

**Fifth Circuit Court of Appeal
State of Louisiana**

No. 26-K-193

STATE OF LOUISIANA

versus

DANIELL MUTIN

IN RE STATE OF LOUISIANA
APPLYING FOR SUPERVISORY WRIT FROM THE TWENTY-FOURTH JUDICIAL DISTRICT
COURT, PARISH OF JEFFERSON, STATE OF LOUISIANA, DIRECTED TO THE HONORABLE
DONALD L. FORET, DIVISION "H", No. 21-4354

TRUE COPY

May 11, 2026



LINDA TRAN
DEPUTY CLERK

Panel composed of Judges Susan M. Chehardy,
Marc E. Johnson, and Scott U. Schlegel

WRIT GRANTED; JUDGMENT REVERSED; STAY DENIED

In this writ application, the State seeks an immediate stay and expedited review of the district court's May 11, 2026 ruling denying its renewed request to *voir dire* the jury on the mandatory penalty defendant, Daniell Mutin, faces if convicted for second degree murder, and for a jury instruction regarding such mandatory penalty. Based on the Louisiana Supreme Court's recent decision in *State v. Franklin*, 25-1173 (La. 9/17/25), 418 So.3d 893, we grant the writ application and reverse the district court's ruling. The State's request for an immediate stay is denied as moot.

The State charged Mr. Mutin with second degree murder allegedly committed when he was seventeen years old. The State, in light of Mr. Mutin

being under the age of eighteen at the time of the murder, renewed its request to inform prospective jurors during *voir dire* of the mandatory penalty for second degree murder of life with the possibility of parole after serving twenty-five years imprisonment, and for the trial judge to instruct the jury prior to deliberations that should the jury convict Mr. Mutin as charged of second degree murder, he will be sentenced to the mandatory penalty.

The State initially noticed its intent to *voir dire* the jury on the mandatory penalty for second degree murder applicable to Mr. Mutin and for a jury instruction on such penalty on May 9, 2025. The district court denied the State's notice as to both requests. On June 5, 2025, this Court denied writs on the basis that "defense counsel neither requested that the court provide this information to prospective jurors nor include it in a jury instruction; instead, they objected to giving such information." *See State v. Mutin*, 25-236 (La. App. 5 Cir. 6/5/25), 2025 WL 1587927 (unpublished writ disposition). Subsequently, on June 19, 2025, the Louisiana Supreme Court also denied writs, without assigning reasons, in a split 4-3 decision. *State v. Mutin*, 25-728 (La. 6/19/25), 412 So.3d 221.

Thereafter, on September 17, 2025, the Louisiana Supreme Court issued a seminal ruling in *State v. Franklin*, 25-1173 (La. 9/17/25), 418 So.3d 893, clarifying the "*Jackson-Milby* Rule," effectively changing prior existing state law.¹ Specifically, the Supreme Court declared that the State has the same right as the defendant to invoke that rule:

¹ The *Jackson-Milby* Rule is a jurisprudential rule regarding entitlement to inform and instruct the jurors as to the penalty for a crime where the penalty is a mandatory one with no sentencing range or discretion on the part of the district court. *See State v. Milby*, 345 So.2d 18, 21 (La. 1977) ("the trial court is required, upon request of the defendant, to charge with regard to a mandatory penalty, because then the penalty is in effect determined by the jury rather than by the judge."), and *State v. Jackson*, 450 So.2d 621, 633-634 (La. 1984), ("[w]hen the penalty imposed by the statute is a mandatory one, the trial judge must inform the jury of the penalty on request of the defendant and must permit the defense to argue the penalty to the jury . . . [i]n instances other than when a mandatory legislative penalty with no judicial discretion as to its imposition is required following verdict, the decision to permit or deny an instruction or argument on an offense's penalty is within the discretion of the trial judge."). Prior to the Supreme Court's ruling in *Franklin*, the case law provided that, as a matter of right, the rule could only be invoked by the defendant, but not by the State.

