

STATE OF LOUISIANA

NO. 24-KA-437

VERSUS

FIFTH CIRCUIT

LAM THACH

COURT OF APPEAL

STATE OF LOUISIANA

ON APPEAL FROM THE TWENTY-FOURTH JUDICIAL DISTRICT COURT  
PARISH OF JEFFERSON, STATE OF LOUISIANA  
NO. 21-4523, DIVISION "K"  
HONORABLE ELLEN SHIRER KOVACH, JUDGE PRESIDING

April 02, 2025

**SUSAN M. CHEHARDY**  
**CHIEF JUDGE**

Panel composed of Judges Susan M. Chehardy,  
Marc E. Johnson, and John J. Molaison, Jr.

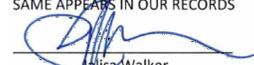
**AFFIRMED**

**SMC**

**MEJ**

**JJM**

FIFTH CIRCUIT COURT OF APPEAL  
A TRUE COPY OF DOCUMENTS AS  
SAME APPEARS IN OUR RECORDS

  
Alisa Walker  
Deputy, Clerk of Court

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LAM THACH

Gwendolyn K. Brown

COUNSEL FOR PLAINTIFF/APPELLEE,  
STATE OF LOUISIANA

Honorable Paul D. Connick, Jr.

Thomas J. Butler

Darren A. Allemand

Thomas S. Block

Lindsay L. Truhe

## **CHEHARDY, C.J.**

Defendant, Lam Thach, appeals his mandatory life sentence, plus forty years, to be served consecutively, for second-degree murder and obstruction of justice. For the reasons that follow, defendant's sentences are affirmed.

### **PROCEDURAL HISTORY**

On November 18, 2021, a Jefferson Parish Grand Jury indicted Lam Thach ("Lam") with the August 1, 2021 second degree murder of Ngoc Bich Nguyen ("Bich") at Breaux Trailer Park in Marrero, Louisiana, in violation of La. R.S. 14:30.1 (count one) and obstruction of justice, by tampering with evidence involving a second degree murder, in violation of La. R.S. 14:130.1 (count two). At his arraignment on November 22, 2021, Lam pled not guilty to both charges.

A motion requesting the appointment of a sanity commission was filed on behalf of Lam on July 21, 2022, for purposes of determining whether he was competent to stand trial. On November 16, 2022, by stipulation of the parties, the district court found Lam incompetent to proceed. A sanity hearing was held on November 15, 2023, at which time the State and defense counsel jointly stipulated that Lam was competent to stand trial.

The matter proceeded to trial on May 7, 2024, before a twelve-person jury. On May 9, 2024, at the conclusion of the trial, Lam was found guilty as charged, by a unanimous jury, on both counts.

On May 22, 2024, Lam filed a motion for post-verdict judgment of acquittal and for a new trial. On that same date, the district court denied Lam's motion, and the State presented a victim impact statement. Thereafter, the trial judge sentenced Lam to mandatory life imprisonment for his second degree murder conviction, and to an additional sentence of forty years on the obstruction of justice conviction, with the sentences to run consecutively. In response, Lam filed a motion to reconsider sentence, arguing that adding an additional forty years to run

consecutive to a life sentence is “beyond punitive,” which motion the district court denied. Defense counsel noted his objection and indicated his intention to file a motion for appeal on behalf of Lam.

Later on May 22, 2024, following a bench conference, the district court vacated Lam’s sentence, and defense counsel waived sentencing delays. Defense counsel stated that the waiver was made while preserving all rights related to issues raised in the post-trial motions heard earlier that day, including any argument on excessive sentencing. The district court then sentenced Lam to life imprisonment without the benefit of parole, probation, or suspension of sentence as to count one, and to forty years imprisonment at hard labor on count two. The district court ordered the sentences to run consecutively. That same day, defense counsel filed a written motion for appeal that was granted on May 23, 2024.

On appeal, Lam argues the district court erred by exempting a witness from the sequestration order, and that the sentence for obstruction of justice was excessive and should not have been imposed consecutively.

## **FACTUAL BACKGROUND**

This appeal involves a homicide that occurred on August 1, 2021, in Breaux Trailer Park. Testimony and evidence was presented at trial regarding prior incidents between defendant, Lam Thach, and the victim, Ngoc Bich Nguyen.

### ***Detective William Morris***

Detective Morris testified at trial that while working with the New Orleans Police Department on January 8, 2021, assigned as patrol to the Fourth District in Algiers, responded to a call for service due to a domestic disturbance at 4439 Joycelyn Drive. When he arrived at the residence wearing a body camera, an Asian male, Hai Van Nguyen (“Hai”), answered the door. According to Detective Morris, the victim of the disturbance, Ngoc Bich Nguyen (“Bich”), who was not at the residence when he first arrived, later returned to the scene and, despite limited

English, was able to explain to him what happened. Detective Morris testified that Bich appeared very scared and “irate about the situation,” suggesting to him that the events as he understood them had also occurred in the past. Bich identified Lam as the perpetrator and provided Detective Morris with Lam’s phone number. Subsequent attempts to contact Lam were to no avail.

Portions of Detective Morris’ body-camera footage was shown to the jury. In the footage, Hai identified himself as Bich’s uncle and informed officers that both Bich and Lam had left the residence. The video footage showed Bich relaying to officers that Lam had told her that she could not go anywhere, broke her phone, pushed her down, and hit her. Bich is also taped telling officers that Lam told her that he was her “husband” and could do whatever he wanted to her, and at one point, picked up a knife and asked if she wanted him to kill her. Hai clarified for the officers that Bich and Lam were not married, but were boyfriend and girlfriend. Detective Morris testified that no knife was mentioned being involved in the incident the officers were investigating. Based on Bich’s account of what happened, an arrest warrant for Lam was obtained for domestic battery and simple criminal damage to a cell phone.

#### ***Detective Martin Gallot***

Detective Gallot, formerly of the Fourth District in Algiers, testified that he responded to a domestic disturbance call at a Joycelyn Drive residence on February 19, 2021. Wearing a body camera, he spoke with Bich Ngyuen, the complainant, who appeared to him to be “hysterical” and “very nervous,” but was able to communicate in English. Bich reported that an argument with her boyfriend, Lam, escalated when she moved to the living room to avoid physical confrontation, where he proceeded to push and strangle her, making it difficult for her to breathe. Detective Gallot testified that he documented redness on Bich’s neck and a bruise on her right eye. He confirmed that no one else was at the scene, he did not enter

the residence, and Lam was not present. Deputy Gallot explained that he issued a warrant for Lam's arrest for domestic battery and strangulation, and subsequently learned that Lam was taken into custody nine days later.

