Fifth Circuit Court of Appeal
State of Louisiana

No. 26-KA-42

STATE OF LOUISIANA

versus

MICHAEL A. HARRIS

ON APPEAL FROM THE TWENTY-FOURTH JUDICIAL DISTRICT COURT
PARISH OF JEFFERSON, STATE OF LOUISIANA
NO. 23-1054, DIVISION "A"
HONORABLE RAYMOND S. STEIB, JR., JUDGE PRESIDING

November 25, 2026

JUDE G. GRAVOIS

JUDGE

Panel composed of Judges Fredericka Homberg Wicker,
Jude G. Gravois, and Stephen J. Windhorst

AFFIRMED; REMANDED WITH INSTRUCTIONS

JGG
SJW

CONCURS -WITH REASONS

FHW

TRUE COPY
SUSAN BUCHHOLZ
DEPUTY CLERK

COUNSEL FOR DEFENDANT/APPELLANT,
MICHAEL A. HARRIS

Remy V. Starns
Holli A. Herrle-Castillo

COUNSEL FOR PLAINTIFF/APPELLEE,
STATE OF LOUISIANA

Honorable Paul D. Connick, Jr.
Thomas J. Butler
Matthew R. Clauss

GRAVOIS, J.

Defendant, Michael A. Harris, was convicted of two counts of first degree murder, violations of La. R.S. 14:30, and one count of possession of a firearm by a convicted felon, a violation of La. R.S. 14:95.1. In this appeal, he argues that the evidence was insufficient to convict him of the offenses. He also argues that the trial court erred in admitting evidence of a firearm he was in possession of when he was apprehended months after the charged homicides.

For the following reasons, we affirm defendant's convictions and sentences. We remand the matter to the trial court for the minute entry to be corrected to show that defendant's convictions for first degree murder are crimes of violence.

PROCEDURAL HISTORY

On June 22, 2023, a Jefferson Parish Grand Jury indicted defendant, Michael A. Harris, with the first degree murder of David Sumera in violation of La. R.S. 14:30 (count one), the first degree murder of Alexxis Eymard in violation of La. R.S. 14:30 (count two), and possession of a firearm by a convicted felon in violation of La. R.S. 14:95.1 (count three).[1] Defendant was arraigned and pled not guilty on June 29, 2023. On July 28, 2025, the case proceeded to trial before a twelve-person jury, and on August 1, 2025, the jury found defendant guilty as charged on all counts.

On September 2, 2025, defendant filed a Motion for New Trial. On September 3, 2025, after denying the Motion for New Trial and defendant having waived delays, the court sentenced defendant to life imprisonment without the benefit of parole, probation, or suspension of sentence each on counts one and two, and to twenty years imprisonment at hard labor without the benefit of parole, probation, or suspension of

[1] The State alleged in count three that on September 24, 2022, defendant violated La. R.S. 14:95.1 by possessing a firearm after being convicted on May 10, 2021, for possessing less than 2 grams of heroin, violating La. R.S. 40:966(C), in case number 18-6664, in Division "H" of the 24th Judicial District Court in Jefferson Parish. It further alleged that defendant was convicted on May 12, 2016, for distributing heroin, violating La. R.S. 40:966(A), in case number 13-5078, in Division "G" of the same court.

sentence on count three. The court ordered that the sentence for count two run consecutively to count one's sentence and that count three's sentence run concurrently with the sentences for counts one and two. Also on September 3, 2025, defendant filed a Motion for Appeal, which the trial court granted that same day. This appeal followed.

FACTS

On September 24, 2022, at approximately 6:21 p.m., Sadie Willis found the bodies of David Sumera and Alexxis Eymard in the front seat of a 2019 Ford Ranger, parked but still running, in her driveway at 2605 Bay Adams Drive in Marrero, Louisiana. Ms. Willis knew the victims, as Mr. Sumera was her drug dealer and was there to deliver drugs to her, and Ms. Eymard was his girlfriend. When she saw the bodies in the car, she called 9-1-1.

Jefferson Parish Sheriff's Office ("JPSO") Deputies Blake Billiot and Gary Bavaret responded to a report of individuals in medical distress inside a vehicle at 2605 Bay Adams Drive. Upon arrival, they located a running truck in the driveway containing an unresponsive male and female. Both appeared deceased, and EMS later observed that the male had sustained a gunshot wound to the head.

The Sheriff's Office investigation soon developed defendant, Michael A. Harris, as a suspect in the murders, based upon security camera footage from the neighborhood, identification evidence provided by Ms. Willis, and DNA evidence collected from the inside of the Ford Ranger and on a white t-shirt found near the scene. He was arrested in Memphis, Tennessee, in February of 2023, and was returned to Louisiana to face charges.

Sometime before lunchtime on September 24, 2022, Mr. Sumera called Ms. Willis to tell her he would be on the West Bank if she "needed anything," meaning heroin, to which she replied affirmatively. Ms. Willis was in the back of the residence when a vehicle arrived at approximately 1:43 p.m. She texted Mr. Sumera asking whether it was him. When the heroin was not delivered immediately, she assumed he

was either waiting to complete another transaction or arguing with Ms. Eymard.[2]

Ms. Willis admitted that she had used heroin and Xanax that day and was drifting in and out of consciousness. When she regained consciousness, she heard the truck still running and believed Mr. Sumera and Ms. Eymard had overdosed. She ran outside with Narcan and observed Mr. Sumera slumped towards the center console with blood visible inside the vehicle, while Ms. Eymard appeared to be sleeping. She then called 9-1-1.

Ms. Willis spoke with law enforcement when they arrived at the scene. She denied hearing gunshots or seeing anyone approach or leave the vehicle. She admitted that she told the 9-1-1 dispatcher that Mr. Sumera's vehicle had been at the residence for approximately an hour, because she was afraid of getting in trouble for not checking on them sooner. She was later able to determine the approximate time the vehicle arrived based on a text message she had sent to Mr. Sumera; she provided that information to the deputies at the scene. She also provided a statement and consented to a search of her cell phone.

