

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

No. 26-K-107

CHIVAS SCOTT

versus

STATE OF LOUISIANA

IN RE CHIVAS SCOTT
APPLYING FOR SUPERVISORY WRIT FROM THE TWENTY-FOURTH JUDICIAL DISTRICT
COURT,
PARISH OF JEFFERSON, STATE OF LOUISIANA, DIRECTED TO THE HONORABLE
LEE V. FAULKNER, JR., DIVISION "P", NUMBER 25-2099

TRUE COPY

March 27, 2026



LINDA TRAN
DEPUTY CLERK

Panel composed of Judges Susan M. Chehardy,
Fredericka Homberg Wicker, and Stephen J. Windhorst

WRIT DENIED

Defendant, Chivas Scott, who is charged with Fourth Offense DWI, in violation of La. R.S. 14:98(A) and La. R.S. 14:98.4(C), seeks this Court's supervisory review of the district court's January 21, 2026 ruling denying a motion to quash his guilty plea claiming constitutional defects as to certain predicate offenses. Specifically, according to defendant, the State failed to present a "perfect colloquy" for each of the predicate offenses in order to establish that he knowingly and voluntarily entered into guilty pleas and understood that, in doing so, the guilty pleas could be used against him in the future to enhance the grade of an offense, if

accused of similar conduct.¹ For the following reasons, defendant's writ application is denied.

In *State v. Carlos*, 98-1366 (La. 7/7/99), 738 So.2d 556, the Louisiana Supreme Court held that the principles set forth in *State v. Shelton*, 621 So.2d 769 (La. 1993) are applicable to multiple offender DWI cases and reiterated the existence of the "Shelton Rule," such that, given the presumption of regularity that attaches to prior convictions, the following procedure is appropriate: (1) when a defendant denies the allegations contained in the bill of information in an habitual offender proceeding, the burden is on the State to prove the existence of the prior guilty pleas and that the defendant was represented by counsel when they were taken; then (2) if the State meets this initial burden, the defendant must produce affirmative evidence showing an infringement of his rights or a procedural irregularity in the taking of the plea; then (3) if the defendant carries this burden, then the burden reverts to the State to prove the constitutionality of the plea, such that the State will meet this burden by producing a "perfect" transcript of the guilty plea colloquy, and anything less than a "perfect" transcript, such as a guilty plea form or minute entry, will require the trial court to weigh the evidence submitted by both sides and determine whether the defendant's *Boykin* rights were prejudiced. *Carlos*, 738 So.2d at 559.

Here, in its opposition to defendant's motion to quash, the State presented evidence that: (1) on August 27, 2012, while represented by Attorney Cheryl Carter, defendant, a college-educated man, entered a guilty plea in the Nineteenth Judicial District Court to operating a vehicle while intoxicated, fourth offense, after having been advised by the district court, and indicating that he understood that by doing so, he was waiving his right to a trial by jury or by the court, the right to

¹ In particular, defendant contends that when entering a guilty plea on August 27, 2012, the district court failed to advise him of possible future enhancement if subsequently charged, which omission invalidates his guilty plea.

confront and cross-examine the State’s witnesses, and the right against compulsory self-incrimination; (2) on December 10, 2018, while represented by Attorney James Sudduth, III, defendant entered a plea of guilty in the Fourteenth Judicial District Court to operating a vehicle while intoxicated, second offense, after the trial court “advis[ed] him of the constitutional rights as stated on the [Misdemeanor Plea of Guilty and Waiver of Constitutional Rights] form, which form explained that by signing, defendant was waiving his rights to a trial by judge or jury, to cross-examine witnesses, and against self-incrimination, and advised that his guilty plea could be used to enhance a future sentence if subsequently charged for a similar offense; (3) on July 2, 2024, while represented by Attorney Keondra Riley, defendant entered a plea of guilty to driving while intoxicated, second offense, in the Twenty-Third Judicial District Court, after initialing and signing a “Waiver of Constitutional Rights Plea of Guilty” form, which form advised that by signing, defendant was waiving his rights to a trial by judge or jury, to cross-examine witnesses, and against self-incrimination, and that his guilty plea could be used to enhance any subsequent sentence; and (4) on August 20, 2024, while represented by Attorney Ericka Brignac, standing in for Attorney Keondra Riley, defendant entered a plea of guilty to driving while intoxicated, second offense, in the Twenty-Third Judicial District Court, where he initialed and signed a “Waiver of Constitutional Rights Plead of Guilty” form, wherein defendant indicated that he understood he was waiving his rights to a trial by judge or jury, to cross-examine witnesses, and against self-incrimination, and that his guilty plea could be used to enhance any future sentence if subsequently charged.

After reviewing the documentation submitted by the State in opposition to defendant’s motion to quash, we find the State properly met its burden of proving the existence of the prior guilty pleas, and that defendant was represented by counsel when the guilty pleas were entered. Accordingly, the burden then shifted

to defendant to produce affirmative evidence showing an infringement of his rights or a procedural irregularity in the taking of the guilty plea(s). This, defendant failed to do.²

Our review of the evidence and documentation submitted by the State in its opposition to defendant's motion confirms that defendant's *Boykin* rights were not prejudiced and that the district court was correct in denying defendant's motion to quash his guilty plea. Finding no error in the district court's ruling, this writ application is denied.

Gretna, Louisiana, this 27th day of March, 2026.

SMC
FHW
SJW

² To the extent defendant argues the district court's failure to advise him of the possibility of future enhancement invalidated his guilty plea entered on August 27, 2012, we find that while La. C.Cr.P. art. 556.1 suggests advising a defendant of the possibility of future enhancement, there is no mandate that the district court do so, or that the failure to do so invalidates a guilty plea. *See* La. C.Cr.P. art. 556.1(A)(5)(c); *State v. Small*, 50.388 (La. App. 2 Cir. 2/24/16), 189 So.3d 1129, 1137. Moreover, La C.Cr.P. art. 556.1(A)(5)(b)(iv) provides that either defense counsel *or* the court may inform the defendant of additional direct or potential consequences impacting potential sentencing as a habitual offender; there is no requirement that the court do so. Moreover, when defendant herein pled guilty on August 27, 2012, he pled guilty to operating a vehicle while intoxicated, *fourth offense*, having been previously convicted of DWI on February 21, 2006, October 29, 2007, and October 29, 2007, indicating that defendant, a college-educated man, was well aware that by entering a plea of guilty could be used to enhance any future sentence if subsequently charged.

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



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SUSAN S. BUCHHOLZ
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FIRST DEPUTY CLERK

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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 **03/27/2026** 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-107

E-NOTIFIED

24th Judicial District Court (Clerk)
Hon. Lee V. Faulkner, Jr. (DISTRICT JUDGE)
James A. Williams (Relator)

Thomas J. Butler (Respondent)

MAILED

Stephen D. Collins (Relator)
Attorney at Law
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