

Fifth Circuit Court of Appeal
State of Louisiana

No. 25-KA-211

STATE OF LOUISIANA

versus

PATRICK A. PICHOFF

ON APPEAL FROM THE TWENTY-FOURTH JUDICIAL DISTRICT COURT
PARISH OF JEFFERSON, STATE OF LOUISIANA
NO. 22-5882, DIVISION "J"
HONORABLE STEPHEN C. GREFER, JUDGE PRESIDING

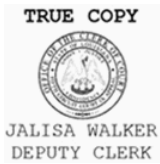
December 18, 2025

STEPHEN J. WINDHORST
JUDGE

Panel composed of Judges Stephen J. Windhorst,
John J. Molaison, Jr., and Scott U. Schlegel

CONVICTIONS AND SENTENCES AFFIRMED

SJW
JJM
SUS



COUNSEL FOR PLAINTIFF/APPELLEE,
STATE OF LOUISIANA

Honorable Paul D. Connick, Jr.
Thomas J. Butler
Darren A. Allemand
Brooke A. Harris
Taylor Somerville

COUNSEL FOR DEFENDANT/APPELLANT,
PATRICK PICHOFF

Samuel H. Winston
Evan J. Bergeron

WINDHORST, J.

Defendant, Patrick Pichoff, appeals his convictions and sentences. For the reasons that follow, we affirm.

PROCEDURAL HISTORY

On August 10, 2023, a Jefferson Parish Grand Jury indicted defendant, Patrick A. Pichoff, with first degree rape upon a known juvenile (DOB: 4/6/11) in violation of La. R.S. 14:42 (count one), sexual battery upon a known juvenile (DOB: 4/6/11) where the child was under the age of thirteen in violation of La. R.S. 14:43.1 (count two), and indecent behavior with a juvenile (DOB: 4/6/11) where the victim was under the age of thirteen in violation of La. R.S. 14:81 (count three).¹ Defendant was arraigned and pled not guilty to all counts. On January 16, 2025, a twelve-person jury found defendant guilty as charged on all counts.

Defense counsel subsequently filed a Motion for New Trial, a Motion for Post-Verdict Judgment of Acquittal, a Motion to Reconsider Sentence, and a Motion for Appeal. On February 19, 2025, after a hearing, the trial court denied the Motion for New Trial and the Motion for Post-Verdict Judgment of Acquittal. Defense counsel then waived sentencing delays, and the trial court sentenced defendant to life imprisonment at hard labor without benefit of parole, probation, or suspension of sentence on count one; fifty years imprisonment at hard labor without benefit of parole, probation, or suspension of sentence on count two; and twenty years imprisonment at hard labor without benefit of parole, probation, or suspension of sentence on count three, with the sentences to run concurrently. The trial court denied defendant's Motion to Reconsider Sentence and granted defendant's motion for appeal.²

¹ The offenses were alleged to have occurred on or between January 1, 2019 and April 26, 2022.

² Although defendant's motion for appeal, which was filed after the verdict but before sentencing, was premature, defendant's appeal is not premature since his motion for appeal was not granted until after he was sentenced. See *State v. Priest*, 18-518 (La. App. 5 Cir. 2/6/19), 265 So.3d 993, 997 n.1, writ denied, 19-418 (La. 5/20/19), 271 So.3d 201.

TRIAL EVIDENCE

Julieta Chavero-Perez, with the assistance of an interpreter, testified that she was from Mexico, moved here after Hurricane Katrina, was married, and had four children. Mrs. Chavero-Perez stated that her oldest daughter, Claudia, was married to defendant, and that Claudia and defendant adopted two girls, S.P. and S.P.'s sister.³ S.P. was approximately seven years old when she was adopted and her sister was younger. Mrs. Chavero-Perez testified that defendant was responsible for and would take care of S.P. and S.P.'s sister when the girls were not in school and Claudia was at work as a dental hygienist. She also testified that in the spring of 2022, S.P. lived with her because Claudia had been accused of mistreating S.P.

Mrs. Chavero-Perez asserted that while S.P. lived with her, defendant only came to her house one time, specifically, Easter Sunday in 2022. Defendant entered her house without knocking and stated that he planned to take S.P. to the cemetery where S.P.'s biological mother was buried. She recalled that S.P. was lying on the sofa watching television, but when defendant entered, S.P. became "[f]rightful," started crying, "just crumbling down," and was frustrated. Mrs. Chavero-Perez recalled that S.P. got up, went into the bathroom, locked herself inside, and said she was not going with defendant. She testified that she called Claudia and asked her to tell defendant to leave, after which defendant left.

Mrs. Chavero-Perez testified that she knocked on the bathroom door, told S.P. defendant had left, and asked S.P. why she was frightened. Mrs. Chavero-Perez asserted that S.P. responded, "Well, it's that you don't know what he does to me." She stated that S.P. could barely talk, she was nervous, crying, and shaking when she explained that defendant touched her inappropriately. S.P. told her that "just

³ To observe the principle of protecting minor crime victims and victims of sex offenses under La. R.S. 46:1844 W, the victim will be identified by her initials only. See *State v. E.J.M., III*, 12-774, 12-732 (La. App. 5 Cir. 5/23/13), 119 So.3d 648, 652 n.1. Also, S.P.'s younger sister is mentioned throughout the trial; therefore, she is also referred to by her initials.

after COVID passed by in December,” defendant would lower her underwear and apply medicine to her “part,” while telling her that the doctor said that was where it needed to be applied. S.P. also told her that when her mother was not at home, defendant would go into her room and convince her to remove her clothing, telling S.P. that it was their secret and that there was nothing wrong with it. S.P. told her that it happened more than one time.

Mrs. Chavero-Perez testified that she left S.P. at her house and met Claudia and her youngest daughter, Carolina Rivera, behind Best Buy. After telling them what S.P. had said, Mrs. Chavero-Perez stated that Claudia was in denial and responded saying “You don’t have to believe her, it’s just - - she’s just fussing around, it’s a nightmare she has or it’s things that she dreams.” She asserted that Ms. Rivera became upset and asked Claudia how she doubted S.P.’s allegations given the details and reminding Claudia that she had previously separated from defendant “because of what he would do, where he went.”