Mr. Sumera had come to her residence a few days before the homicides. He was with an individual named "Mikey." Ms. Willis had used drugs heavily that day, and she later apologized to Mr. Sumera for her behavior.[3] Ms. Willis was ninety-nine percent certain that the individual who came to her residence and introduced himself as "Mikey" was the same person depicted in newspaper photographs she later saw online about the case. She identified him as defendant, Michael A. Harris, in open court. Ms. Willis had heard that Mr. Sumera was a confidential informant. She was not aware of any specific people, except for her friend, James Duffourc, who Mr. Sumera did drug deals with at her residence.

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[2] Ms. Willis acknowledged that both Mr. Sumera and Ms. Eymard used narcotics.

[3] Data later extracted from Ms. Willis's cell phone, including text messages and location-related information, corroborated portions of her account of events.

At the scene, deputies recovered spent shell casings from the vehicle and surrounding area and obtained surveillance footage from a nearby residence. In the footage, Deputy Bavaret observed the truck arriving and parking in Ms. Willis's driveway. Sometime later, an individual exited the rear seat, approached the passenger side of the vehicle and then the driver's side of the vehicle, and then left the area on foot. This information was relayed to detectives assigned to the homicide investigation.

JPSO Detective Harold Wischan, the scene officer in this case, testified that investigators prepared a compilation of surveillance footage recovered from nearby residences. Surveillance footage from 2609 Bay Adams Drive showed the victims' vehicle arriving at 2605 Bay Adams Drive at approximately 1:43 p.m. and a suspect exit the vehicle. Additional footage from Tambour Drive showed a suspect wearing a red shirt, black pants, and a white garment on his head walking approximately one block from the crime scene.

Footage from 2612 Bay Adams Drive showed the 2019 Ford Ranger parked at Ms. Willis's house. Detective Wischan testified that a suspect wearing a red shirt and white head covering exited the rear passenger door, approached both front doors of the vehicle, and then walked away from the scene heading northbound on Tambour Drive. No other person was seen exiting the vehicle. The footage also appeared to show the white head covering falling off of the suspect at the intersection of Breton and Tambour Drive. A woman's white shirt was recovered from that intersection and submitted for DNA analysis. No surveillance footage captured the suspect's face. Detective Wischan confirmed the video did not show anyone approach the shirt or handle it before officers collected it.

Investigators processed the 2019 Ford Ranger and recovered 9 mm cartridge casings, a bullet jacket, a lead fragment, multiple cell phones, DNA swabs, a Walgreens receipt dated September 24, 2022, and a firearm, with no magazine or ammunition, beneath the driver's seat. Investigators executed a search warrant at Ms. Willis's residence but recovered no evidence pertinent to the homicide investigation.

Lance Trosclair, Jr. confirmed he knew Mr. Sumera, Ms. Eymard, and Mr. Duffourc. Mr. Trosclair testified that he and Mr. Sumera were close. Mr. Sumera sold drugs daily and was paid in cash. Mr. Sumera routinely carried cash on his person and in his vehicle and he had seen him with approximately $2,000 to $3,000, which he typically kept in his pockets. Mr. Sumera carried a small black-and-red bag inside a larger backpack. He denied knowing whether Mr. Sumera was a confidential informant.

On September 24, 2022, Mr. Trosclair was in the area of Tambour Drive after Mr. Sumera and Ms. Eymard were murdered. He and Mr. Duffourc were walking from Dale Arceneaux's residence, located a few blocks from Bay Adams Drive, to a gas station at the end of Tambour Drive to purchase cigarettes. Mr. Trosclair identified himself and Mr. Duffourc in surveillance video from the neighborhood that was played for the jury. He confirmed that the video showed him bending over to pick something up, either a piece of clothing or a little red and black pencil bag, which had about a half ounce of heroin and a small amount of cocaine in it, that he and Mr. Duffourc had found.

The video showed them returning towards Mr. Arceneaux's residence and showed him picking up one of three white articles of clothing left on the sidewalk. He picked up the clothing because it was not uncommon for him to keep discarded clothing or pass it along to someone who might need it. He recalled noticing a small drop of blood on one of the items. He stated that he later discarded the clothing because he did not know there was a crime scene nearby and did not want to get in trouble. He did not pick up another bag he noticed because he recognized it as belonging to Mr. Sumera and knew it as the bag in which Mr. Sumera kept drugs for sale.

Mr. Trosclair did not learn of the homicides until approximately forty-five minutes to an hour later, after arriving at his girlfriend's residence and receiving a text message about the killings. He and Mr. Duffourc divided the drugs they found, and he gave some of the drugs to his girlfriend.

Mr. Duffourc testified similarly to Mr. Trosclair regarding the events in the video footage. In addition, Mr. Duffourc said that the red and black bag was one that Mr. Sumera regularly carried. It contained approximately twenty-eight bottles of heroin and two grams of cocaine; Mr. Duffourc denied that the bag contained any money. He and Mr. Trosclair divided the drugs and he sold his share.

Mr. Duffourc had previously purchased drugs from Mr. Sumera. He was in contact with Mr. Sumera throughout the morning of September 24, 2022 because he owed Mr. Sumera money and had planned to meet him to make a payment and obtain additional drugs. Mr. Sumera repeatedly called him that morning regarding their planned meeting. The video footage showed Mr. Sumera's truck stopping outside 2605 Bay Adams Drive, where they were supposed to meet. Earlier, Mr. Duffourc had spoken with Mr. Sumera by telephone, but subsequent calls by both him and Mr. Trosclair to Mr. Sumera went unanswered. According to Mr. Duffourc, this was the last contact he had with Mr. Sumera before learning of the homicides. He had previously seen Mr. Sumera carrying a firearm, although he did not know what type.