Stay lifted. Writ granted. Based upon inconsistency among the circuits with respect to the issue of whether prospective jurors may be informed that a penalty provided by law is mandatory, we find merit in the State's writ application. *See, e.g., Lavigne v. Louisiana*, 24-403 (La. App. 5 Cir. 1/16/25), 2025 WL 211137, writ denied, 408 So. 3d 196 (La. 5/6/25) (finding the prosecutor was "entitled to discuss the mandatory sentence during *voir dire* in order to determine whether the mandatory sentence would affect the ability of any potential juror to find [defendant] guilty of the charge of second degree murder."). As this Court has stated, "the purpose of *voir dire* is to determine the qualifications of prospective jurors by testing their competency and impartiality and to assist counsel in articulating intelligent reasons for exercise of cause and peremptory challenges." *State v. Ball*, 00-2277, p. 23 (La. 1/25/02), 824 So. 2d 1089, 1110 (internal citation omitted). *See, e.g., State v. Frey*, 568 So. 2d 576, 577 (La. App. 4 Cir. 1990) (finding the trial court did not abuse its discretion in allowing the State to challenge jurors who indicated they could not consider a verdict of guilty due to a mandatory life sentence being required upon conviction). Fundamental fairness requires the State be allowed to *voir dire* the jury as to whether they will be able to follow the law, notwithstanding a mandatory penalty or sentence.

La.C.Cr.P. art. 774 instructs that argument to the jury is restricted to the evidence admitted, to the lack of evidence, to conclusions of fact, and ***to the law applicable to the case***. La.C.Cr.P. art. 802(1) likewise directs the trial court to charge the jury "as to the law applicable to the case." In *State v. Jackson*, 450 So.2d 621 (La. 1984) and *State v. Milby*, 345 So.2d 18 (La. 1977), this Court announced that when the penalty is mandatory, the law requires the trial judge to inform the jury, on the request of the defendant, of the penalty and to permit argument relating to the sentence. Because the *Jackson/Milby* rule is premised upon these statutory rules allowing argument and instruction on "all law applicable to the case," we find there is no legal reason why a rule that a jury be instructed on the actual law should be jurisprudentially limited to only when one side requests it. The role of *voir dire* is important to both sides, and it is a proper scope of inquiry to ascertain if jurors are willing to follow the law applicable to the case.

We find no interpretation of the relevant provisions that logically limits the use of these statutory provisions only for the defense to the exclusion of the State. Thus, regardless of whether the defense desires to have the issue of whether the penalty is mandatory be addressed,

the State is permitted to address the issue during *voir dire*, as it entails "all law applicable to the case."

Franklin, 418 So.3d at 893-894. [Emphasis in original.]

Here, Mr. Mutin, charged with second degree murder committed when he was under the age of eighteen, if convicted, will be subject to a mandatory penalty of life imprisonment with the possibility of parole after twenty-five years in accordance with La. R.S. 15:574.4(F), with no other penalty possible under the law; *i.e.*, there is no sentencing range or discretion in sentencing. Thus, applying the Supreme Court's recent pronouncement in *Franklin*, which changes existing law, the State has the right to address the mandatory life sentence with the jury and to advise that part of that mandatory life sentence is parole eligibility after twenty-five years. Consequently, we find the district court's ruling holding otherwise was in error and, pursuant to *Franklin*, must be reversed.

Accordingly, this writ application is granted, the district court's May 11, 2026 ruling is reversed, and the State is entitled to inform and instruct the jury on the mandatory penalty of life imprisonment with parole eligibility after twenty-five years that Mr. Mutin faces if convicted of second degree murder. The State's request for a stay is denied as moot.

Gretna, Louisiana, this 11th day of May, 2026.

SMC
MEJ
SUS

SUSAN M. CHEHARDY
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 DISPOSITION CERTIFICATE OF DELIVERY

I CERTIFY THAT A COPY OF THE DISPOSITION IN THE FOREGOING MATTER HAS BEEN TRANSMITTED IN ACCORDANCE WITH **UNIFORM RULES - COURT OF APPEAL, RULE 4-6** THIS DAY **05/11/2026** TO THE TRIAL JUDGE, THE TRIAL COURT CLERK OF COURT, AND AT LEAST ONE OF THE COUNSEL OF RECORD FOR EACH PARTY, AND TO EACH PARTY NOT REPRESENTED BY COUNSEL, AS LISTED BELOW:

CURTIS B. PURSELL
CLERK OF COURT

26-K-193

E-NOTIFIED

24th Judicial District Court (Clerk)
Honorable Donald L. Foret (DISTRICT JUDGE)
Gregory Q. Carter (Respondent)
Honorable Paul D. Connick, Jr. (Relator)

Thomas J. Butler (Relator)
Darren A. Allemand (Relator)

MAILED