Deputy Gallot's body-camera footage from this incident was played for the jury. Bich was seen telling Detective Gallot that she woke up to find Lam, whom she described as her boyfriend, in her room. She explained that Lam told her to stay inside and that she was not to go anywhere. She claimed that he pushed her down and pressed on her neck with both hands, causing her to experience significant pain in her neck. Bich described a prior pattern of abuse, including Lam slapping her face when drunk, and threatening to use a knife to kill her if she went out and talked to others, claiming he had killed others before. Bich told officers that her uncle was not home when this incident occurred.

#### *Detective Steven Quaintance*

In August 2021, Detective Quaintance, the director of security for Jefferson Parish Government, was employed by the Jefferson Parish Sheriff's Office ("JPSO") and assigned to the homicide section. He testified at trial that on August 1, 2021, he responded to a 911 call about a homicide in Breaux Trailer Park. Detective Quaintance stated that when he arrived at the scene of the homicide, Lam had already been taken into custody and transported to the JPSO's Investigations Bureau. Detective Quaintance explained that he was primarily tasked with handling the scene and executing search warrants.

According to the detective, there were three witnesses present at the trailer when the homicide of the victim Bich occurred: Bich's mother, Selena Nguyen; Muno Thatch, defendant Lam's father;<sup>1</sup> and, Rodo Thatch (no relation to defendant). Detective Quaintance did not personally interview the witnesses. He testified that based on the detective bureau's interview with the witnesses, he

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<sup>1</sup> At the time of the trial, Muno Thach was deceased.

determined that both Selena and Muno were inside the trailer when Bich's murder occurred; Rodo was not. He learned from the witnesses that Bich and Lam had been in a three-year relationship, and on the day of the murder, they had gotten into "an altercation of some sort over the phone." Selena, Rodo, and Bich had travelled to the trailer, where Lam lived with his father, in hopes of "quell[ing] the altercation."

Detective Quaintance testified that the witnesses described to him that when they arrived at the trailer, the initial conversation was civil, but turned argumentative when Lam entered the room and began a verbal altercation. Lam apparently locked the door to the trailer, confining everyone, and claimed that he had contacted the police. Detective Quaintance later confirmed that Lam had, in fact, not contacted the police that evening; two 911 calls were made and they both came from the victim's mother, Selena. Selena reported to the detective that Lam had punched Bich in the face. She claimed that Muno opened the door to the trailer, and that as she was attempting to exit, she heard Lam, now armed with a knife, tell Bich that she was not going to leave, and witnessed Lam pull Bich back inside the trailer. Detective Quaintance testified that Selena told him that she witnessed Lam stab Bich in the neck with the knife.

Detective Quaintance learned from an eyewitness, who saw Lam after the murder, that she saw a guy fitting Lam's description, discard a shirt in a garbage can. Later, when Lam was being interviewed at the detective bureau, he was not wearing a shirt, but had on white shorts with blood on the back, and had blood on his shoes. According to Detective Quaintance, Lam told officers that he was "going to take responsibility for what [he] did."

Detective Quaintance testified that after obtaining a warrant to search the trailer, detectives discovered a knife in the kitchen sink. DNA tests performed on

the knife, Lam's white shorts, and his shoes, revealed that the blood detected was "100 billion times more likely to be the victim than anyone else."

During his investigation of Bich's murder, Detective Quaintance learned of the two prior domestic abuse disturbances involving Bick and Lam. He reviewed body camera footage from the January 2021 incident, which showed an altercation between the two, where Lam threatened Bich, insisting that she could not leave, threw her to the ground, and, ultimately, broke Bich's phone. There were no formal charges filed as a result of that disturbance. His review of the body camera footage from the February 2021 incident, revealed that Lam allegedly had a knife, again threatened Bich that she could not leave, and attempted to strangle her, causing injury to her neck. Detective Quaintance learned there was a witness to the incident, Hai Nguyen, who confirmed that Lam was in possession of a knife at the time of that altercation. Detective Quaintance testified that while Lam was arrested and charged for domestic abuse battery and domestic abuse battery by strangulation for this incident, because the Orleans Parish District Attorney's office did not formally charge Lam timely, he was released from custody on July 28, 2021. Four days later, Lam killed Bich.

### *Hai Van Nguyen*

Hai, seventy years old at the time of trial, testified that he had previously dated Bich's mother, Selena Nguyen. Hai explained that he lived with the eldest of Selena's five daughters, Bich, at the Joycelyn Drive residence in Algiers, where they had separate bedrooms, and he paid Selena rent. He also assisted Bich by doing things like taking her to the store and doctor's appointments, as Bich did not drive. He testified that Lam had been Bich's boyfriend and occasionally stayed overnight at the residence. He stated that Lam worked on a shrimp boat.

Hai recounted the January 8, 2021 incident, when police came to the residence following an argument there between Bich and Lam. According to Hai,

Lam, who was jealous of Bich talking to friends on her phone, grabbed the phone from Bich's hand, smashed it, and pushed Bich down. Hai explained that Lam's jealousy was due to his concern that Bich might speak to another man. Hai recalled the two arguing and leaving the house after the phone was broken. When the police arrived at the residence, Bich had initially gone to a friend's house, but returned while the police were still there. Meanwhile, Lam left, afraid the police would arrest him. Hai said that arguments frequently occurred when Lam returned from offshore and was drinking.

Hai also testified regarding the February 19, 2021 altercation that also took place at the Joycelyn residence between Lam and Bich. He stated that while retrieving water from outside, he saw Lam push Bich to the ground and strangle her. He recalled that Lam was choking Bich and that he had a knife, typically used to fillet fish, in his back pocket. According to Hai, both Bich and Lam had been drinking beer that day. Hai asked Lam why he was strangling Bich, but Lam did not respond and, instead, left the house. Hai claimed that Bich then called the police and spoke with them. Hai denied speaking to the officers and said Bich left the residence in an ambulance. He observed a red mark on her neck. Hai stated this was the first time he had seen Lam actually harm Bich, but explained they frequently argued while drinking. He described Lam as controlling, often picking arguments, cursing at Bich, and dictating whom she could or could not speak with. Lam also prevented Bich from visiting a nearby friend. Hai denied intervening in these situations, but told both that they could not live together. He elaborated that the arguments stemmed from what he believed to be Lam's jealousy.

Hai testified that on the day of Bich's murder, August 1, 2021, Bich text messaged him around 5:49 p.m., stating "Uncle Hai, please go to his house. Uncle Hai, Lam has hit me on my eye." Bich died at approximately 6:00 p.m. Hai explained that he was at the Joycelyn residence when he received Bich's text

message, but she was at Lam's father's trailer in Marrero. Hai indicated that this was the last time he communicated with Bich before she died. According to Hai, he and Bich's sister, Lauren, met at a restaurant, where it was relayed that Bich was dead. He testified that when he got to the trailer park with the hope of seeing Bich one last time, the police would not let him in.