Dr. Dana Troxclair, a forensic pathologist, performed the autopsies of the victims. She testified that Ms. Eymard sustained a gunshot wound to the back of the head with a back-to-front, slightly right-to-left, downward trajectory. Stippling indicated an intermediate firing range of approximately two to three feet and was consistent with the shot being fired by someone seated in the backseat. Dr. Troxclair recovered two copper-jacketed fragments and a lead projectile from Ms. Eymard's head. The cause of death was a gunshot wound to the head and the manner of death was homicide.

Mr. Sumera sustained two gunshot wounds. One entered the back right side of his neck and exited through the right side of his nose, while the other entered the back of his head and exited near his left eyebrow. Stippling indicated close-range firing. Dr. Troxclair concluded that the cause of death was multiple gunshot wounds to the head and the manner of death was homicide. The wound trajectories

were consistent with the victim turning while the shooter remained in the same position. Toxicology testing revealed multiple controlled substances in Ms. Eymard's system; Mr. Sumera's toxicology results were similar. Those substances, however, did not contribute to either victim's death.

JPSO Detective Steven Mehrtens, the primary case officer, testified regarding the investigation that led to defendant being identified as a suspect. Detective Mehrtens came into contact with Melissa Knipp, who reported that she had been with the victims and an individual known as "Mike" during the weekend before the homicides. Ms. Knipp identified defendant in open court. She testified that she previously dropped defendant off at a residence at 828 Mystic Avenue in Gretna. Detective Mehrtens's research revealed that a former resident of that address matching Ms. Knipp's description was defendant.

After the white Pink-brand shirt recovered near the scene was submitted for DNA testing, Detective Mehrtens later received notification that a CODIS[4] search of the DNA profile generated a match to defendant. He testified that investigative database research revealed that defendant's prior address was 828 Mystic Avenue.

Sarah Serou, an expert in forensic DNA analysis, testified that the DNA profile obtained from the white shirt was interpreted as a mixture of three contributors. The profile was entered into CODIS, which identified defendant as a preliminary match. After comparing the profile to defendant's buccal swab, Ms. Serou determined that the profile was at least 100 billion times more likely if the DNA originated from defendant and two unknown contributors than if it originated from three unknown contributors. This result provided strong support that defendant was a contributor to the DNA obtained from the shirt.[5] The

[4] "CODIS" is the acronym for the FBI's Combined DNA Index System and is the generic term used to describe the FBI's program of support for criminal justice DNA databases as well as the software used to run these databases.

[5] Ms. Serou testified that the shirt profile was at least twenty-five times more likely if the DNA originated from Ms. Eymard and two unknown contributors than if it originated from three unknown contributors, which provided limited support

sample was run through STRmix,[6] which showed that the major contributor accounted for more than 49 percent of the total DNA on the swab, and the major-contributor profile was consistent with defendant.

Ms. Serou further testified that the DNA profile obtained from the interior rear passenger door handle of the Ford Ranger was interpreted as a mixture of three contributors and was at least 100 billion times more likely if the DNA originated from defendant and two unknown contributors than if it originated from three unknown contributors. According to Ms. Serou, this result provided very strong support that defendant was a contributor to the DNA obtained from the door handle.[7] She also ran the sample through STRmix, which showed that the major contributor accounted for over 90.85 percent of the total DNA, and the major-contributor profile was consistent with defendant.

Detective Mehrtens obtained an arrest warrant for defendant for two counts of first degree murder and possession of a firearm by a convicted felon. The firearm defendant was accused of possessing was the firearm used to commit the homicides.

After an arrest warrant was issued, JPSO Sergeant Pat Digiovanni, who was then assigned to the U.S. Marshals Fugitive Task Force, assisted in efforts to locate defendant. Database research and law enforcement tips indicated that defendant was using the cell phone number 504-***-0551[8] on the day of the homicides. Sgt. Digiovanni relayed that information to Detective Mehrtens, who subsequently obtained a search warrant for the records associated with that number.

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for Ms. Eymard contributing to the mixture. Mr. Sumera was excluded as a contributor to the mixture.

[6] "STRmix" is advanced forensic software that resolves complex mixed DNA profiles, enabling accurate interpretation and statistical analysis for criminal investigations.

[7] Ms. Serou testified that the door handle profile was at least 3,900 times more likely if the DNA originated from Mr. Sumera and two unknown contributors than if it originated from three unknown contributors, which provided moderate support for Mr. Sumera contributing to the mixture. Ms. Eymard was excluded as a contributor to the mixture.

[8] For purposes of this opinion, out of an abundance of caution, the phone numbers are redacted. *See State v. Murray*, 17-534 (La. App. 5 Cir. 3/14/18), 242 So.3d 821, 825. *See also State v. Ross*, 24-102 (La. App. 5 Cir. 12/18/24), 409 So.3d 939 (where this Court redacted the phone numbers of the defendant and the deceased victim).

Sergeant Digiovanni developed information indicating that defendant was residing with his parents at 828 Mystic Avenue. When he went to that location, he spoke with defendant's mother, Jacquline Hawkins, who confirmed that defendant was her son and the residence belonged to her. Sergeant Digiovanni also learned that Ms. Hawkins's cell phone number was 504-***-3704 and provided that information to Detective Mehrtens.[9]

Sergeant Digiovanni received information that defendant frequented the Carrollwood Village Apartments and had a vehicle parked in that area. Investigators spoke with individuals at that location and identified two apartments associated with defendant. A search warrant was obtained for one of the apartments. Sergeant Digiovanni also recalled speaking with other individuals, but no one knew of defendant's location.

Sergeant Digiovanni testified that investigators developed information that defendant had fled to Memphis, Tennessee, following the homicides. Deputy William File of the United States Marshals Service apprehended defendant in Memphis in February of 2023 and identified him in open court. At the time of his arrest, defendant was disheveled and in possession of a handgun and a cell phone. Detective Mehrtens traveled to Memphis to retrieve defendant, who provided an address of 828 Mystic Avenue. Detective Mehrtens then conducted a second interview with Ms. Knipp and administered a photographic identification procedure, during which she identified defendant.