Mrs. Chavero-Perez explained that she did not call 9-1-1 at that time because Claudia told her that S.P. had a counseling appointment that week. Mrs. Chavero-Perez stated that she and her husband subsequently took S.P. to the “Metro” counseling appointment, and the police also arrived at the appointment. Mrs. Chavero-Perez said that she and her husband also took S.P. to a medical provider, and she told S.P. to tell the truth. She contended that they also brought S.P. to be interviewed by law enforcement at a house in Gretna on May 13, 2022, during which S.P. had an asthma attack and almost fainted. Mrs. Chavero-Perez asserted that following S.P.’s disclosure, she was disappointed with her daughter and frustrated that her daughter trusted defendant, especially since she knew the reason her daughter had previously separated from defendant. She said that after the disclosure, Claudia stopped talking to her, expressing that “she erased [her] from everything.”

Mrs. Chavero-Perez testified that S.P. now lived with Ms. Rivera, who was given legal custody of S.P., and that S.P. was feeling better.⁴

Bethany LeBlanc testified that she is a licensed clinical social worker employed by Metro Centers for Community Advocacy (“Metro”). Ms. LeBlanc stated that she was a “children’s advocate” when she met with S.P. on April 26, 2022. S.P. was eleven years old at the time and her grandparents brought her in for sexual abuse counseling. She asserted that S.P. was initially withdrawn but opened up the longer they spoke. During this session, S.P. disclosed sexual abuse by her father, whom S.P. did not identify by name. Ms. LeBlanc recalled that S.P. said her father touched her inappropriately when she was eight or nine years old while her mother was at work, and she was left in her father’s care. S.P. told her that her father used to touch her “down there” and motioned to her genital area. Additionally, S.P. said her father “told her he had to apply medicine but that she couldn’t see it because it was a clear medication.” Ms. LeBlanc testified that because she is a mandatory reporter, she called 9-1-1 in Jefferson Parish, reported S.P.’s allegations, and requested that an officer come to Metro, and an officer responded. She also reported the allegations to the Department of Child and Family Services (“DCFS”).

Ms. LeBlanc explained that she spoke to Roy McBride, a DCFS investigator, who already had an open case for S.P.’s claims of physical abuse by Claudia. Following this conversation, she wrote an e-mail to her supervisor and a co-worker detailing concerns she had with Mr. McBride. Specifically, she noted that she had recommended to Mr. McBride that he schedule a forensic interview for S.P. as soon as possible because they were not trained investigators. Mr. McBride told her that because S.P. was eleven years old, she may be hormonal, did not understand what

⁴ Mrs. Chavero-Perez also recalled that about a week prior to S.P.’s disclosure, at a birthday party, the children were inside a bounce house, and defendant would go inside to supposedly watch over them. She told Claudia to “get him out of there.” She stated that another granddaughter told her that when defendant would pass by, he would touch them.

was going on with her body, may not have been getting her way at home, and may be making accusations as a way of seeking alternative placement. Ms. LeBlanc stated that Mr. McBride did not want to involve the police unnecessarily. She confirmed that she was complaining about Mr. McBride in the email and that she was aware that Mr. McBride left DCFS shortly thereafter.

JPSO Deputy Scott Richardson testified that on April 26, 2022, he was dispatched to Metro, where he met with a Metro advocate and S.P., whom he described as nervous and afraid. He further testified that S.P. told him her adoptive father, defendant, had sexually abused her. Deputy Richardson stated that he wrote a report, contacted his supervisor, and the case was turned over to the Detective Bureau.

Mr. McBride testified that he was formerly employed as an investigator with the DCFS for 18 or 19 months. In April of 2022, he met with S.P. to investigate her claims of physical abuse by Claudia, her adoptive mother. Mr. McBride asserted that although the claims were not found to be probable, to make things safe at home, S.P. was allowed to live with one of her grandmothers “to let things settle down and put counseling into place.”

Mr. McBride further testified that while living with her grandmother, S.P. made a second claim that defendant sexually abused her. He stated that he investigated those claims but found they were “iffy,” explaining that they could not determine the time frame as to when the alleged sexual abuse occurred and when S.P.’s parents would generally get home. Mr. McBride admitted that he only spent “maybe 30 minutes on that case” with S.P. When asked how many sexual abuse cases he had investigated, Mr. McBride further admitted that this case “may have been the first or second,” and that he never received any training regarding child sexual abuse. He also acknowledged that he was no longer employed by the DCFS.

He explained that if his investigation into S.P. was in late April, he was terminated by May 5th.

JPSO Detective Phillip Hedrick testified that he investigated the physical abuse of S.P. by her adoptive mother, Claudia, and the sexual abuse of S.P. by her adoptive father, defendant. He recounted how he was informed and how the investigation proceeded, noting that DCFS was involved on both cases. Detective Hedrick testified that he attempted to contact Mr. McBride, with DCFS, but he never returned his phone calls. Detective Hedrick also stated that there was never an official report from DCFS that bedsheets or any other physical evidence from defendant's house needed to be collected.

Detective Hedrick testified that after S.P. was placed into the custody of her grandparents, he reached out to them and scheduled a forensic interview for S.P. at the Children's Advocacy Center ("CAC"). In the interview room, S.P. was with the forensic interviewer and an interpreter because S.P. spoke English and Spanish. He stated that he was also present but observed the interview from another room. Detective Hedrick explained that the interview encompassed both investigations (*i.e.*, physical and sexual abuse allegations). He confirmed that towards the end of the first part of the interview, S.P. had a panic/asthma attack. The interview was immediately stopped and S.P. was brought to the front lobby to her grandparents, who provided S.P. with her inhaler. S.P. subsequently returned and resumed her interview. The video of the CAC interview was then played for the jury.

In the CAC interview conducted on May 13, 2022, S.P. initially described the verbal, emotional, and physical abuse inflicted upon her by her adoptive mother, Claudia. S.P. indicated that in the beginning Claudia was nice but later became mean. She said that Claudia told her she was fat and ugly, called her other derogatory names, and wished S.P. was dead. She recalled an incident in March of 2022, where she forgot to pick up a book, after which Claudia pulled her arm and

hair, pushed her head against a wall, slapped her, and threw her on the ground, where she fell on her back and could not breathe. Afterwards she went to school, informed a social worker, and went to the hospital because she was hurt. At this point during the interview, S.P. had a panic/asthma attack and could not breathe. The interview was immediately stopped and S.P. stepped out of the room to get her inhaler from her grandparents.

