

Fifth Circuit Court of Appeal
State of Louisiana

No. 25-KA-471

STATE OF LOUISIANA

versus

LUCIEN P. BAZLEY

ON APPEAL THE TWENTY-FOURTH JUDICIAL DISTRICT COURT
PARISH OF JEFFERSON, STATE OF LOUISIANA
NO. 22-4780, DIVISION "B"
HONORABLE R. CHRISTOPHER COX, III, JUDGE PRESIDING

August 19, 2026

STEPHEN J. WINDHORST
JUDGE

Panel composed of Judges Stephen J. Windhorst,
Timothy S. Marcel, and Michael P. Mentz, Pro Tempore

AFFIRMED

SJW
TSM
MPM



COUNSEL FOR PLAINTIFF/APPELLEE,
STATE OF LOUISIANA

Honorable Paul D. Connick, Jr.
Thomas J. Butler
Darren A. Allemand
Matthew Whitworth
Sarah Helmstetter
Rachel E. Warren

DEFENDANT/APPELLANT,
LUCIEN P. BAZLEY

In Proper Person

WINDHORST, J.

In this criminal appeal, defendant/appellant, Lucien P. Bazley, challenges his conviction and sentence for possession of a firearm by a convicted felon. For the following reasons, we affirm defendant's conviction and sentence.

PROCEDURAL HISTORY

On January 19, 2023, a Jefferson Parish Grand Jury indicted defendant, Lucien P. Bazley, with second degree murder in violation of La. R.S. 14:30.1 (count one) and possession of a firearm by a convicted felon in violation of La. R.S. 14:95.1 (count two). At his arraignment, defendant pled not guilty to both counts. On June 24, 2024, after conducting a Faretta hearing, the trial court allowed defendant to represent himself with standby counsel. Faretta v. California, 422 U.S. 806, 95 S.Ct. 2525, 45 L.Ed.2d 562 (1975).

Trial began on May 12, 2025, and on May 15, 2025, the jury found defendant guilty of possession of a firearm by a convicted felon. Because the jury verdict on the second degree murder count was not unanimous, the trial court declared a mistrial on that count. The trial court sentenced defendant to imprisonment at hard labor for twenty years without benefit of parole, probation, or suspension of sentence. The trial court imposed a \$5,000 fine and then waived it.

On June 27, 2025, defendant filed a *pro se* motion to appeal, and on July 8, 2025, defendant filed a *pro se* motion to reconsider the sentence. On July 15, 2025, the trial court denied defendant's motion to reconsider sentence and granted his motion for appeal.

TRIAL EVIDENCE

Defendant's prosecution for felon in possession of a firearm is interrelated with his prosecution for second degree murder in that the facts upon which both prosecutions are based occurred at the same time.

At trial, Mr. Edwin Wilkins provided eyewitness testimony regarding the shooting involving defendant that occurred on Ames Street in Marrero, Louisiana. Mr. Wilkins testified that on September 25, 2022, he was working as a security guard at Tig's Bar when he observed a homicide occur across the street at O'Reilly's parking lot. Mr. Wilkins testified that he saw two shots and then the victim hit the ground. Mr. Wilkins stated that the victim did not have anything in his hand, and he did not see the victim pointing a gun at defendant. He provided Jefferson Parish police officers with a description of the suspect and later positively identified defendant in a photographic lineup as the shooter.

Deputy Aldaro Russell responded to a 9-1-1 call on September 25, 2022 relative to the shooting on Ames Street. Deputy Russell testified that when he arrived at the crime scene, he and other officers found a male with a gunshot wound to his head.¹ Deputy Russell obtained a description of the suspect as a heavyset black male with small, low dreadlocks who had been hanging around the club located across the street from O'Reilly's for a few nights and possibly fled in a silver truck.

Detective Steven Mehrtens, a homicide detective from the Jefferson Parish Sheriff's Office ("JPSO"), testified that he collected surveillance video from Tig's Bar. He explained that the video showed defendant removing a firearm from his person and firing a single shot at the victim's head. Detective Mehrtens did not see the victim reach for anything at any point in the video. He confirmed that police never collected a firearm from the victim nor from the crime scene.