Detective Nicholas Schlacter, formerly with the digital forensics unit, extracted GPS data from the Ford Ranger's infotainment system. JPSO Sergeant Anthony Buttone received T-Mobile records associated with cell phone number 504-***-0551 pursuant to a search warrant obtained during the investigation. He also reviewed GPS data extracted from the Ford Ranger in which the victims were found. Sergeant Buttone combined the T-Mobile records associated with the -0551

[9] Detective Mehrtens testified that investigators verified the cell phone number associated with defendant's mother through investigative database research and prior jail call records.

number, which investigators believed was being used by defendant, with the GPS data extracted from the Ford Ranger to create visual representations plotting cell tower locations and vehicle GPS coordinates.

Sergeant Buttone testified that cell phone records associated with the -0551 number reflected cell tower activations near 2605 Bay Adams Drive on September 22, 2022, and later near 828 Mystic Avenue, defendant's parents' residence. On September 23, 2022, cell tower activations associated with the device were plotted together with GPS coordinates extracted from the Ford Ranger, including plots occurring near the vehicle's final location. By approximately 10:19 p.m. on September 23, 2022, the vehicle had traveled from the Algiers area into Marrero while the device continued communicating with a nearby cell tower. Sergeant Buttone confirmed that the GPS data from the Ford Ranger showed it "moved directly to" defendant's parent's residence. He further confirmed that cell phone activations occurred at the same time. According to Sergeant Buttone, at approximately "2:11:13 p.m." on September 23, 2022, the -0551 number made a 22-second connection to a T-Mobile tower while GPS coordinates placed the Ford Ranger outside 828 Mystic Avenue.

Sergeant Buttone explained that on September 24, 2022, the date of the homicides, the GPS coordinates from the Ford Ranger remained in close proximity to cell towers communicating with the -0551 number at approximately 8:28 a.m., 9:44 a.m., 10:30 a.m., 10:41 a.m., 12:50 p.m., and 1:01 p.m. He clarified that the maps reflected the locations of the communicating cell towers rather than the exact location of the device itself.

The GPS data extracted from the Ford Ranger showed the vehicle arriving at 2605 Bay Adams Drive at approximately 1:43:22 p.m. on September 24, 2022. Neighborhood surveillance footage corroborated the vehicle's arrival. Sergeant Buttone explained that there was a cell tower connection involving the -0551 number and a GPS location for the Ford Ranger near Bay Adams Drive at approximately 1:53:37 p.m. on September 24, 2022. Sergeant Buttone confirmed that the nearby

street shown was Tambour Street, the same street along which surveillance footage showed the perpetrator fleeing following the homicides.

Detective Mehrtens acknowledged that the physical cell phone associated with the -0551 number was never recovered. Therefore, investigators were unable to extract data from that device and did not obtain GPS coordinates directly from the phone itself. However, the cell phone recovered from defendant following his arrest in Memphis was subjected to forensic extraction. According to Detective Mehrtens, the extraction revealed messages exchanged through a Text Mail Check application, which provides users with a secondary telephone number. One message identified the recipient as defendant's mother.

Detective Mehrtens testified that a firearm ballistically matching the weapon used in the homicides was never recovered. The surveillance footage did not depict the firearm or show anyone discarding a firearm.[10] Further, investigators could not determine whether the white shirt recovered during the investigation belonged to Ms. Eymard, how long it had been in the street, or how long it had been in the vehicle before it was recovered.

Captain David McLean and Lieutenant Curt Johnson testified that Mr. Sumera served as a confidential informant for the Plaquemines Parish Sheriff's Office in 2022 and had participated in controlled narcotics purchases before his death. After Mr. Sumera's death, an individual identified as Terrance Wilson contacted Captain McLean and was later apprehended. After learning of Mr. Sumera's status as a confidential informant, Detective Mehrtens authorized an investigation into Mr. Wilson. He conducted two interviews with Mr. Wilson, who stated that he was attending a birthday party in Baton Rouge at the time of the homicides. According to Detective Mehrtens, investigators obtained license plate recognition images placing Mr. Wilson's vehicle

[10] Detective Joel O'Lear, an expert in firearm and tool mark examination, examined a cartridge casing, jacket, and pieces of lead in this case. The casing and bullet jacket were compared to the two firearms found in this case, and both firearms were excluded as having fired them. It was determined that the cartridge and bullet jacket were fired from one unknown firearm, and there was no evidence of more than one firearm being fired at the scene.

in Baton Rouge and received a photograph from Mr. Wilson's spouse depicting him at the party. Detective Mehrtens further testified that a buccal swab was collected from Mr. Wilson and he was excluded as a contributor to the DNA recovered from the white shirt and the Ford Ranger rear door handle.

Donna Quintanilla, an expert in latent print comparison and processing, took defendant's fingerprints before trial, which were admitted into evidence. She also identified the certified conviction packet in case number 18-6664 reflecting defendant's guilty pleas to possession of heroin and possession of methadone, with a conviction date of May 10, 2021, and concurrent two-year sentences at hard labor on both counts. Ms. Quintanilla compared the fingerprints in the two exhibits and found sufficient features to identify defendant's left thumb print. She also identified the certified conviction packet in case number 13-5078 reflecting defendant's guilty pleas to three counts of possession with intent to distribute heroin and possession of oxycodone, with a conviction date of May 12, 2016, and concurrent ten-year sentences at hard labor on counts two through four and a concurrent five-year sentence at hard labor on count five. She compared the fingerprints in those exhibits and found sufficient features to identify defendant's right thumb print.[11]

ASSIGNMENT OF ERROR NUMBER ONE

Sufficiency of the evidence

Defendant argues on appeal that the State did not present sufficient evidence that he was the shooter, and consequently, failed to establish he possessed the firearm used in the shooting.[12] He argues that

[11] Ms. Quintanilla also testified that three latent slides were collected from the vehicle in this case, but no identification was made because the results were inconclusive.