*Selena Nguyen*

Selena testified that Bich, who was the eldest of her six children, sometimes lived with her, but in August 2021, she was living in Algiers with Hai, Selena's former boyfriend, who remained close to the family and agreed to help care for Bich. Selena explained that Bich dated Lam, who sometimes stayed at the Algiers residence, and had only known him for one year before he killed her. According to Selena, she also knew Lam's father, Muno Thach, who lived in a trailer on Ames Boulevard in Marrero. Selena explained that she had lived with Muno at the trailer for two months before moving to Covington, and had helped care for him because he was sick. She also explained that Lam and Rodo Thach, her boyfriend at the time of the murder, lived together for a time, though she did not recall for how long. Prior to Bich's murder, Selena took her to Houston to have some fun. She stated that Bich did not mention being upset about anything Lam was doing.

Selena testified that on Sunday, August 1, 2021, she and Rodo traveled from Covington to pick Bich up in Algiers, as she wanted to spend time with her before going to work, and Bich had asked for some help with laundry. Selena stated that Bich told her Lam had been calling her family "a whore" and making accusations against them. Bich asked Selena to speak with Lam's father at his residence. Selena, wanting to ensure her daughter's happiness, agreed. After visiting the Hong Kong Market, Selena, Rodo, and Bich went to Muno's trailer. Upon arriving, Selena saw Lam sitting outside the residence, drinking beer. As Selena, Rodo, and Bich approached the trailer, Lam went inside without saying anything.

Inside, they found Muno sitting on the sofa. Selena said that spoke in a normal tone, telling Muno that Lam had accused her family of being “a whore” and associating with Americans.

Selena testified that while she talked to Muno, she did not know where Lam was inside the trailer. However, Muno called out, told Lam that Selena was present, and suggested he come speak with her. Lam complied and told Selena to look at the text messages, claiming Bich had also been cursing his family. Selena responded that she did not need to look at the messages because she already knew what they said. She explained that Lam and Bich argued back and forth. Selena claimed that she told both of them to address their issues with each other directly and not to involve the family. According to Selena, she and Bich were sitting on the sofa, Muno was seated in a chair, and Lam remained standing. She stated that Lam and Bich yelled at each other before Lam slapped Bich. Selena testified that, at that point, she pushed Lam away from Bich and told him not to hit her daughter. Lam became angry and ran to lock the trailer’s front door, telling them, “Nobody can leave. I’ll go all the police,” and “If you go, I will kill you.” Selena said that she saw Lam walk into the kitchen, but could not see what he was doing from where she sat on the sofa.

Selena testified that Lam claimed he had already called the police, while Rodo called 911 and handed her the phone. Selena confirmed that she was the one who spoke with the operator during the call, telling her, “The guy hit my daughter. He’s locked us in the trailer.” Selena recalled that they sat and talked before Rodo instructed Muno to open the trailer door, which Muno did. Rodo then told Selena, “Run, run, go,” and that she exited the trailer after him. She explained that as she headed to the door, Bich stood up, grabbed her phone, and texted Hai. When Selena reached the door, Lam emerged from the kitchen, pushed past her, and told Bich, “You stay here. You can’t leave.” Selena heard Bich say in Vietnamese,

“He’s got a knife and he’s going to kill me.” Selena stated that she turned and ran back into the trailer, where she saw Lam pull the knife from her daughter’s neck. She witnessed blood coming from Bich’s neck, and she immediately ran to hold her daughter’s neck. Fearing Lam might kill her too, Selena brought Bich outside. She denied that Lam offered any help, and claimed that Rodo was the one who removed his shirt to wrap around Bich’s neck.

Selena described holding Bich’s hand as they exited the trailer. Bich was unable to speak or lie down. Selena explained that she held her daughter’s head in her hands and told her, “Don’t leave me.” She did not notice where Lam went. Rodo called the police, requested help and reported his daughter had been killed. The police and EMS arrived. Selena identified Lam as the person who killed her daughter. She explained that she was unsure how long Lam had been dating Bich. She stated that she had seen Lam hit her daughter a couple of times, including slapping her in the face. When this happened, Selena said that she would kick Lam out. She also mentioned that Lam drank frequently and would become angry.

### ***Lauren Nguyen***

Lauren, Bich’s younger sister, testified that on the day Bich was murdered, she tried calling her sister and mother, but received no response. Later, she learned Bich might be at the trailer park on Ames Boulevard, so she asked Hai, who was familiar with the location, to take her there. Upon arriving, Lauren saw police and a body covered by a blanket, but could not immediately identify her sister.

### ***Courtney Lips***

Courtney testified that she and her husband were at the Breaux Trailer Court on August 1, 2021, to fix her father-in-law’s truck. She stated that at approximately 5:45 to 5:50 p.m., she was sitting in her vehicle with her child when she noticed a man behind her husband. Courtney described the man as wearing a white and blue checkered shirt, khaki shorts, and “slides.” She recalled that the

man was on his phone, and her husband asked him to move. After police units drove past, she saw the man walk off in the opposite direction. Courtney testified that she observed him take off his shirt, throw it in a trash can, and walk towards a neighbor's yard. When another police unit arrived, she saw the man exit the yard. Courtney also recalled that an individual named Duane informed them of what happened, which led them to flag down the police. She described the man as not appearing to be upset or showing any remorse. Additionally, Courtney informed police that they had surveillance footage, which was subsequently retrieved. She identified Lam as the man who threw the shirt into the trash can.

***JPSO Deputy Steve Carter***

Deputy Carter testified that he responded to a service call on August 1, 2021, regarding a disturbance between a male and a female, which was later updated to a female being stabbed in the neck. He stated that upon arriving on the scene, he was flagged down by several individuals pointing toward Ames Boulevard and East Ames Boulevard, indicating that "he went that way." The individuals described the suspect as shirtless and wearing khaki shorts. Deputy Carter recalled that based on the individuals' lead, he looked down Organ Drive toward Leo Kerner Parkway and saw a shirtless male wearing khaki shorts walking. Deputy Carter radioed this information and then drove toward the male, who was later identified as Lam Thach. After stepping out of his car and drawing his service weapon, the deputy gave verbal commands for Lam to show his hands and get on the ground, but Lam refused to comply. Deputy Carter described Lam's demeanor as "calm, almost like he was amused," explaining that he laughed, smiled, and appeared not to understand the commands. He denied that Lam seemed upset. The deputy then placed Lam in handcuffs and collected a cell phone from him. As he did so, Deputy Carter observed minor cuts on Lam's wrists and hands, blood on the back of his shorts, and cuts on his chest and arms.