Upon S.P.'s return, the CAC interview continued. S.P. continued to recall specific instances of abusive treatment she received from Claudia. One time when they went to a restaurant, S.P. said that Claudia told her not to ask for anything (*i.e.*, food or drinks). S.P. explained that she got thirsty and asked her Aunt Clara for something to drink and was given a juice box. Claudia then took her and her sister to the bathroom. S.P. stated that when they were in the bathroom, Claudia slammed her head against the hand dryer stating that she was not supposed to ask for anything. S.P. also recounted a time when she was trying to help her sister fix a purse handle and she could not fix it. Claudia grabbed her by the hair, told her she was not supposed to fight with her sister, dragged her to her room, hit her with a sandal until it broke, and then she kicked her. S.P. stated that she begged Claudia to "stop, please." She further explained that Claudia hits her "a lot," "just differently," or threatens to send her back to Argentina to her stepdad, who used to hit her.

Additionally, S.P. described prior incidents of abuse by her stepfather, Martin, and a babysitter's son. She stated that her stepfather slapped her. She also said the babysitter's son pinned her down, pulled her pants down, took his "private part," put it between her legs and then "took it out," and later made her "suck it." She said the babysitter's son threatened to kill her family if she told anyone.

S.P. also recounted the incidents where defendant sexually abused her. S.P. stated that one time, defendant made her put a blindfold on and suck on a candy that tasted like green apple. She recalled hearing a zipper, after which the candy got

“squishy” and then hard. S.P. said she knew what defendant was doing because of the previous abuse by the babysitter’s son.

S.P. stated that another time, while Claudia was at work and her sister was not at home, she was sitting on the sofa in the living room and defendant told her to get on the floor. S.P. said she got on the floor, defendant opened her legs, pulled down his shorts, and put his “private part” in, pointing to her genitals area. She stated his “private part” looked like a snake and that he put it in the area that she used to go to the toilet and “pee,” recalling that it burned. Afterwards, she pulled her pants up and went to her room. She then stated that is the reason she does not trust men. S.P. stated that a couple of times, defendant also told her he needed to put medicine on her “private part,” and this made her uncomfortable. She said that afterwards she saw it was just ice water not medicine. She stated that she felt defendant’s finger in her private part more than once when he was putting on the medicine. She explained that defendant also woke her up a couple times in the night to put the medicine on her, describing one time when defendant put his tongue in her private part. She said that when she woke up the next morning, she had a bruise and teeth marks on the top of her leg.

In her CAC interview, S.P. further provided that another time, defendant came into her room, told her she was becoming a young lady, and touched her, pointing to her breasts. S.P. stated that another time, defendant told her to put her hand on his “private part.” She explained that when she said she did not want to do that, defendant pulled his shorts down, grabbed her hand, put it on his “private part,” moved it up and down (which she demonstrated), and “white stuff” came out of his “private part.” Afterwards, she washed her hands, went to her room, and cried. She recalled defendant telling her not to tell Claudia or he would go to jail. S.P. also recounted an incident where defendant told her to “suck” his “private part,” but she

refused, she went to her room and cried. She commented that Claudia was always at work when these incidents occurred. S.P. cried several times during the interview.

Detective Hedrick then confirmed that following the CAC interview, a doctor's appointment was made for S.P. at the Audrey Hepburn CARE Center, where she was physically examined by Dr. Anne Troy. He subsequently obtained and reviewed Dr. Troy's records and the audio recording of her speaking with S.P. He stated that S.P. reported that defendant began sexually abusing her between the ages of eight and nine. Detective Hedrick explained that this would be considered a delayed disclosure, which was common in sexual assault cases,⁵ because it happened around "2019, 2020," and the disclosure occurred in 2022. He stated that he was not able to definitively state the last time S.P. was abused by defendant. He explained that by the time he became involved in the case, S.P. was living with her grandparents. Detective Hedrick confirmed that S.P. positively identified defendant as the perpetrator by signing her name on the back of a photographic copy of defendant's driver's license. Based on the information S.P. disclosed in her CAC interview, Detective Hedrick said that he requested an arrest warrant for defendant.

Detective Hedrick testified that he was not aware of the prior incidents of abuse to S.P. by her stepfather and a babysitter's son until the CAC interview. He subsequently learned that her stepfather, Martin, was arrested, after which he pled guilty to domestic abuse battery of S.P. Detective Hedrick provided that the babysitter's son was also arrested and convicted of third degree rape of S.P. He further testified that he issued the arrest warrant for Claudia, she was arrested, and subsequently pled guilty to simple battery of S.P.

⁵ In explaining delayed disclosures, Detective Hedrick stated:

Delayed disclosures are typical, especially with sexual assault crimes, they're not reported within that first 24-48 hours. Normally, a sexual assault kit can only happen within the first 120 hours after a sexual assault to maintain any evidence. So anything past that five-day period is normally considered what's a delayed disclosure.

Dr. Troy testified that she was a forensic nurse practitioner⁶ at the Audrey Hepburn CARE Center and she was accepted as an expert in the field of child abuse and child abuse pediatrics.⁷ Dr. Troy stated that on May 16, 2022, she saw S.P., who was eleven years old, and that she came with her grandparents. She prepared an incident history based on information provided by S.P., which was audio-recorded,⁸ and performed a physical examination of her. She stated that “most kids are delayed in coming to see us because of the fact that most perpetrators are known to kids.” She explained that delayed disclosure is common for numerous reasons, including naivete, shame and guilt, or threats by the perpetrators that no one would believe the victims or the perpetrators would go to jail, and the victims would be homeless.

Dr. Troy testified that S.P. gave a clear, detailed history of sexual abuse by her adoptive father, involving penile/oral and penile/vaginal penetration that occurred more than one time.⁹ Additionally, S.P. provided details of the physical abuse by Claudia, the physical abuse by her stepfather, and the sexual abuse by her babysitter’s son, all of which were similar to the account she provided during the CAC interview. Dr. Troy stated that she did not see any mental health problems or coaching during her examination of S.P. The audio-recorded incident history given

⁶ At one point, Dr. Troy stated she was an advanced practice nurse practitioner; therefore, she was able to make medical diagnoses.

⁷ The State tendered Dr. Troy as an expert in the field of child abuse and child abuse pediatrics, to which the defense stipulated. The following dialogue then occurred:

The Court: All right. So, Dr. Troy, you said you’ve been qualified as an expert in child maltreatment, sexual abuse of children, and something else.

The Witness: Which includes the explanation of delayed disclosure.

The Court: Explanation of delayed disclosure. So the qualification that the State is seeking is encompassed within that?

The Witness: Yes, sir.

The Court: All right. So the Court will so qualify the doctor *as offered by the State* at this time.

⁸ Dr. Troy stressed that this was not an interview, only an incident history by S.P. She said the incident history’s purpose is to get medical information to make a medical diagnosis and treatment.