[12] The question of sufficiency of the evidence is properly raised in the trial court by a motion for post-verdict judgment of acquittal pursuant to La. C.Cr.P. art. 821. *State v. Nguyen*, 22-286 (La. App. 5 Cir. 2/27/23), 359 So.3d 108, 118. Defendant did not file a motion for post-verdict judgment of acquittal, but rather, on September 2, 2025, filed a Motion for New Trial asserting that the verdict was contrary to the law and evidence and that the ends of justice required a new trial, which the trial court denied. The failure to file a motion for post-verdict judgment

no rational juror could have found that the State proved he was the perpetrator and the circumstantial evidence failed to exclude reasonable hypotheses of innocence. He asserts the State proved only that he knew Mr. Sumera and spent time in his vehicle, not that he was in the vehicle at the time of the shooting, shot the victims, or possessed a firearm. There were no eyewitness, the video did not show the shooting or identify the individual who exited the Ford Ranger, and the DNA and cell tower evidence did not establish his presence at the crime scene or firearm possession. Additionally, defendant argues the State's theft motive is undermined because the shooter discarded the drugs, which were found soon afterwards by Mr. Trosclair and Mr. Duffourc. He claims this suggests a purpose other than theft and asserts there were no conflicts between defendant and the victims.

The State argues that it was required only to negate any reasonable probability of misidentification and contends that it met that burden through surveillance footage, DNA evidence linking defendant to both the discarded shirt and the vehicle's rear passenger-side door handle, testimony placing defendant with the victims before the homicides, cell-site and GPS evidence, and evidence that defendant later fled to Memphis. The State further notes that the principal alternate suspect, Terrence Wilson, was excluded through DNA testing and alibi evidence.

The State argues that the jury could reasonably reject the defense theory that another individual committed the offenses and conclude that defendant was the shooter. The State further contends that the jury could infer defendant possessed the unrecovered murder weapon.

In reviewing sufficiency of the evidence, an appellate court must determine that the evidence, whether direct, circumstantial, or a mixture of both, viewed in the light most favorable to the prosecution, was

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of acquittal does not preclude appellate review of sufficiency of the evidence. *State v. Drane*, 24-331 (La. App. 5 Cir. 4/2/25), 413 So.3d 1198, 1203.

This Court has recognized that the denial of a motion for a new trial based on the verdict being contrary to the law and evidence is not subject to review on appeal; however, both the Louisiana Supreme Court and this Court have addressed sufficiency claims under these circumstances. *State v. Ellis*, 18-463 (La. App. 5 Cir. 7/15/19), 276 So.3d 633, 642.

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, 99 S.Ct. 2781, 61 L.Ed.2d 560 (1979); *State v. Martin*, 24-233 (La. App. 5 Cir. 2/26/25), 406 So.3d 702, 713–14. 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. Gilmore*, 24-552 (La. App. 5 Cir. 8/27/25), 421 So.3d 1039, 1052. When addressing sufficiency of the evidence, consideration must be given to the entirety of the evidence, including inadmissible evidence that was erroneously admitted, to determine whether the evidence is sufficient to support the conviction. *State v. Reed*, 24-329 (La. App. 5 Cir. 4/2/25), 413 So.3d 1166, 1177, *writ denied*, 25-561 (La. 9/10/25), 415 So.3d 1277.

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 the 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.*

On appeal, the reviewing court does not determine if another possible hypothesis suggested by the defendant could afford an exculpatory explanation of the events. *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. Instead, the appellate court must evaluate the evidence in a light most favorable to the State and determine whether the possible alternative hypothesis is sufficiently reasonable that a rational juror could not have found proof of guilt beyond a reasonable doubt. *Id*.

The directive that the evidence be viewed in the light most favorable to the prosecution requires the reviewing court to defer to the actual trier of fact's rational credibility calls, evidence weighing, and inference drawing. *Martin*, 406 So.3d at 714. This deference to the factfinder 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 factfinder and overturning a verdict on the basis of an exculpatory hypothesis of innocence presented to, and rationally rejected by, the jury. *Salvant*, 411 So.3d at 88.

Encompassed within proving the elements of an offense is proving the identity of the defendant as the perpetrator. The State is required to negate any reasonable probability of misidentification to carry its burden of proof. *State v. Williams*, 24-567 (La. App. 5 Cir. 9/24/25), 423 So.3d 93, 100. The credibility of a witness 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. Ellis*, 25-96 (La. App. 5 Cir. 10/29/25), 426 So.3d 120, 128. Additionally, the resolution of conflicting testimony rests solely with the trier of fact, who may accept or reject, in whole or in part, the testimony of any witness. *Gilmore*, 421 So.3d at 1052. Thus, in the absence of internal contradiction or irreconcilable conflicts with physical evidence, the testimony of one witness, if believed by the trier of fact, is sufficient to support a conviction. *Id*.

Defendant was convicted of two counts of first degree murder in violation of La. R.S. 14:30 (counts one and two) and one count of possession of a firearm by a convicted felon in violation of La. R.S. 14:95.1 (count three). On appeal, defendant does not contest the sufficiency of the evidence as to the essential statutory elements of the offenses. Rather, defendant argues that the State failed to prove his identity as the perpetrator.[13]

[13] Although defendant does not specifically challenge the possession element, his argument appears to intertwine that issue with his identity claim,

Here, the State presented evidence that both victims died from gunshot wounds to the head and multiple 9 mm cartridge casings were recovered from the scene. Ballistics testing indicated that the casings were fired from the same firearm. Although the firearm used in the shootings was never recovered, the evidence permitted the jury to infer that a single perpetrator used a firearm to commit the offenses.

The surveillance footage showed a single individual exit the rear passenger area of the Ford Ranger, approach both front doors of the vehicle, and flee northbound on Tambour Drive. The footage further showed the individual running toward the area of Tambour and Breton Streets. Investigators subsequently recovered a white Pink-brand shirt from that area. The footage showed a white shirt falling from the suspect's head at that intersection. Ms. Serou testified that defendant was a contributor to the DNA profile recovered from the shirt and that the profile was at least 100 billion times more likely if it originated from defendant and two unknown contributors than if it originated from three unknown contributors. Further, STRmix analysis showed the major contributor accounted for more than 49 percent of the total DNA swab and that the major contributor was consistent with defendant's reference sample.