***JPSO Detective Anthony Buttone***

Detective Buttone investigated the August 1, 2021 homicide of Bich Nguyen. He testified that the first 911 call came at 5:43 p.m. from Rodo, who handed the phone to Selena. Officers were informed of an altercation, with Bich being struck and locked inside a trailer. A second 911 call came at 5:54 p.m. from Selena requesting EMS because her daughter had been stabbed in the neck. When EMS arrived, Bich was found outside the trailer; she was declared deceased at 6:14 p.m. Detective Buttone learned that Lam had been detained nearby and that his cell phone was recovered. A search warrant was obtained, and the digital forensics unit extracted data from the phone. Lam's other clothing, including shoes and shorts, were also sent to the crime lab. Detective Buttone explained that Selena, Rodo, and Muno were brought to the detective bureau. There, it was learned that the homicide occurred inside trailer lot 30, where the victim was stabbed in the living room before exiting the trailer and dying. A search warrant was obtained for the trailer, and it was determined that a "bloodletting event" occurred inside.

Detective Buttone testified that the crime scene was photographed. Photographs showed Bich lying near the stairs with "defensive marks" visible on the fingers of her right hand; puncture wounds visible to her neck; bloody footprints were visible leading in and out of the trailer; blood was visible on the door jam and door; and, blood stains were visible on the sofa and floor in the living room. In one photograph, a knife was seen in the sink, which was collected and sent to the crime lab. Bich's identification card and two of her cell phones were also shown in the photographs; namely, an Apple iPhone and a Samsung, which items were also collected and sent to the forensics lab.

Detective Buttone stated that Courtney Lips, a resident of the trailer park, notified the police about witnessing an Asian male discard a shirt in a trash can at lot 56. The discarded clothing was photographed and collected. Additionally,

surveillance footage was recovered from the trailer at lot 50, which was played for the jury. In the video, Detective Buttone identified Lam walking and wearing the brown shirt that had been collected from the trash can.<sup>2</sup> He explained that the shirt was located at the top of the trash can and was not hidden, indicating it appeared to be discarded rather than concealed. He further stated that the shirt was thrown into someone else's trash can, away from the crime scene.

***Dr. Dana Troxclair***

Dr. Troxclair, a forensic pathologist, performed an autopsy on Bich and found several sharp force injuries, with the primary injury being a stab wound to the neck, two inches deep. She explained that the wound perforated the skin, soft tissues, left external jugular vein, and the left carotid artery—the main artery to the brain. She described extensive hemorrhaging and exsanguination due to the artery perforation, which would cause death in less than a minute. Dr. Troxclair also noted other incised wounds, which were wider than deep, to the victim's chin, left shoulder, and left chest, explaining that incised wounds are like a knife scraping along the skin. She observed defense-type wounds to the palmar side of the victim's hands, confirming that the injuries were to the top of the body. Dr. Troxclair concluded that the cause of death was sharp force injuries, and the manner of death was classified as a homicide.

***JPSO Detective Dustin Ducote***

Detective Ducote, an expert in mobile device forensics, was provided three cell phones in connection with this case. He described receiving Lam's cell phone, conducting an extraction, and generating a report with the pertinent information, including text messages and messages from Facebook Messenger. He explained that Facebook Messenger is primarily used for phone calls, audio messages, and

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<sup>2</sup> A still image from the video showing Lam in the shirt, along with a photograph of the shirt being removed from the trashcan at the crime scene, were admitted into evidence.

video messages. An audio message from Lam to Bich was sent on July 28, 2021, and was played for the jury. An interpreter stated that it said, “Your family is a whore. Your family’s a whore. Do you understand that?” Bich sent an audio message to Lam on that same day, which was interpreted as, “It’s your family a whore, not mine. Why you accusing my family? That’s your family. F this. And you come on over here and you eat food and you calling my family—.” The message also said, “Your family eating other people p\*ssy and you keep F my family. And later on you’re not going to be able to talk to my mother. Yeah, you’re no good. Your family is no good. Not mine. My family are not uneducated like that. Why every time you come here you open your mouth and you eat. We brought the food for you to eat? And die.”

### *Nancy Clary*

Ms. Clary with the JPSO 911 communications center identified a detailed history report and audio recording of the 911 calls placed on August 1, 2021, which were played for the jury. In one call, a male stated that he needed an officer. A female, Selena, got on the phone and explained that a man was trying to fight and had “smacked her daughter twice.” In the call, Selena also mentioned that the man had locked the door, trapping her and her daughter inside the trailer, and denied that anyone had weapons. In a separate 911 call, a female, heard crying, said, “her daughter” and explained that the man had a knife. In a third 911 call, a male reported being on Ames Boulevard.

### *April Solomon*

Solomon, a DNA analyst with the JPSO Regional DNA Laboratory, testified that she compared buccal samples from Lam and Bich with swabs from collected items. She reported a presumptive positive for blood on the shoes and found that the DNA from the blood on Lam’s right shoe and the blade of the knife matched Bich. The likelihood of this DNA coming from Bich, as opposed to an unknown

contributor, was at least 100 billion times higher. Lam was excluded as a contributor for these items. Solomon explained that the DNA profile from the suspected blood on the shorts was a mixture from two contributors, and it was at least 100 billion times more likely to have originated from Lam and one unknown contributor than from two unknown contributors. Bich was excluded as a contributor. The swab from the knife handle showed a DNA mixture from two contributors, but no conclusion could be drawn regarding Lam. The profile was at least 100 billion times more likely to have come from Bich and one unknown contributor than two unknown contributors. She explained that if the knife had been placed in the sink with water, this could mask the genetic profile related to Lam. She also explained that body fluids, such as blood, could obscure potential touch DNA.

***JPSO Deputy Joseph Nguyen***

Deputy Nguyen assisted in translating for Lam during the investigation. While gathering information, Lam made a statement, saying he would admit to the murder and tell the whole story. Deputy Nguyen identified the audio-video recorded interview with Lam, which was played for the jury. He testified that before speaking with the detective, Lam tried to explain to him what was happening at the trailer during the incident. The deputy informed the detective that Lam was going to tell them what happened and that Lam said he would tell the truth and “take responsibility for it.”

**ASSIGNMENTS OF ERROR**

On appeal, Lam asserts the district court erred (1) by exempting Selena Nguyen from the sequestration order; (2) in imposing an excessive sentence; and (3) in denying his motion to reconsider sentence.

### *Sequestration of Selena Nguyen*

Lam asserts the district court erred by exempting Selena, the victim's mother and an eyewitness to the murder, from the sequestration order on the basis that her presence during trial violated his Sixth Amendment rights and gave the prosecution an unfair advantage. He claims that when the trial judge applied La. C.E. 615(B)(4), he failed to properly consider his confrontation rights and the purpose of sequestration, which is to prevent witnesses from being influenced by the testimony of others. Further, Lam argues that Selena's testimony was critical to the State's case and that the prosecution improperly bolstered her testimony by referencing statements made by other witnesses during her testimony. Lam contends that he was denied his right to effectively cross-examine the witnesses against him and, consequently, he is entitled to a new trial.