⁹ S.P. told Dr. Troy many things including that defendant opened her legs and that his “front private” went in her “front private;” he put her hand on his “front private” and moved her hand, after which “white stuff” came out; blindfolded her and gave her candy, after which he put his “front private” in her mouth; touched her chest with his hands; touched her “front private” with his fingers under the guise of putting medicine, which was really water, on it; and put his tongue on her “tush.”

by S.P. was played for the jury. Dr. Troy opined that what S.P. told her was consistent with child sexual abuse.

Claudia testified that she started dating defendant in 2000, and they got married in 2014. She explained that she could not have children, they fostered S.P. and S.P.'s sister in 2018, and adopted them approximately one year later. She stated that S.P. was almost seven years old, and S.P.'s sister was two years old when they were adopted. Claudia testified that she is a professor at the LSU School of Dentistry and also worked one day a week at a dental office. She contended that defendant delivered pharmaceuticals when the girls were adopted and at the present time. She asserted that defendant's schedule was not flexible, explaining that she dropped S.P. and her sister off at school and picked them up at aftercare, which ends at 6:00 P.M. She claimed defendant rarely picked the girls up from aftercare. She asserted that "98%" of the childcare was by her and it was "mostly playtime" with defendant. Claudia insisted that defendant was rarely alone with their daughters. She explained that S.P. was in therapy from 2018 to 2021 due to physical and sexual abuse she had previously suffered.

Claudia testified that S.P. disclosed the sexual abuse by defendant to her mother, who contacted her afterwards. Claudia claimed that she asked "when" and received no details. She said she was with the girls daily, she took care of them, and she would have known if S.P. looked different. She also contended that S.P. never told her anything. Claudia asserted that her mother did not like defendant and never wanted them to get married. Claudia testified that in her opinion, defendant would never have sexually abused S.P. Claudia also confirmed that she pled guilty to simple battery of S.P.

S.P. testified that her date of birth was April 6, 2011, and that she was thirteen years old. She explained that her birth mother passed away when she was six years old, after which she lived with her stepfather who was the father of S.P.'s sister. S.P.

asserted that her stepfather would hit her when he became angry, and she thought he later went to jail for doing so. Thereafter, she briefly stayed with a “lady” before she lived with defendant and his wife, Claudia, her foster parents, who eventually adopted her and her sister. S.P. recalled that things were good at first, but then Claudia started becoming mean—at first verbally and then it escalated to physically (*i.e.*, “Hair pulling, hitting, things like that.”). S.P. testified that the police got involved because of Claudia’s physical abuse, she was removed from the home, and eventually moved in with her grandmother, Mrs. Chavero-Perez.

S.P. recalled that defendant came over to her grandmother’s house one day. She said she thought he wanted to take her somewhere, but she could not remember where. S.P. explained that she did not want to go with him, refused to go, and started crying. S.P. testified that she told her grandmother that she did not feel comfortable around him because he would touch her inappropriately in the chest area, the rear, and the “private parts.” S.P. further testified that she then spoke to Ms. LeBlanc and told her everything defendant did to her. She also recalled that a police officer came, and she spoke to him about it as well. S.P. provided that she subsequently gave an interview to “Elizabeth” that was recorded. She insisted that everything she said in that interview actually happened and that she was telling the truth.

Regarding the sexual abuse by defendant, S.P. testified that defendant told her she needed medicine, he would get a glass of cold water with ice cubes, go to her room, and put it on her vaginal region with his fingers, touching her vagina. S.P. asserted that defendant also touched her vagina with his “man parts” and that he “placed it near down there, or he would make me touch him” with her hand “down there.” She recalled, and demonstrated, how defendant would move her hand when she touched his “man parts.” S.P. stated that one time after she touched him “down there,” something came out of his “man parts,” and he told her to grab some paper towels. S.P. indicated that another time, defendant put a sleeping mask on her and

put candy in her mouth, after which she heard a zipper and then what was supposed to be the candy turned soft. She said that when she heard the zipper, she knew what the candy really was because something similar had happened to her before with her babysitter's older son, who later went to "juvie." S.P. believed she saw a doctor after making the sexual abuse allegations against defendant but did not remember her name. She also believed she told the doctor what had happened with defendant.

S.P. testified that no one was at home when defendant touched her vagina and made her touch his "man parts." She recalled that defendant came into her room at night sometimes and said she had to take the medicine again. She said he applied it with his fingers but then she felt his tongue. S.P. testified that one time, defendant touched her chest with his hands while she was clothed saying, "You're a woman now." She believed she was approximately ten or eleven years old when defendant's sexual abuse started.

When questioned repeatedly about dates, names, or interviews on cross-examination, S.P. testified that she remembered major events but did not remember all of the dates, interviews, or names of people in the instant case. She explained that "back then" her memory would have been better. She testified that her memory now is "foggy," and she did not remember the exact timing of events. On redirect examination, S.P. testified that initially she was excited to be adopted by defendant and Claudia, finally having a mom and dad, and that they had good times. Nevertheless, S.P. testified that defendant sexually abused her. She confirmed that defendant put his penis in her mouth, touched her vagina with his fingers and his tongue, touched her breasts, and blindfolded her.

S.P. explained that defendant told her not to tell anyone, and she waited a long time to do so because she was afraid. Additionally, she stated that defendant kept her safe from Claudia, "even if it came at its own cost." She also stated that she "felt guilty because then [her sister] wouldn't have a father." S.P. pointed out that it was

difficult for her to remember the exact dates and times that he sexually abused her; however, she insisted that she was telling the truth to the best of her ability.

Ms. Rivera testified that she was Claudia's sister and S.P.'s legal guardian. She explained that the DCFS granted her custody of S.P. on May 17, 2022. Ms. Rivera testified that on Easter Sunday of 2022, her mother called her, was distraught, and told her to go to Best Buy. When she arrived, her mother told her and Claudia about S.P.'s allegations against defendant, and she was surprised, "completely shocked." However, she asserted that she knew something was wrong with S.P. because of her demeanor. S.P. was quiet and withdrawn and had gained significant weight in a short amount of time. Ms. Rivera commented that she knew her sister was "unhappy" with S.P. and she thought her sister did not want S.P. in her home anymore. She recalled that Claudia was in complete denial and said that S.P. was lying. She testified that she and her mother were shocked and disappointed with Claudia's reaction to S.P.'s disclosure.