The State also presented DNA evidence connecting defendant to the Ford Ranger's rear door handle, as noted above. The jury could have considered this evidence significant because the surveillance footage showed the suspect exiting the rear passenger area of the vehicle.

The State presented evidence connecting defendant to 828 Mystic Avenue and the -0551 cell phone number. Detective Mehrtens' investigative research identified defendant as a former resident of that address. Testimony confirmed defendant's address based on investigative database research and defendant's own statement. Additionally, Sergeant Digiovanni testified that law enforcement database research and investigative information indicated that

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namely, that if he was not the person who committed the offense, he could not have been in possession of the murder weapon.

defendant was associated with the -0551 cell phone number around the time of the homicides. Sergeant Buttone subsequently testified regarding cell-site records associated with the -0551 number and GPS data extracted from the Ford Ranger. According to Sergeant Buttone, the plotted cell-site records associated with the -0551 number and GPS data extracted from the Ford Ranger showed that on September 23, 2022, the Ford Ranger traveled to 828 Mystic Avenue and that the -0551 number made a twenty-two second connection to a T-Mobile tower while GPS coordinates placed the Ford Ranger outside the residence. He further testified that the plotted data showed the Ford Ranger arriving at 2605 Bay Adams Drive on September 24, 2022, and that there was a cell tower connection involving the -0551 number and a GPS location for the Ford Ranger near Bay Adams Drive. Sergeant Buttone also confirmed that the nearby street shown on the plotted exhibit was Tambour Street, the same street along which surveillance footage showed the perpetrator fleeing following the homicides. Additionally, Ms. Willis identified defendant as "Mikey," an individual she had previously seen with Mr. Sumera prior to the homicides.

Defendant appears to argue that the State failed to exclude the reasonable hypothesis that another individual committed the offenses, particularly in light of the evidence that Mr. Sumera served as a confidential informant. However, the jury was presented with testimony regarding Mr. Sumera's status as a confidential informant, the investigation of Mr. Wilson, and other investigative leads pursued by law enforcement. Detective Mehrtens testified that investigators corroborated Mr. Wilson's alibi through license plate recognition data and a photograph placing him in Baton Rouge at the time of the homicides. DNA testing also excluded Mr. Wilson as a contributor to the DNA recovered from the Pink-brand shirt and the Ford Ranger door handle.

The jury also heard evidence that investigators were unable to immediately locate defendant following the homicides and later developed information that he had traveled to Memphis, Tennessee, where he was ultimately apprehended. A defendant's flight and attempt to avoid apprehension are circumstances from which a trier of fact may

infer a guilty conscience. *State v. Leach*, 22-194 (La. App. 5 Cir. 12/28/22), 356 So.3d 531, 543.

Defendant points to several weaknesses in the State's case, including the facts that the firearm used in the homicides was never recovered, the cell phone associated with the -0551 number was never recovered, the DNA profiles contained unknown contributors, and investigators could not determine whether the Pink-brand shirt belonged to Ms. Eymard. However, the jury also heard evidence that the surveillance footage showed the suspect exit the Ford Ranger with a shirt covering his head before discarding it while fleeing, and that investigators recovered a shirt from the area where the surveillance footage appeared to show the shirt fall from the suspect's head. The jury further heard Ms. Serou's testimony that defendant was a contributor to the DNA profile recovered from the shirt and the interior rear passenger door handle of the Ford Ranger, that each profile was at least 100 billion times more likely if it originated from defendant and two unknown contributors than from three unknown contributors, and that the major-contributor profiles were consistent with defendant's reference sample. Although the physical cell phone associated with the -0551 number was never recovered, the jury also heard Sergeant Digiovanni's testimony associating defendant with that number and Sergeant Buttone's testimony regarding the plotted cell-site records associated with the -0551 number and GPS data extracted from the Ford Ranger.

Based on the foregoing evidence, we conclude that a rational juror could find beyond a reasonable doubt that defendant was the perpetrator of the murders of Mr. Sumera and Ms. Eymard and that the State negated any reasonable probability of misidentification. If the jury found defendant was the individual who committed the shootings, it could likewise infer that he possessed the firearm used to commit those offenses, notwithstanding the fact that the weapon was never recovered. Accordingly, we conclude that the State presented sufficient

evidence from which a rational juror could identify defendant as the perpetrator of the offenses.[14] This assignment of error is without merit.

ASSIGNMENT OF ERROR NUMBER TWO

Article 404(B) – other crimes evidence

Defendant argues that the trial court erred in granting the State's 404(B) motion pertaining to defendant being in possession of a firearm when he was arrested, and then in admitting evidence that he possessed a 9 mm firearm at the time of his arrest in this case. He contends that the weapon was not admissible as *res gestae* and was irrelevant because the gun recovered in Memphis was unrelated to the charged offenses. He asserts the evidence was inadmissible under La. C.E. art. 404(B) and that its admission prejudiced him. He concludes that it cannot be said that the guilty verdicts were surely unattributable to the trial court's error.

The State disagrees that the trial court abused its discretion in admitting the evidence. It contends the court properly admitted the evidence for a permissible purpose under La. C.E. art. 404(B), namely, to show defendant's access to a firearm of the same caliber and general type as the murder weapon, and that the court conducted the La. C.E. art. 403 balancing test after a pretrial objection and a renewed objection at trial. The State argues that even if this Court disagrees with the trial court's exercise of discretion, the verdicts were surely unattributable to the firearm because the State's ballistic evidence excluded it as the murder weapon, and it played no discernible role in the jury's deliberations. Accordingly, the State concludes that any error was harmless.