In response, the State maintains the district court did not err in allowing Selena to remain in the courtroom on the basis that La. C.E. art. 615(B)(4) exempts the victim's family from sequestration. To the extent Lam raises a constitutional challenge to La. C.E. art. 615(B)(4), the State argues that Lam has failed to properly plead a constitutional challenge as required by the Louisiana Supreme Court's established protocol. The State further responds that the district court correctly applied the law because Selena was the only person who witnessed the murder, and others could not influence her testimony. Lastly, the State contends that Lam failed to demonstrate any prejudice from Selena's presence, and even if the district court erred, Lam conceded guilt and argued for a lesser charge of manslaughter.

The record reflects that at the commencement of trial, before testimony was taken, defense counsel sought a sequestration order for Selena on grounds that, as a material witness, her presence in the courtroom violated the Sixth Amendment's Confrontation Clause and gave the State an unfair advantage. While

acknowledging defense counsel’s argument, the district court ruled that La. C.E. art. 615(B)(4)’s mandate provides no exception to the rule that family members are legally exempt from a sequestration order, even if the family members are material witnesses in the case. Although the court issued a sequestration order as to all witnesses, Selena and Bich’s sister were allowed to stay in the courtroom. In denying the request for a sequestration order for Selena, the district court addressed defense counsel’s “balancing” argument, stating that it did not believe there was any risk of the mother’s testimony being influenced, as she was the only person present who was an eye-witness to the murder. We agree.

Louisiana Code of Evidence article 615 sets forth the rule regarding sequestration of witnesses:

**A. As a matter of right.** On its own motion the court may, and on request of a party the court shall, order that the witnesses be excluded from the courtroom or from a place where they can see or hear the proceedings, and refrain from discussing the facts of the case with anyone other than counsel in the case. In the interests of justice, the court may exempt any witness from its order of exclusion.

**B. Exceptions.** This Article does not authorize exclusion of any of the following:

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(4) The victim of the offense or the family of the victim.

“The purpose of the sequestration article is to prevent witnesses from being influenced by the testimony of earlier witnesses, and to strengthen the role of cross-examination in developing the facts.” *State v. Breaux*, 12-555 (La. App. 4 Cir. 2/27/13), 110 So.3d 281, 284, writ denied, 13-699 (La. 10/25/13), 124 So.3d 1093. A sequestration order is also intended to exclude conscious and subconscious influence by one witness upon another. *State v. Johnson*, 01-2334 (La. App. 4 Cir. 12/4/02), 833 So.2d 508, 511.

The district court, in its discretion, may determine the disqualification of a witness when a rule of sequestration has been violated. *State v. Draughn*, 05-1825 (La. 1/17/07), 950 So.2d 583, 621, *cert. denied*, 552 U.S. 1012, 128 S.Ct. 537, 169 L.Ed.2d 377 (2007). Such determinations will not be disturbed on appeal absent a clear showing of abuse. *Id.*

The express language of La. C.E. art. 615(B)(4) is clear—the district court is not authorized to sequester the victim’s family members. Accordingly, Selena, as the mother of the victim, was not subject to the sequestration order and the district court did not err in allowing her to remain in the courtroom. *See State v. Linton*, 24-151 (La. App. 5 Cir. 4/3/24), 2024 WL 1432734; *State v. Howard*, 14-1048 (La. App. 1 Cir. 3/9/15), 2015 WL 1019513, *writ denied sub nom. State ex rel. Howard v. State*, 15-761 (La. 4/8/16), 191 So.3d 583.

As to Lam’s claims that the prosecution improperly bolstered Selena’s testimony by referencing statements made by other witnesses during her testimony, he cites only two instances in the record. The first involved the State’s question to Selena regarding whether she had heard the audio messages between Lam and Bich, to which Selena confirmed that she had, although she could not recall exactly what was said. After the State rephrased the question, Selena confirmed that Bich had told her about receiving upsetting messages from Lam on the day that Selena went to pick her up. The second involved the State’s question to Selena about whether she had heard the 911 calls played in court. Selena confirmed that she had and identified herself as the one speaking with the police in the call.

Selena was present at the scene and participated in the 911 calls. At the time of her testimony, the calls had already been played for the jury, during which Selena identified herself. Selena also knew about the audio messages between Bich and Lam and had already explained this to the jury. As Selena was familiar with the 911 calls and audio messages from the time of the incident, we find that

her presence in the courtroom during their presentation would not necessarily bolster her testimony. This assignment of error is without merit.

***Excessive Sentence and Denial of Motion to Reconsider Sentence***

In his second and third assignments of error, which are interrelated, Lam asserts the district court erred in imposing an excessive sentence and in denying his motion to reconsider sentence. Lam asserts his sentence for obstruction of justice should be vacated because there is no justification for the imposition of either the maximum penalty or consecutive sentences. Specifically, Lam avers that he is not the worst type of offender and that the record is devoid of compliance with La. C.Cr.P. art. 894.1. Further, Lam contends that the district court did not order a presentence investigation report (“PSI”), although he acknowledges that to do so is within the discretion of the district court. He also avers the district court provided insufficient justification for the imposition of consecutive sentences. Notably, Lam does not challenge the district court’s imposition of a mandatory life sentence on his second degree murder conviction.

In response, the State argues that because Lam failed to raise any issue relative to La. C.Cr.P. art. 894.1 at trial, he is therefore barred from doing so on appeal. The State argues that, nevertheless, the requirements of La. C.Cr.P. art. 891.4 were met in this case. The State further argues that the forty-year sentence imposed for obstruction of justice, which was ordered to run consecutively with Lam’s life sentence for second degree murder, is not excessive given the heinous nature of the crime, and the sentence imposed is supported by the record. Additionally, the State avers that ordering a PSI is not mandatory and lies within the discretion of the trial judge.

**1. Sentence Imposed for Obstruction of Justice**

On May 22, 2024, prior to sentencing, a victim impact statement from Bich’s sister, Lynn Nguyen Fradella, was heard and admitted into evidence. In her

statement, Lynn stated that her sister's life was tragically cut short by someone she trusted, leaving behind a void that can never be filled. Lynn expressed that Bich was the mother of two daughters that will have to grow up without their mother's love and who will never have the chance to form lasting memories with her. Lynn explained that she and her siblings loved Bich and saw themselves as her protectors as she attempted to navigate a world that was often unkind to those with disabilities. She described how their mother, Selena, witnessed the act and now carries a burden no parent should ever have to bear. She shared that their mother replays that moment, wondering if she could have done something differently, with guilt gnawing at her heart and pain beyond measure. Lynn said their family struggles with guilt, questioning whether they missed the signs, could have intervened, or somehow protected Bich. She stated that they mourn the loss of a daughter, mother, sister, and human being who deserved life. She also expressed hope that the justice system would not fail Bich as well. Lynn closed by urging the court to consider the devastating impact this crime has had on her family, stating that they are forever changed, scarred, and missing a piece of their hearts. She emphasized that Bich's memory should serve as a reminder that domestic violence affects not only the victim but also those left behind.