Ms. Rivera testified that she had been taking S.P. to weekly therapy sessions, that S.P. had been diagnosed with post-traumatic stress disorder, and that S.P. takes medication for depression and for nightmares. Ms. Rivera asserted that the abuse allegations "broke" their family apart, commenting that Claudia does not speak to them and Clara, her other sister, has sided with Claudia. Ms. Rivera admitted that she did not like defendant as he lied to her sister and went to the Philippines. It also made her upset that Claudia was the "breadwinner" in the family and defendant was not always employed or bringing in money. Ms. Rivera testified that at the time of this trial, Claudia was approximately forty-eight years old and that defendant was approximately ten years older. Ms. Rivera also pointed out that it was clear to her that S.P.'s sister was the favorite by the way Claudia and defendant spoke to and treated her.

FIRST ASSIGNMENT of ERROR

In his first assignment of error, defendant argues that the evidence was insufficient to support his convictions because the State failed to prove the essential elements of the offenses. He states that indecent behavior with a juvenile requires a specific intent to arouse or gratify sexual desires, but the State did not prove beyond a reasonable doubt that defendant had this specific intent. Additionally, defendant contends that the State did not prove beyond a reasonable doubt that sexual penetration or sexual touching of the genitals or anus occurred.

Defendant asserts that S.P. spoke of him applying medicine to her vagina; initiating a game wherein he would feed her candy, which allegedly “would turn soft;” and that he allegedly “placed [his penis] near down there.” He maintains that these alleged facts were the only basis for the crimes charged and contained ambiguities. He asserts that applying medicine has reasonable interpretations other than sexual touching. Thus, he concludes that the State did not prove the necessary element of penetration beyond a reasonable doubt as defined and required by La. R.S. 14:41 and La. R.S. 14:42. Defendant further argues that the trial testimony was inconsistent, pointing out for example that S.P. could not recall the time frame when the alleged offenses occurred, she was unable to recall whether she was 8, 9, or 10 years old at the time or what season it was when an offense allegedly occurred. He also contends that she was unable to testify regarding names, dates, times, or places relating to interviews she had previously given disclosing the sexual abuse.

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 of the elements of the crime have been proven beyond a reasonable doubt. Jackson v. Virginia, 443 U.S. 307, 319, 99 S.Ct. 2781, 61 L.Ed.2d 560 (1979); State v. Lane, 20-181 (La. App. 5 Cir. 1/27/21), 310 So.3d 794, 804.

Under the Jackson standard, a review of the record for sufficiency of the evidence does not require this 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. State v. McKinney, 20-19 (La. App. 5 Cir. 11/4/20), 304 So.3d 1097, 1103.

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. 5/29/24), 385 So.3d 700. This is not a separate test from the Jackson standard but rather provides a helpful basis for determining the existence of reasonable doubt. Id. All evidence, both direct and circumstantial, must be sufficient to support the conclusion that the defendant is guilty beyond a reasonable doubt. Id.

Encompassed within proving the elements of an offense is the necessity of proving the identity of the defendant as the perpetrator. State v. Lopez, 23-335 (La. App. 5 Cir. 8/21/24), 398 So.3d 167, 176-177, writ denied, 24-1187 (La. 1/14/25), 398 So.3d 650. Where the key issue is identification, the State is required to negate any reasonable probability of misidentification in order to carry its burden of proof. Id. at 177.

In its determination of whether any rational trier of fact would have found the defendant guilty, a reviewing court will not re-evaluate the credibility of witnesses or re-weigh the evidence. Lane, 310 So.3d at 804. The credibility of a witness,

including the victim, 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. State v. Gonzalez, 15-26 (La. App. 5 Cir. 8/25/15), 173 So.3d 1227, 1233. 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. Douglas, 23-331 (La. App. 5 Cir. 2/28/24), 383 So.3d 266, 276, writ denied, 24-434 (La. 10/23/24), 394 So.3d 1282; State v. Clifton, 17-538 (La. App. 5 Cir. 5/23/18), 248 So.3d 691, 703. In sex offense cases, the testimony of the victim alone can be sufficient to establish the elements of a sexual offense, even when the State does not introduce medical, scientific, or physical evidence to prove the commission of the offense. State v. Chinchilla, 20-60 (La. App. 5 Cir. 12/23/20), 307 So.3d 1189, 1195, writ denied, 21-274 (La. 4/27/21), 314 So.3d 838, cert. denied, — U.S. —, 142 S.Ct. 296, 211 L.Ed.2d 138 (2021); State v. Raye, 17-136 (La. App. 5 Cir. 10/25/17), 230 So.3d 659, 666, writ denied, 17-1966 (La. 6/15/18), 257 So.3d 674.

Here, defendant was convicted of first degree rape upon a known juvenile in violation of La. R.S. 14:42 (count one), sexual battery where the child was under thirteen in violation of La. R.S. 14:43.1 (count two), and indecent behavior with a juvenile under thirteen in violation of La. R.S. 14:81 (count three).

At the time of the offenses, the definition of rape, as set forth in La. R.S. 14:41 provided:¹⁰

A. Rape is the act of anal, oral, or vaginal sexual intercourse with a male or female person committed without the person's lawful consent.

B. Emission is not necessary, and any sexual penetration, when the rape involves vaginal or anal intercourse, however slight, is sufficient to complete the crime.

C. For purposes of this Subpart, "oral sexual intercourse" means the intentional engaging in any of the following acts with another person:

(1) The touching of the anus or genitals of the victim by the offender using the mouth or tongue of the offender.

¹⁰ The law in effect at the time of the commission of the offense is determinative of the penalty which the convicted accused must suffer. State v. Sugasti, 01-3407 (La. 6/21/02), 820 So.2d 518, 520-522.

(2) The touching of the anus or genitals of the offender by the victim using the mouth or tongue of the victim.

First degree rape, as set forth in La. R.S. 14:42, provided in pertinent part:

A. First degree rape is a rape committed . . . where the anal, oral, or vaginal sexual intercourse is deemed to be without lawful consent of the victim because it is committed under any one or more of the following circumstances:

(4) When the victim is under the age of thirteen years. Lack of knowledge of the victim's age shall not be a defense.

Sexual battery, pursuant to La. R.S. 14:43.1, provided in pertinent part:

A. Sexual battery is the intentional touching of the anus or genitals of the victim by the offender using any instrumentality or any part of the body of the offender, directly or through clothing, or the touching of the anus or genitals of the offender by the victim using any instrumentality or any part of the body of the victim, directly or through clothing, when any of the following occur:

(2) The victim has not yet attained fifteen years of age and is at least three years younger than the offender.