In the defense's Motion for New Trial filed on September 2, 2025, counsel contended that the State improperly relied on La. C.E. art. 404(B) evidence by referencing that defendant was found with a 9 mm handgun when he was apprehended. Counsel maintained that the

[14] Because defendant does not raise any arguments relating to sufficiency of the evidence with respect to the statutory elements, we do not address the evidence as it relates to each essential element. *See State v. Norton*, 23-262 (La. App. 5 Cir. 12/27/23), 379 So.3d 161, 174.

trial court erred in admitting this evidence and in ruling that the firearm was probative of defendant's proclivity to use a 9 mm firearm. Counsel argued that this use of other crimes evidence was prohibited by La. C.E. art. 404(B). On September 3, 2025, the trial court denied that motion.

The fundamental rule in Louisiana governing the use of evidence of other crimes, wrongs, or acts is that such evidence is not admissible to prove that the accused committed the charged crime because the defendant has committed other such crimes in the past. *State v. Fuxan*, 24-302 (La. App. 5 Cir. 5/14/25), 415 So.3d 387, 412. However, while the State may not admit evidence of other crimes to prove the defendant is a person of bad character, evidence of prior crimes may be admitted if the State establishes an independent relevance aside from proving the defendant's criminal character. *Id*. Evidence of other crimes, wrongs, or acts is allowed to prove motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake or accident, or when it relates to conduct, formerly referred to as *res gestae*, that constitutes an integral part of the act or transaction that is the subject of the present proceeding. *Id. See also* La. C.E. art. 404(B)(1).

Even when the other crimes evidence is offered for a purpose allowed under Article 404(B)(1), the evidence is not admissible unless it tends to prove a material fact at issue or to rebut a defendant's defense. *State v. Frickey*, 22-261 (La. App. 5 Cir. 3/1/23), 360 So.3d 19, 50, *writ denied*, 23-468 (La. 11/8/23), 373 So.3d 59. In order for other crimes evidence to be admitted under La. C.E. art. 404(B)(1), one of the factors enumerated in the article must be at issue, have some independent relevance, or be an element of the crime charged. *Fuxan*, 415 So.3d at 413. The State is only required to make some showing of sufficient evidence to support a finding that the defendant committed the other independently relevant acts. *Id.* Additionally, the probative value of the extraneous evidence must outweigh its prejudicial effect. La. C.E. art. 403; *State v. Shorter*, 23-128 (La. App. 5 Cir. 11/29/23), 377 So.3d 421, 436, *writ denied*, 23-1669 (La. 5/29/24), 385 So.3d 704.

The fact that the other acts or crimes occurred well before or after the offense for which defendant is on trial is not sufficient, in and of

itself, to require the exclusion of the evidence. *Fuxan*, 415 So.3d at 413. Remoteness in time, in most cases, is only one factor to be considered when determining whether the probative value of the evidence outweighs its prejudicial effect. Generally, a lapse in time will go to the weight of the evidence, rather than to its admissibility. *Id*.

The defendant bears the burden to show that he was prejudiced by the admission of the other crimes evidence. *Fuxan*, 415 So.3d at 413. Absent an abuse of discretion, a trial court's ruling on the admissibility of evidence pursuant to La. C.E. art. 404(B)(1) will not be disturbed. *Id*.

In *State v. Everett*, 11-714 (La. App. 4 Cir. 6/13/12), 96 So.3d 605, *writs denied*, 12-1593, 12-1610 (La. 2/8/13), 108 So.3d 77, the defendant argued that the trial court erred in admitting evidence of other crimes and bad acts, including photographs of him holding a black automatic handgun, in violation of La. C.E. art. 404(B). *Id*. at 632. The court provided that the photographs of the defendant holding a gun and the ammunition found during the execution of the search warrants were used to show that the defendant had access to weapons and ammunition of the type used in the shooting. *Id*. The court then ruled that even if the complained of evidence was improperly admitted, its admission was harmless error because of the overwhelming evidence presented at trial that established the defendant's identity as one of the men who murdered the victim. *Id*. at 634.

In *State v. Lewis*, 12-803 (La. App. 4 Cir. 9/25/13), 125 So.3d 1252, 1263, *writ denied*, 13-2537 (La. 6/20/14), 141 So.3d 279, the defendant argued that the trial court erred in denying his motion in limine by which he sought to exclude photographs of himself and his brother holding firearms. The State countered that the photographs were "offered to prove the defendant's commission of murder in this case and to show only that the defendant had access to weapons of the type used in this shooting." *Id*. at 1267. The court held that while there was no evidence that the weapon in the photograph was used in this

murder, it matched the witness's description of the gun that he observed in the defendant's possession at the scene. *Id*.

In *State v. McCutcheon*, 94-488 (La. App. 1 Cir. 3/11/94), 633 So.2d 1338, 1342, *writ denied*, 94-834 (La. 6/17/94), 638 So.2d 1093, the defendant argued that the admission of two guns and one of two knives was erroneous because the victim could not identify these weapons as those used in the offense, rendering them irrelevant and prejudicial. At trial, the detective testified that a knife (S-1) and a Raven pistol were in plain view in the defendant's vehicle at his arrest, while a second knife (S-2) and a Titan pistol were seized during a warrant search. The victim identified S-1 as the knife used but could not confirm if either gun was involved in the incident. The court held that the presence of two guns in the defendant's vehicle shortly after the offense supported the victim's account and increased the likelihood of the defendant's guilt. Although the victim's inability to identify the gun impacted its weight, it did not affect admissibility. The court allowed both guns, finding no undue prejudice, though it held admitting the unused knife (S-2) was error. *Id*. at 1342–43.

Here, the State asserted that the firearm recovered from defendant at the time of his arrest in Memphis was admissible as *res gestae* and under La. C.E. art. 404(B). The State argued that the evidence was relevant to show defendant's access and opportunity to possess a firearm of the same caliber and general type as the weapon used in the homicides. The State further maintained that the circumstances surrounding defendant's arrest formed part of the narrative of the investigation. We find no error in this ruling.