After Lynn's victim impact statement was heard, the trial judge sentenced Lam as follows: "You have been found guilty of second-degree murder and obstruction of justice. I hereby sentence you to mandatory life in prison, plus forty years consecutive." Defense counsel then filed a motion to reconsider sentence, arguing that Lam had no family in the country, his father died in prison, and that Lam could neither speak English nor read or write in Vietnamese. Defense counsel expressed uncertainty regarding the available resources at Angola and how Lam would be able to communicate there. Counsel argued that adding forty years to a life sentence was excessively punitive.

The State responded that Lam's education and father's death were irrelevant to sentencing and that, while Lam had no prior convictions, other crimes evidence presented at trial showed unadjudicated violent acts. Based on trial testimony and the victim impact statement, the State maintained that the sentence aligned with Lam's actions.

The trial judge denied Lam's motion to reconsider sentence, finding the sentence imposed was justified given the heinous nature of the crime and the victim impact. The judge noted Lam's lack of remorse for the murder he committed. The judge referred to testimony that, when taken into custody, Lam appeared amused and was laughing. The judge also noted similar observations when the video of the victim reporting domestic violence was played in court, to which defense counsel objected.

Also on May 22, 2024, following a bench conference about the issue, the trial judge vacated Lam's prior sentence, after which defense counsel waived sentencing delays, preserving all rights related to issues raised in the post-trial motions, including any argument on excessive sentencing. Lam was then sentenced to life imprisonment without the benefit of parole, probation, or suspension of sentence as to the second degree murder conviction, and to forty years imprisonment at hard labor on the obstruction of justice conviction. The district court ordered the sentences to run consecutively. The trial judge explained her reasons for imposing consecutive sentences that were placed on the record earlier that day. Defense counsel lodged an objection.

Louisiana Code of Criminal Procedure Article 881.1(B) provides that a motion for reconsideration of sentence "shall be oral at the time of sentence or shall be in writing thereafter and shall set forth the specific grounds on which the motion is based." La. C.Cr.P. art. 881.1(E) provides that "failure to make or file a motion to reconsider sentence or to include a specific ground upon which a motion

to reconsider sentence may be based, including a claim of excessiveness, shall preclude the state or the defendant from raising an objection to the sentence or from urging any ground not raised in the motion on appeal or review.”

This Court has held that the failure to file a motion to reconsider sentence, or to state the specific grounds upon which the motion is based, limits a defendant to a bare review of the sentence for constitutional excessiveness. *State v. McKinney*, 19-380 (La. App. 5 Cir. 12/26/19), 289 So.3d 153, 166. This Court has also held that when the consecutive nature of sentences is not specifically raised in the district court, then the issue is not included in the review for constitutional excessiveness, and the defendant is precluded from raising the issue on appeal. *State v. Rodgers*, 16-14 (La. App. 5 Cir. 10/26/16), 202 So.3d 1189, 1200, *writs denied*, 16-2189 (La. 9/15/17), 225 So.3d 479, and 16-2093 (La. 1/29/18), 235 So.3d 1104. Additionally, this Court has held that when the specific grounds for objection to the sentences, including alleged non-compliance with La. C.Cr.P. art. 894.1, are not specifically raised in the trial court, then these issues are not included in the bare review for constitutional excessiveness, and the defendant is precluded from raising these issues on appeal. *State v. Clark*, 19-518 (La. App. 5 Cir. 6/24/20), 296 So.3d 1281, 1291, *writ denied*, 21-62 (La. 3/9/21), 312 So.3d 585.

Here, defense counsel moved to reconsider sentence, arguing that adding forty years to a life sentence was excessive given Lam’s lack of family support, language barriers, and unknown available resources at Angola. Defense counsel did not argue in his written motion to reconsider or before the court that the district court failed to consider the factors set forth in La. C.Cr.P. art. 894.1, thus, Lam is not entitled to this Court’s review of whether the district court complied with

Article 894.1. *See State v. Escobar-Rivera*, 11-496 (La. App. 5 Cir. 1/24/12), 90 So.3d 1, 8, *writ denied*, 12-409 (La. 5/25/12), 90 So.3d 411).<sup>3</sup>

As to the consecutive nature of Lam’s sentence, we find that he did properly preserve this issue for appellate review. The Eighth Amendment to the United States Constitution and Article I, § 20 of the Louisiana Constitution prohibit the imposition of excessive punishment. *State v. Haynes*, 23-494 (La. App. 5 Cir. 7/31/24), 392 So.3d 1160, 1164. A sentence is considered excessive, even when it is within the applicable statutory range, if it makes no measurable contribution to acceptable goals of punishment, is nothing more than the purposeful imposition of pain and suffering, and is grossly out of proportion to the severity of the crime. *Id.* A sentence is grossly disproportionate if it shocks the sense of justice when the crime and punishment are considered in light of the harm done to society. *Id.*

In reviewing a trial court’s sentencing discretion, three factors are considered: (1) the nature of the crime; (2) the nature and background of the offender; and (3) the sentence imposed for similar crimes by the same court and other courts. *State v. Fuentes*, 23-502 (La. App. 5 Cir. 7/31/24), 392 So.3d 1167, 1173. However, there is no requirement that specific matters be given any particular weight at sentencing. *Id.* “A trial court should consider the defendant’s personal history such as age, family ties, marital status, health, employment record, as well as his prior criminal record, seriousness of offense and the likelihood of

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<sup>3</sup> Although Lam argues the district court did not give reasons for imposing the sentence, the record shows that when the district court denied defense counsel’s motion to reconsider sentence, it stated that the sentence was justified due to the heinous nature of the crime, the victim impact, and Lam’s lack of remorse. The trial judge later reiterated these reasons during resentencing. Moreover, this Court has previously held that where the record clearly shows an adequate factual basis for the sentence imposed, remand for resentencing is unnecessary where there has not been full compliance with La. C.Cr.P. art. 894.1. *State v. Acevedo*, 22-124 (La. App. 5 Cir. 12/28/22), 356 So.3d 1137, 1145, *writ denied*, 23-112 (La. 11/15/23), 373 So.3d 76; *see also State v. Garrison*, 15-285 (La. App. 5 Cir. 12/23/15), 184 So.3d 164, 171, *writ denied*, 16-258 (La. 2/10/17), 215 So.3d 700. Even when a district court assigns no reasons, the sentence will be set aside and remanded for resentencing only if the record is inadequate or clearly indicates that the sentence is excessive. *Acevedo*, 356 So.3d at 1146 n. 6 (citing *State v. Honea*, 18-18 (La. App. 1 Cir. 12/21/18), 268 So.3d 1117, 1120, *writ not considered*, 19-598 (La. 8/12/19), 279 So.3d 915.

rehabilitation in determining an appropriate sentence.” *State v. Adams*, 23-427 (La. App. 5 Cir. 4/24/24), 386 So.3d 676, 686.

