenced while appearing via Zoom. At the beginning of the sentencing hearing, a deputy advised the court there was a disturbance earlier and that Defendant refused to get dressed. The judge asked if Defendant was being uncooperative that morning; the deputy agreed. The judge remarked, "And that would be the reason once again why the Court is having Mr. Ruffin appear by way of Zoom rather than in person."

Effective August 1, 2020, La. C.Cr.P. art. 835 provides:

> A. Except as provided in Paragraph B of this Article, in felony cases the Defendant shall always be present when sentence is pronounced and, in misdemeanor cases, the Defendant shall be present when sentence is pronounced unless excused by the court. If a sentence is improperly pronounced in the Defendant's absence, he shall be resentenced when his presence is secured.
>
> B. Nothing in this Article prohibits the court, by local rule, from providing for a Defendant's appearance at the pronouncement of sentence by simultaneous audio-visual transmission in accordance with the provisions of Article 562.

Code of Criminal Procedure art. 562 states in pertinent part that in a non-capital felony case, a Defendant confined in Louisiana may, with the court's consent and the consent of the district attorney, appear at sentencing by simultaneous audio-visual transmission if the court, by local rule, provides for the defendant's appearance in this manner and the defendant waives[3] his right to be physically present at the proceeding. Louisiana District Court Rule 3.5 states, "Courts may

[3] Article 562 does not address what constitutes a waiver of the Defendant's physical presence. It appears when Article 562 was amended in 2020, certain waiver requirements were removed.

authorize simultaneous appearance by a party or witness by audio-visual transmission as allowed by law and/or by order of the Louisiana Supreme Court. *See* Appendix 3.5 for courts enacting rules related to simultaneous appearance by a party or witness by audiovisual transmission." As to the 24th Judicial District Court Rules, effective March 26, 2025, Appendix 3.5 lists the circumstances in which an appearance by simultaneous audiovisual transmission may be allowed in criminal court proceedings. Specifically, it provides in part that a defendant's appearance via simultaneous audio-visual transmission is precluded absent extraordinary circumstances and parties' consent for felony sentencing.

We find, because Defendant was sentenced on October 24, 2024, the 24th Judicial District Court local rule does not apply because it became effective after the sentencing date. However, the court constructively excused Defendant's physical presence under La. C.Cr.P. art. 562, by proceeding with sentencing as Defendant observed/participated via Zoom. Further, Defendant appeared via Zoom and his physical absence during trial was waived pursuant to La. C.Cr.P. art. 832(A)(2) earlier. On several occasions throughout the proceedings, Defendant either pretended to be seizing and in medical distress or disrupted the courtroom via loud outbursts; the judge had him removed but allowed him to participate via Zoom. Under the circumstances, we find the court had no choice but to bar him from the courtroom.

Discrepancies

The sentencing transcript reflects that the judge ordered the sentences on counts one and two to run concurrently and counts three and four to run concurrently. The sentences for counts one and two were ordered to run consecutively with counts three and four. As to count five, the judge ordered it to be served consecutively with the sentences imposed for counts one through four.

The minute entry and the Uniform Commitment Order ("UCO") do not

reflect that counts one and two were ordered to run consecutively with counts three and four. Because the transcript prevails, the matter is remanded for correction of the minute entry and the UCO. *See State v. Lynch*, 441 So.2d 732, 734 (La. 1983). The Clerk of Court for the 24th Judicial District Court is ordered to transmit the original of the corrected UCO to the officer in charge of the institution to which Defendant has been sentenced as well as the Department of Corrections' legal department. *See State v. Tenner*, 24-51 (La. App. 5 Cir. 10/16/24), 398 So.3d 761, 767.

Mandatory Fine

At the time of the offense,[4] La. R.S. 14:95.1(B) stated in part that whoever is found guilty of possession of a firearm by a convicted felon shall be fined not less than one thousand dollars nor more than five thousand dollars. Here, no fine was imposed and Defendant is represented by the Louisiana Appellate Project, which represents indigent Defendants in non-capital felony cases. Because Defendant is indigent, we decline to remand for imposition of the mandatory fine. *See State v. Fisher*, 19-488 (La. App. 5 Cir. 6/24/20), 299 So.3d 1238, 1249 (declining to correct an illegally lenient sentence in the case of an indigent defendant); *State v. Woods*, 23-41 (La. App. 5 Cir. 11/15/23), 376 So.3d 1144, 1159, *writ denied*, 23-1615 (La. 5/29/24), 385 So.3d 700 (refusing to remand the matter for the imposition of the fine required by La. R.S. 14:95.1).

DECREE

Considering the foregoing, Defendant's convictions and sentences are affirmed.

AFFIRMED;
REMANDED WITH INSTRUCTIONS TO CORRECT UCO

[4] The supreme court has consistently held that the law in effect at the time of the commission of the offense is determinative of the penalty imposed. *State v. Sugasti*, 01-3407 (La. 6/21/02), 820 So.2d 518, 520.

FIFTH CIRCUIT
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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-115

E-NOTIFIED
24TH JUDICIAL DISTRICT COURT (CLERK)
HONORABLE STEPHEN D. ENRIGHT, JR. (DISTRICT JUDGE)
CHRISTOPHER A. ABERLE (APPELLANT)
JULIET L. CLARK (APPELLEE)
THOMAS J. BUTLER (APPELLEE)

MAILED
HONORABLE PAUL D. CONNICK, JR.
(APPELLEE)
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