Even if the trial court erred by admitting the other crimes evidence, an improper reference to other crimes evidence is subject to the harmless error rule, *i.e.*, whether the verdict actually rendered in the case was surely unattributable to the error. *See State v. Loggins*, 23-519 (La. App. 5 Cir. 10/30/24), 397 So.3d 1265, 1287. In determining harmless error, it is "not whether, in a trial that occurred without the error, a guilty verdict would surely have been rendered, but whether the guilty verdict actually rendered in the trial was surely unattributable to

the error." An error is harmless beyond a reasonable doubt if it is unimportant in relation to the whole. *Id*.

As previously shown, the State presented evidence linking defendant to the offenses, including surveillance footage depicting a single suspect exiting the rear passenger area of the victims' Ford Ranger, and the discarding of what appeared to be a shirt while fleeing and continuing along Tambour Street. The State presented evidence that defendant was a contributor to the DNA profiles recovered from both the shirt and the interior rear passenger door handle of the Ford Ranger. The State also presented evidence associating defendant with the -0551 cell phone number, and Sergeant Buttone testified regarding plotted cell-site records and GPS data extracted from the Ford Ranger that the State argued connected defendant to 828 Mystic Avenue, the victims' vehicle, and the area of Bay Adams Drive around the time of the homicides. Additionally, the jury was informed that the firearm recovered from defendant in Memphis was not the murder weapon. Detective O'Lear testified that he excluded the firearms recovered during the investigation as the source of the cartridge casings and projectile evidence. Accordingly, even if the trial court erred in admitting the firearm evidence, any such error was harmless in light of the remaining evidence identifying defendant as the perpetrator of the offenses. We conclude that the verdict actually rendered in the case was surely unattributable to the alleged error. This assignment of error is without merit.

ERRORS PATENT REVIEW

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. 5 Cir. 1990).

The sentencing minute entry does not reflect that defendant's convictions for first degree murder were designated as crimes of violence. Per La. C.Cr.P. art. 890.3(C), first degree murder "shall always be designated by the court in the minutes as a crime of violence." Therefore, upon remand, we order the trial court to correct the minute entry to designate the convictions as crimes of violence. *See*

State v. Little, 24-82 (La. App. 5 Cir. 10/30/24), 398 So.3d 846, 858; *State v. Le*, 22-468 (La. App. 5 Cir. 8/9/23), 370 So.3d 162, *writ denied*, 23-1230 (La. 2/6/24), 378 So.3d 752.

Additionally, while the sentencing minute entry indicates that defendant was advised by the trial court of the applicable prescriptive period for filing an application for post-conviction relief, the transcript reflects an incomplete advisal. The transcript prevails. *See State v. Lynch*, 441 So.2d 732 (La. 1983). Accordingly, defendant is hereby advised, by way of this opinion, that no application for post-conviction relief, including applications that seek an out-of-time appeal, shall be considered if filed more than two years after the judgment of conviction and sentence has become final under the provisions of La. C.Cr.P. arts. 914 or 922. *See State v. Taylor*, 20-215 (La. App. 5 Cir. 4/28/21), 347 So.3d 1008.

CONCLUSION AND DECREE

Having found no merit to the assignments of error, defendants' convictions and sentences are affirmed. Defendant is advised herein that no application for post-conviction relief, including applications that seek an out-of-time appeal, shall be considered if filed more than two years after the judgment of conviction and sentence has become final under the provisions of La. C.Cr.P. arts. 914 or 922. Finally, the matter is remanded to the trial court for the minute entry to be corrected to show that defendant's convictions for first degree murder are crimes of violence.

AFFIRMED; REMANDED WITH INSTRUCTIONS

Fifth Circuit Court of Appeal
State of Louisiana

No. 26-KA-42

STATE OF LOUISIANA

VERSUS

MICHAEL A. HARRIS

WICKER J., CONCURS -WITH REASONS

I concur in the majority's decision to affirm Defendant's convictions and sentences. I write separately, however, because I respectfully disagree with the majority's conclusion that the trial court did not err in admitting evidence that Defendant possessed a 9 mm firearm at the time of his arrest in Memphis. In my view, the firearm was irrelevant to any material issue in this prosecution and inadmissible under La. C.E. arts. 402 and 404(B)(1).

The State's own ballistic evidence established that the Memphis firearm was not the murder weapon. No witness connected that firearm to the charged homicides, and no evidence suggested it bore any relation to the events on Tambour Drive. A weapon recovered months after the offense, with no demonstrated link to the crime, does, in my opinion, not tend to prove motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake. Nor does it constitute conduct forming an integral part of the act or transaction at issue. Its admission therefore lacked independent relevance under Article 404(B)(1).

The Louisiana Supreme Court has cautioned that admitting weapons "similar" to those used in a homicide, but not shown to be the murder weapon, risks precisely the type of prejudicial inference Article 404(B) seeks to prevent. *State v. Manieri*, 378 So.2d 931 (La. 1979). As the Court in the *Manieri* case explained, jurors naturally tend to infer a connection between the displayed weapon and the charged offense, even when the State's own evidence disproves such a connection. *Id.* at 933. Because the

potential for unfair prejudice may outweigh any probative value, the *Manieri* Court recognized that a trial judge "flirts with prejudicial error" by permitting such evidence. *Id.* Here, as in *Manieri*, the firearm had no evidentiary tie to the homicides, and its admission invited the jury to associate Defendant with a "deadly weapon" unrelated to the crime.

For these reasons, I would find that the trial court erred in admitting the Memphis firearm. Nevertheless, I concur in the result because, consistent with *Manieri*, I agree that the error was harmless. The jury was expressly informed that the firearm was not the murder weapon, and the State presented substantial independent evidence identifying Defendant as the perpetrator, including DNA evidence, surveillance footage, and cell-site and GPS data. In light of that evidence, I am satisfied that the verdict actually rendered was surely unattributable to the erroneous admission of the firearm.