La. R.S. 14:81, indecent behavior with juveniles, provided in pertinent part:

A. Indecent behavior with juveniles is the commission of any of the following acts with the intention of arousing or gratifying the sexual desires of either person:

(1) Any lewd or lascivious act upon the person or in the presence of any child under the age of seventeen, where there is an age difference of greater than two years between the two persons. Lack of knowledge of the child's age shall not be a defense[.]

H. (2) Whoever commits the crime of indecent behavior with juveniles on a victim under the age of thirteen when the offender is seventeen years of age or older, shall be punished by imprisonment at hard labor for not less than two nor more than twenty-five years. At least two years of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

A lewd or lascivious act is one which tends to excite lust and to deprave the morals with respect to sexual relations and which is obscene, indecent, and related to sexual impurity or incontinence carried on in a wanton manner. State v. Hayman, 20-323 (La. App. 5 Cir. 4/28/21), 347 So.3d 1030, 1040. This encompasses not only

the physical touching of the victim in an indecent manner but also indecent sexual displays in the presence of children under the age of seventeen. Id.

In the instant case, we find that a rational jury could have found that the evidence was sufficient to support defendant's convictions. At trial, S.P. testified that her date of birth was April 6, 2011, and she believed she was approximately ten years old when defendant began sexually abusing her. The trier of fact also heard S.P.'s CAC interview and incident history taken with Dr. Troy wherein she indicated she was eight or nine years old. When repeatedly questioned about specific dates, times, and interviews, S.P. stated that her memory was better at the time she made the disclosures; whereas her memory now was "foggy." Additionally, the evidence established that S.P. made the disclosure regarding defendant's sexual abuse when she was eleven years old, and all of the abuse occurred before that time. Further, Ms. Rivera testified that at the time of trial in 2025, defendant was approximately ten years older than Claudia, who was approximately forty-eight years old.

Therefore, we find the State established that S.P. was under the age of thirteen at the time of the offenses as required by La. R.S. 14:42 (count one), under the age of fifteen and at least three years younger than the offender as required by La. R.S. 14:43.1 (count two), and under the age of thirteen when the offender was seventeen years of age or older as required by La. R.S. 14:81 H(2) (count three).

As to the first degree rape conviction, S.P. stated in her CAC interview and testified at trial that defendant put his penis in her vagina and that he also put his penis in her mouth. Regarding the sexual battery conviction, S.P. indicated in her CAC interview and testified at trial that defendant touched her vagina with his fingers under the guise of applying medicine and that he forced S.P. to touch his penis, moved her hand up and down, and "white stuff" came out. With respect to defendant's conviction for indecent behavior with juveniles, S.P. stated in her CAC

interview and testified at trial that defendant touched her breasts while telling her she was becoming a young lady.

Defendant argues that S.P. was not a credible witness and that there was no other evidence that he sexually abused her. However, defendant's arguments fail given that a victim's testimony alone can be sufficient to establish the elements of a sexual offense, even when the State does not introduce medical, scientific, or physical evidence to prove the commission of the offense. Chinchilla, 307 So.3d at 1195. In the instant case, the jury was presented with the State's theory of the case and the defense's theory of the case. The jury clearly found the victim, S.P., to be credible and rejected defense counsel's argument that she was lying. 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, and the credibility of the witnesses will not be re-weighed on appeal. State v. Salvant, 24-205 (La. App. 5 Cir. 3/19/25), 411 So.3d 74, 99, writ denied, 25-485 (La. 9/16/25), 416 So.3d 473. Thus, this court should not second guess that credibility determination. Chinchilla, 307 So.3d 1197. Accordingly, considering the law and the evidence admitted at trial, we find that a rational trier of fact, viewing the evidence in a light most favorable to the State, could have found beyond a reasonable doubt that the evidence was sufficient under the standard set forth in Jackson to support all of defendant's convictions.

SECOND ASSIGNMENT of ERROR

In his second assignment of error, defendant argues that the trial court abused its discretion by denying his motion to continue the trial based on the State's production of Brady material the night before trial.¹¹ He contends that the State failed to timely disclose notes regarding State witnesses prepared months prior to

¹¹ Brady v. Maryland, 373 U.S. 83, 87, 83 S.Ct. 1194, 10 L.Ed.2d 215 (1963).

trial. Defendant asserts that the notes contained witness statements that conflicted with prior testimony rendering them Brady evidence necessary for proper impeachment purposes. He argues that the topics discussed in the notes could not be adequately investigated and utilized in the exceptionally limited time frame. Thus, defendant concludes that he was prejudiced by the late disclosure and by the trial court's failure to grant a continuance. Defendant further argues that the trial court erred by denying his Motion for a New Trial based on the trial judge's refusal to grant a continuance.

On January 13, 2025, at a hearing prior to trial, the State said that it planned to turn over the written notes from the "victim and witness meeting with the legal guardian" by e-mail after court. The trial judge responded that he did not want defense counsel to come to court the next day and say the notes of the victim disclosed new information. The State stated that it did not know of any disclosure that happened previously. The State further indicated that there was no new Brady material, stating, "I'm not saying that it's one hundred percent the same, but there was – there's no glaring difference that, like we're concerned about."

Later the same day, defendant filed a written motion to continue the January 14, 2025 trial based on the following reasons:

Defense counsel was just provided with 18 pages of handwritten discovery on January 13, 2025 at 3:42 p.m. This discovery is of great importance and contains many items that can be characterized as Brady disclosures by witnesses who will be called on January 14, 2025. These notes were generated on August 28 and September 7, 2024. Defense will need time to review said documents in order to effectively prepare for trial and proper cross examination of witnesses.

The trial judge wrote "denied" on the undated order attached to the motion.

On January 14, 2025, prior to trial, the trial judge stated he had conducted a conference call the previous night with the prosecutor and defense counsel regarding the State's disclosure of notes the previous afternoon. Defense counsel agreed that they talked about this issue, and he moved for a continuance based on the late

disclosure of evidence turned over by the State the previous afternoon at 3:45 P.M. He commented that the evidence consisted of eighteen pages of handwritten notes concerning a witness the State was planning to call that morning. Defense counsel argued they did not have enough time to adequately prepare for cross-examination. He further argued that the witness' statement was tied into statements made by other witnesses. Defense counsel asserted the late disclosure placed them at a significant disadvantage. He pointed out the notes were prepared in August or September 2024.