A trial judge is afforded great discretion in imposing a sentence, and sentences will not be set aside as excessive absent clear abuse of that broad discretion. *State v. Mejia*, 23-161 (La. App. 5 Cir. 11/29/23), 377 So.3d 860, 888, *writ denied*, 23-1722 (La. 5/29/24), 385 So.3d 705. While a comparison of sentences imposed for similar crimes may provide insight, sentences must be individualized to the particular offender and to the particular offense committed. *State v. Ducksworth*, 17-35 (La. App. 5 Cir. 12/13/17), 234 So.3d 225, 237. Additionally, it is within the purview of the district court to particularize the sentence because the trial judge “remains in the best position to assess the aggravating and mitigating circumstances presented by each case.” *State v. Amaya-Rodriguez*, 19-91 (La. App. 5 Cir. 11/13/19), 284 So.3d 654, 664.

On appeal, the relevant question is whether the trial court abused its broad sentencing discretion, not whether another sentence might have been more appropriate. *State v. McMillan*, 23-317 (La. App. 5 Cir. 12/27/23), 379 So.3d 788, 802, *writ denied*, 24-131 (La. 9/4/24), 391 So.3d 1057. Generally, maximum sentences are reserved for cases involving the most serious violations of the offense charged and the worst type of offender. *Id.* According to La. C.Cr.P. art. 881.4(D), the appellate court shall not set aside a sentence for excessiveness if the record supports the sentence imposed.

Here, Lam was convicted of second degree murder in violation of La. R.S. 14:30.1, and obstruction of justice in violation of La. R.S. 14:130.1. The district court imposed a life sentence without benefit of parole, probation, or suspension of sentence on count one and forty years at hard labor as to count two, to be served consecutively. As previously noted, Lam challenges only the forty-year sentence for his obstruction of justice conviction, not his life sentence for second degree

murder. With regard to the obstruction of justice conviction, at the time of the offense,<sup>4</sup> La. R.S. 14:130.1(B)(1) provided that when the obstruction of justice involves a criminal proceeding in which a sentence of death or life imprisonment may be imposed, the offender shall be fined not more than one hundred thousand dollars, imprisoned for not more than forty years at hard labor, or both. Therefore, the trial judge imposed the maximum term of imprisonment of forty years at hard labor, but she did not impose the discretionary fine.

Based on our review of the record, we find that the individual sentence for obstruction of justice was not excessive. As to the nature of the crime, as well as the nature and criminal background of the offender, the trial testimony established that Lam fatally stabbed Bich in the neck, severing her carotid artery and causing rapid blood loss. The attack occurred inside a trailer in the presence of Bich's mother, who pleaded for her life and later held her as she died. Shortly before the stabbing, Lam slapped Bich during an argument inside the trailer, then locked the door and told everyone they could not leave. Rather than seeking help, Lam fled the scene and discarded the shirt he was wearing in a nearby trash can. When law enforcement located him shortly after, he was described as calm, smiling, and laughing. Crime scene photographs, forensic evidence, and Lam's own statement further demonstrated the severity of the offense.

Additionally, considering the impact of Bich's murder on her family, the record establishes that her mother witnessed the murder and described the lasting trauma, grief, and guilt she continues to carry. The victim impact statement described how Bich's family struggles with the profound emotional toll of her violent death. While the State acknowledged that Lam had no prior criminal convictions, the record reflects two prior arrests for domestic violence against the

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<sup>4</sup> 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, 520-22.

victim, including an incident where he strangled her and left visible injuries.

During the strangling incident, Hai recalled that Lam choked Bich while carrying a knife in his back pocket. Just four days after his release from custody for that incident, Lam killed Bich. Testimony and evidence at trial detailed these prior incidents, all of which were heard and considered by the trial judge.

This Court, as well as other Louisiana courts have upheld a forty-year sentence for obstruction of justice convictions. *See State v. Royal*, 03-439 (La. App. 5 Cir. 9/30/03), 857 So.2d 1167, 1175, *writ denied*, 03-3172 (La. 3/19/04), 869 So.2d 849; *State v. Harvey*, 21-730 (La. App. 4 Cir. 5/25/22), 345 So.3d 1043, *writ denied*, 22-953 (La. 9/20/22), 346 So.3d 803; *State v. Duckett*, 19-319 (La. App. 4 Cir. 12/18/19), 288 So.3d 167, *writ denied*, 20-135 (La. 7/24/20), 299 So.3d 73; *State v. Cawthorne*, 18-155 (La. App. 3 Cir. 10/3/18), 257 So.3d 717, *writ denied*, 18-1899 (La. 4/8/19), 267 So.3d 607; *State v. Ayala*, 17-1041 (La. App. 3 Cir. 4/18/18), 243 So.3d 681; *State v. Roberson*, 40,809 (La. App. 2 Cir. 4/19/06), 929 So.2d 789; *State v. McKnight*, 98-1790 (La. App. 1 Cir. 6/25/99), 739 So.2d 343, *writ denied*, 99-2226 (La. 2/25/00), 755 So.2d 247.

Given the brutality of the murder, Lam's actions to avoid detection, the lasting impact on Bich's family, and Lam's history of domestic violence against Bich, we find the forty-year sentence for obstruction of justice is neither excessive nor grossly disproportionate. Considering the severity of the crime and comparable sentences, we find the imposed sentence does not constitute a needless infliction of pain or suffering.

## **2. Consecutive Nature of His Sentences**

Lam also argues that his sentences are excessive because they were ordered to be served consecutively. If a defendant is convicted of two or more offenses based on the same act of transaction, or constituting parts of a common scheme or plan, the terms of the imprisonment shall be served concurrently unless the court

expressly directs that some or all be served consecutively. La. C.Cr.P. art. 883. A trial judge retains discretion to impose consecutive sentences on the basis of facts such as the offender's past criminal acts, the violent nature of the charged offenses, or the risk that the defendant may pose to the safety of the community. *State v. Hankton*, 20-388 (La. App. 5 Cir. 7/3/21), 325 So.3d 616, 623, *writ denied*, 21-1128 (La. 12/7/21), 328 So.3d 425. If the trial court elects to impose consecutive sentences for crimes arising out of the single course of conduct, it must articulate the reasons it feels consecutive sentences are necessary. *State v. Calloway*, 19-335 (La. App. 5 Cir. 12/30/19), 286 So.3d 1275, 1279, *writ denied*, 20-266 (La. 7/24/20), 299 So.3d 69. Although the imposition of consecutive sentences requires particular justification when the crimes arise from a single course of conduct, consecutive sentences are not necessarily excessive. *Id.* A life sentence for second degree murder is mandatory; however, whether the sentences run consecutively is discretionary. *See State v. Miller*, 20-182 (La. App. 5 Cir. 12/23/20), 308 So.3d 1246, 1258, *writ denied*, 21-233 (La. 4/27/21), 314 So.3d 838.

In the case *sub judice*, the evidence presented at trial indicates that Lam's convictions arose from a common scheme or plan that occurred over the span of one day. The record reflects that the trial judge articulated reasons for the sentences to run consecutively. In denying the motion to reconsider sentence, the trial judge provided that the sentence was justified due to the heinous nature of the crime, the victim impact, and Lam's lack of remorse. The court referenced testimony that Lam appeared amused and laughed when taken into custody and he displayed similar behavior when the victim's domestic violence reporting was played in court. The judge later referred to these reasons during sentencing to justify the consecutive sentence.

Further, Louisiana jurisprudence supports the district court's decision to impose consecutive sentences. *See Calloway, supra; State v. Bench*, 18-79 (La.

App. 3 Cir. 9/26/18), 256 So.3d 345; *Roberson*, 929 So.2d at 803-05 (where courts have upheld consecutive sentences for the defendants' convictions of second degree murder and obstruction of justice resulting in the same total period of incarceration as Lam herein).

Considering the foregoing, we find the district court did not abuse its discretion in imposing consecutive sentences. Even assuming that Lam's sentence is excessive due to its consecutive nature, a remand for resentencing would be "an academic exercise which has no practical benefit to anyone." *See State v. Funes*, 11-120 (La. App. 5 Cir. 12/28/11), 88 So.3d 490, 510, *writ denied*, 12-290 (La. 5/25/12), 90 So.3d 408. Second degree murder carries a mandatory life sentence. *See* La. R.S. 14:30.1. Lam received a life sentence without benefits for his conviction of second degree murder, so ordering the sentence for second degree murder to run consecutively with the sentence for obstruction of justice has "no practical effect as [Lam] will be in jail for the rest of his life unless he is pardoned." *See Funes, supra*.

### **3. Failure to Order a PSI**

Lam also argues the district court erred in failing to order a PSI. As acknowledged by Lam in his brief on appeal, La. C.Cr.P. art. 875(A)(1) provides, in relevant part, that "[i]f a defendant is convicted of a felony offense ... the court *may* order the Department of Public Safety and Corrections, division of probation and parole, to make a presentence investigation." [Emphasis supplied.] The use of the word "may" in this article reflects that ordering a PSI is discretionary with the district court. *State v. Jones*, 11-87 (La. App. 5 Cir. 12/13/11), 81 So.3d 835, 840. The Louisiana Supreme Court has also held that a PSI is an aid to the court, not a right of a defendant, and the district court is not required to order that the report be prepared. *Id.* (citing *State v. Bell*, 377 SO.2d 275 (La. 1979)). In the instant case, no objection to the lack of a PSI was made at the sentencing hearing.

Consequently, we find the district court did not abuse its discretion in not ordering a PSI. (See *State v. Woods*, 20-73 (La. App. 5 Cir. 9/9/20), 303 So.3d 403, 410, writ denied, 21-27 (La. 2/17/21), 310 So.3d 1150, where this Court found that ordering a PSI was discretionary, that no objection was made to the lack of a PSI, and therefore, the district court did not abuse its discretion in not ordering one).

## **ERRORS PATENT DISCUSSION**

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). Our review revealed the following error patent.

As to count one, second degree murder, during resentencing, the transcript does not reflect that the district court said that the sentence would be served at hard labor or in the Department of Corrections. The minute entry and the uniform commitment order (“UCO”) reflect that the sentence on count one was imposed at hard labor. The transcript prevails. See *State v. Lynch, supra*.

As to count one, Lam was sentenced pursuant to La. R.S. 14:30.1, which mandates a life sentence at hard labor without benefit of parole, probation, or suspension of sentence for the crime of second degree murder. Further, La. C.Cr.P. art. 879 requires that a court impose a determinate sentence. If the applicable sentencing statute allows discretion, the failure to indicate whether the sentence is to be served at hard labor is an impermissible indeterminate sentence. *State v. Norman*, 05-794 (La. App. 5 Cir. 3/14/06), 926 So.2d 657, 661, writ denied sub nom. ex rel. *Norman v. State*, 06-1366 (La. 1/12/07), 948 So.2d 145. While La. R.S. 14:30.1 affords no discretion, we find the district court’s failure to state that the sentence on count one was imposed at hard labor is harmless error, and that the sentence is not an impermissible indeterminate sentence. Therefore, no corrective action is required as to count one. See *State v. Davis*, 09-1109 (La. App. 5 Cir. 9/14/10), 45 So.3d 21-15, writ denied, 10-2585 (La. 4/1/11), 60 So.3d 1249.

## **CONCLUSION**

For the foregoing reasons, based on our review of the facts of the case, the nature of the crimes at issue, and the applicable jurisprudence, we find that there was no abuse of discretion by the trial judge in exempting the victim's mother from the sequestration order. Additionally, we find that the sentence imposed upon Lam Thach for obstruction of justice was not constitutionally excessive, and the district court did not abuse its discretion in ordering the mandatory sentence of life imprisonment without benefits for the conviction of second degree murder and the sentence for the obstruction of justice to run consecutively. Further, we find no error in the district court's denial of the motion to reconsider sentence. Lam Thach's convictions and sentences are affirmed.

**AFFIRMED**

SUSAN M. CHEHARDY  
CHIEF JUDGE

FREDERICKA H. WICKER  
JUDE G. GRAVOIS  
MARC E. JOHNSON  
STEPHEN J. WINDHORST  
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**NOTICE OF JUDGMENT AND CERTIFICATE OF DELIVERY**

I CERTIFY THAT A COPY OF THE OPINION IN THE BELOW-NUMBERED MATTER HAS BEEN DELIVERED IN ACCORDANCE WITH **UNIFORM RULES - COURT OF APPEAL, RULE 2-16.4 AND 2-16.5** THIS DAY **APRIL 2, 2025** TO THE TRIAL JUDGE, CLERK OF COURT, COUNSEL OF RECORD AND ALL PARTIES NOT REPRESENTED BY COUNSEL, AS LISTED BELOW:

**CURTIS B. PURSELL**  
CLERK OF COURT

**24-KA-437**

**E-NOTIFIED**

24TH JUDICIAL DISTRICT COURT (CLERK)

HONORABLE ELLEN SHIRER KOVACH (DISTRICT JUDGE)

GWENDOLYN K. BROWN (APPELLANT)

DARREN A. ALLEMAND (APPELLEE)

THOMAS J. BUTLER (APPELLEE)

**MAILED**

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