The prosecutor responded that the handwritten notes pertained to two witnesses and not the victim. She stated that the notes were written in large print and were not difficult to read. The prosecutor said that she planned to call one of the witnesses that day and the other one the next day. As such, she maintained that defense counsel did not need considerable time to investigate, and they would have ample opportunity to cross-examine both witnesses about the notes.

The trial judge recalled defense counsel stating there was a concern that the notes involved a gun and cameras defense counsel was not aware of. The trial judge pointed out that the State indicated it was not going to ask questions regarding those two issues, to which the prosecutor agreed. Defense counsel replied that would deprive them from opening the door if they wanted to, but the trial judge disagreed. The trial judge stated that "although [he was] not a fan of the late disclosure, considering the notes were available in August and perhaps could have been turned over sooner," he did not "think there was any significant prejudice to defendant" and "certainly not enough to justify a continuance at this late date." The trial judge stated that the trial had been continued previously due to a hurricane and that it would be inappropriate to grant a continuance since all the parties were ready to proceed except for the notes. He reiterated that based upon what he was told about the notes' content, he did not think that constituted a sufficient basis for granting a continuance. Thereafter, the trial judge denied the motion for continuance again.

On February 13, 2025, following his convictions, defendant filed a motion for a new trial arguing, among other things, that the trial judge erred by denying his motion for a continuance based on the prejudicial late disclosure of the notes.

On February 19, 2025, at the motion for new trial hearing, defense counsel submitted on the motion. The prosecutor stated that the day before trial the State turned over eighteen pages of handwritten notes regarding its prior preparation of two witnesses, Mrs. Chavero-Perez and Ms. Rivera. She pointed out that the notes were written in extremely large handwriting and that none of the issues raised in those notes were prejudicial to defendant at trial. The prosecutor had “no doubt” that defense counsel took the ten minutes necessary to read the eighteen pages. She commented that defense counsel adequately cross-examined both witnesses at trial. The prosecutor explained that one of the issues raised in the notes was the potential presence of a video camera system inside defendant’s house. She stated that defendant’s wife testified that their house had cameras, but they did not record. The prosecutor maintained there was no prejudicial effect from the denial of the continuance based on the State’s late disclosure of the notes.

Defense counsel disagreed that the notes were legible, commenting that he could not make “heads or tails” of them and stated that they were difficult to read. He contended that it was not clear until the conference call that these notes were taken in an interview with the victim’s grandmother. Defense counsel reiterated they did not have time to properly investigate anything that was said in those notes and that the late disclosure prejudiced them in their ability to get ready for trial. He argued that the prosecutor had these notes in August 2024, but the State did not turn over the notes to the defense until January 2025. Defense counsel maintained that the prosecutor knew she had to turn them over and waited until the last minute to do so. He argued the only remedy was to grant the continuance so they could

investigate and formulate a trial strategy. He stated that they were unable to do so, which severely prejudiced the defense.

The trial judge stated there was a telephone conference prior to trial where the defense objected to the late disclosure of the notes and claimed that the notes contained Brady material. He explained that he denied the motion for a continuance and instructed the State not to raise certain issues contained in the notes and that the State abided this instruction. The trial judge pointed out that the defense went into some of those issues on cross-examination regarding the cameras, but it turned out the camera did not play any role in the case. He explained that defendant's own witness testified the camera did not record. The trial judge thereafter denied the motion for a new trial.¹²

The notes in question were not offered and admitted or proffered at the motion to continue hearing or during the trial on the merits, which defendant acknowledges in his brief. Additionally, the notes were not attached to the motion for continuance or to the motion for a new trial. Furthermore, it appears that the trial judge may not have even viewed the notes as indicated by the trial court's statements in the hearing. Consequently, it is difficult to determine how or if the defense was prejudiced by the late disclosure of the notes or whether they even constituted Brady material.

The record also shows that defense counsel did not state the specific grounds below in the trial court as to exactly why or how the defense was prejudiced. La. C.Cr.P. art. 841 A provides, in part, that "an irregularity or error cannot be availed of after verdict unless it was objected to at the time of occurrence." In order to preserve the right to seek appellate review of an alleged trial court error, the party claiming the error must state an objection contemporaneously with the occurrence of the alleged error, as well as the grounds for that objection. Defendant is limited

¹² On February 19, 2025, the trial judge also denied the motion by circling "denied" on the order attached to the motion.

on appeal to matters to which an objection was made, but also to the grounds for his objection articulated at trial. State v. James, 24-508 (La. App. 5 Cir. 7/30/25), 417 So.3d 103, 111; State v. Faciane, 17-224 (La. App. 5 Cir. 11/15/17), 233 So.3d 195, 211, writ denied, 17-2069 (La. 10/8/18), 253 So.3d 797. Therefore, we find that this claim has not been preserved for review. Nevertheless, for the following reasons, we find no merit to defendant's argument.

A motion for a continuance must be in writing, allege the specific grounds for the continuance, and be filed at least seven days before trial. La. C.Cr.P. art. 707. At any time, upon written motion and after contradictory hearing, the court may grant a continuance but only upon a showing that the motion is in the interest of justice. Id.

According to La. C.Cr.P. art. 712, "[a] motion for continuance, if timely filed, may be granted, in the discretion of the court, in any case if there is good ground therefor." The decision of whether to grant or refuse a motion for a continuance rests within the sound discretion of the trial judge, and a reviewing court will not disturb such a determination absent clear abuse of discretion. State v. Perilloux, 21-448 (La. App. 5 Cir. 12/20/23), 378 So.3d 280, 314, writ denied, 24-104 (La. 9/4/24), 391 So.3d 1055. Generally, a conviction will not be reversed, even on a showing of an improper denial of a continuance absent a showing of specific prejudice. State v. Gray, 17-166 (La. App. 5 Cir. 12/20/17), 235 So.3d 1270, 1288.

Pursuant to La. C.Cr.P. art. 851, a motion for a new trial is based upon the supposition that an injustice has been done to the defendant, and unless such injustice is shown, the new trial motion shall be denied no matter upon what allegations the motion is grounded. State v. Paul, 15-501 (La. App. 5 Cir. 1/27/16), 185 So.3d 188, 198. The decision on a motion for new trial rests within the sound discretion of the trial court and the ruling will not be disturbed on appeal absent a clear showing of

an abuse of discretion. State v. Williams, 18-112 (La. App. 5 Cir. 11/7/18), 259 So.3d 563, 578, writ denied, 18-2038 (La. 4/22/19), 268 So.3d 295.

In Brady v. Maryland, 373 U.S. 83, 87, 83 S.Ct. 1194, 1196-97, 10 L.Ed.2d 215 (1963), the United States Supreme Court held that suppression by the prosecution of evidence favorable to the accused after receiving a request for the evidence violates a defendant's due process rights where the evidence is material either to guilt or punishment, without regard to the good or bad faith of the prosecution. This rule encompasses evidence which could be used to impeach a witness whose reliability or credibility may determine the defendant's guilt or innocence. State v. Brown, 16-998 (La. 1/28/22), 347 So.3d 745, 834, cert. denied, — U.S. —, 143 S.Ct. 886, 215 L.Ed.2d 404 (2023). Furthermore, it extends to both late disclosure and/or non-disclosure of favorable evidence that significantly impacts the defendant's opportunity to effectively present the evidence or compromises the trial's fundamental fairness. Id.

However, not every violation of the broad duty of disclosure constitutes a Brady violation. State v. Brown, 15-2001 (La. 2/19/16), 184 So.3d 1265, 1266. In fact, Brady and its progeny do not establish a general rule of discoverability: the prosecutor does not breach the constitutional duty to disclose favorable evidence “unless his omission is of sufficient significance to result in the denial of the defendant's right to a fair trial.” Brown, 347 So.3d at 834. The United States Supreme Court has laid out the three components of a true Brady violation: “The evidence at issue must be favorable to the accused, either because it is exculpatory, or because it is impeaching; that evidence must have been suppressed by the State, either willfully or inadvertently; and prejudice must have ensued.” Id. (citing Strickler v. Greene, 527 U.S. 263, 281-82, 119 S.Ct. 1936, 144 L.Ed.2d 286 (1999)).

In State v. Harris, 01-2730 (La. 1/19/05), 892 So.2d 1238, 1249-1252, cert. denied, 546 U.S. 848, 126 S.Ct. 102, 163 L.Ed. 2d 116 (2005), the Louisiana

Supreme Court found that the trial court did not abuse its discretion by denying the defendant's motion for a seven-day continuance in a capital murder trial based on the State's alleged Brady violation that consisted of an untimely disclosure of an eyewitness' recorded statement to the police and a supplemental police report authored by a detective. The supreme court pointed out that the defense counsel thoroughly questioned the witnesses using the eyewitness's audio taped statement and the detective's report in an attempt to impeach them. Id. at 1253. The supreme court held that it was "clear from the record that a continuance was not necessary in order to give the defense more time to develop its defense," and therefore, the defendant failed to demonstrate he was prejudiced by the trial court's denial of his motion for continuance. Id.

In State v. Deville, 22-350 (La. App. 3 Cir. 11/23/22), 354 So.3d 99, 111, the third circuit found that the defendant was not prejudiced by the trial court's denial of his motion to continue trial. The defendant argued that he was provided outstanding discovery on the day of trial, defendant was prejudiced by the late discovery, and his conviction for attempted first degree murder of a police officer should be reversed. The appellate court pointed out that the trial court granted multiple continuances which gave the defense nearly two years to prepare for the case, the State had an open file policy, and defense counsel had access to the open file. Id. The appellate court found that even if the outstanding discovery was favorable evidence to the defendant, the defendant failed to show how the late disclosure and/or non-disclosure compromised the fundamental fairness of the trial. The appellate court remarked that even though the defendant alleged he suffered specific prejudice in not having adequate time to review the evidence provided on the morning of trial, defendant did not state the specific prejudice. Id.

In this case, we find that the trial judge did not abuse his discretion by denying the motion to continue trial or the motion for a new trial based on the late disclosure

of the State's notes. It is not disputed that the eighteen pages of notes of the meeting with Ms. Chavero-Perez and Ms. Rivera were disclosed on January 13, 2025. Ms. Chavero-Perez was called as a witness two days later on January 15, 2025, and Ms. Rivera was called as a witness on January 16, 2025. Therefore, it appears that the defense had a sufficient amount of time to review the notes prior to the witnesses' testimony. See State v. Johnson, 463 So.2d 620, 625 (La. App. 1 Cir. 1984). Additionally, the record reflects that defense counsel thoroughly cross-examined both witnesses at trial. Moreover, defendant has failed to show how he was specifically prejudiced by the late disclosure of the notes and simply makes generalized and conclusory claims of prejudice.

Accordingly, we find that the trial court did not abuse its discretion by denying the motion for continuance or the motion for a new trial due to the late disclosure of the notes.

ERRORS PATENT

The record was reviewed for errors patent according to the mandates of 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). Our review reveals no errors patent.

DECREE

Accordingly, for the reasons stated above, defendant's convictions and sentences are affirmed.

CONVICTIONS AND SENTENCES AFFIRMED

SUSAN M. CHEARDY
CHIEF JUDGE

FREDERICKA H. WICKER
JUDE G. GRAVOIS
MARC E. JOHNSON
STEPHEN J. WINDHORST
JOHN J. MOLAISSON, JR.
SCOTT U. SCHLEGEL
TIMOTHY S. MARCEL

JUDGES



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

CURTIS B. PURSELL
CLERK OF COURT

SUSAN S. BUCHHOLZ
CHIEF DEPUTY CLERK

LINDA M. TRAN
FIRST DEPUTY CLERK

MELISSA C. LEDET
DIRECTOR OF CENTRAL STAFF

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

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 18, 2025 TO THE TRIAL JUDGE, CLERK OF COURT, COUNSEL OF RECORD AND ALL PARTIES
NOT REPRESENTED BY COUNSEL, AS LISTED BELOW:

A handwritten signature in blue ink, reading "Curtis B. Pursell", is written over a horizontal line.

CURTIS B. PURSELL
CLERK OF COURT

25-KA-211

E-NOTIFIED

24TH JUDICIAL DISTRICT COURT (CLERK)		
HONORABLE STEPHEN C. GREFER (DISTRICT JUDGE)		
BROOKE A. HARRIS (APPELLEE)	DARREN A. ALLEMAND (APPELLEE)	THOMAS J. BUTLER (APPELLEE)
EVAN J. BERGERON (APPELLANT)	SAMUEL H. WINSTON (APPELLANT)	

MAILED

HONORABLE PAUL D. CONNICK, JR.
(APPELLEE)
DISTRICT ATTORNEY
TAYLOR SOMERVILLE (APPELLEE)
ASSISTANT DISTRICT ATTORNEY
TWENTY-FOURTH JUDICIAL DISTRICT
200 DERBIGNY STREET
GRETNA, LA 70053