Sergeant Anthony Buttone testified that the JPSO obtained an arrest warrant for defendant and a search warrant for his residence, which was the home of defendant's partner, Trenice Herbert. When the police arrested defendant, they

¹ EMS later arrived and declared that the victim was deceased.

noticed defendant had bandages on his arm and legs, realized defendant had been shot, and called medical personnel to treat him. Defendant told Sergeant Buttone that people were always trying to kill him, among other things. Defendant admitted to the EMS personnel that he did not seek medical treatment the night before because he had shot somebody.

Sergeant Buttone testified that Ms. Herbert told detectives she owned three firearms, including two 9mm firearms and a .40-caliber firearm. Sergeant Buttone, however, stated that only the two 9 mm firearms were recovered from her home. Ms. Herbert did not know the whereabouts of the second .40-caliber firearm. Sergeant Buttone learned through defendant's jail calls that defendant used a revolver to kill Mr. Martin. Sergeant Buttone pointed out that surveillance video showed defendant had his back to the victim, after which he turned around and shot the victim in the head.

Ms. Herbert testified that she had known defendant for eleven years and first met him when he was in jail. She stated that when defendant was paroled, he came to live with her at 7113 Gentry Road, where he was residing on the day of the shooting. Ms. Herbert testified that she told the detective that she owned three firearms, that two of them were underneath her bed, and that she kept her .38 caliber revolver in a fanny pack. Ms. Herbert stated that the night of the shooting, defendant called and told her his BMW was "shot" and that he had been in an accident. He later came to her house bleeding. Defendant told her that he had been shot and that he had a "fuss with that guy" and "him and a guy got into it." She admitted that she had not seen her revolver since the victim's murder. She also admitted that defendant knew she kept her revolver on the side of her bed. Ms. Herbert acknowledged that on May 8, she had a jail phone call from defendant who told her he was sorry that he took her firearm.

The trial court accepted Dona Quintanilla, the JPSO supervisor of the latent print section of the crime lab, as an expert in the field of latent print processing and comparison. Ms. Quintanilla testified that defendant's fingerprints matched those contained in State's Exhibit 3, a certified conviction packet which indicated that defendant had been convicted of possession of cocaine in violation of La. R.S. 40:967(C) and sentenced on July 18, 2008 as a multiple offender to twenty years imprisonment.

Defendant testified that he was in prison for twelve years and was then released on parole. Thereafter, he started a transportation company, which led to him going to Tig's Bar, where he met some men, including "Reginald" and the victim. Defendant claimed that on September 13, 2022, "Reginald" pulled out a gun and tried to rob him while in his car, but defendant closed his door and drove away. He stated that on September 14, 2022, "Reginald" apologized to him and on September 23, 2022, someone killed "Reginald." According to defendant's testimony, Reginald's friends believed he was responsible for Reginald's death; however, someone else was convicted for Reginald's murder.

Defendant testified that on the night of September 24, 2022, he sat in his car and was about to go into Tig's Bar when he heard several shots, so he drove away. He moved his car and parked in front of O'Reilly's, where he exited his car and saw seven bullet holes in it. He called the police who told him they could not help because he did not know who shot his car.

On the night of the shooting, September 25, 2022, he drove around but was scared that someone might be following him. While he was driving, he claimed he was involved in a car accident. Defendant asserted he believed he might need to arm himself because he was scared and did not know whether someone was trying to kill him. When he was outside of Tig's, defendant claimed, Mr. Martin, the victim, yelled that he was going to kill "this guy in this black BMW" or "make this dude kill

me.” Defendant asserted everyone knew he drove a BMW so he thought the victim was talking about him. He explained that he did not want to put his gun down until he ensured that everything was calm because someone had already shot at him. Defendant asserted that he walked toward the victim to see what was going on and that someone told him to watch himself because people were talking about killing him “out there.” He did not know that they thought he had something to do with the death of their friend, “Reginald.”

Defendant asserted that he approached the victim, asked why he was mad, and told the victim that he had not done anything to him or to “Reginald,” but the victim cocked the gun. Defendant stated that the victim put the gun back on his waistband and walked behind him. He asserted that they calmed down and were walking, so he thought that the argument was over. Defendant stated that he asked the victim if they knew who shot “Reginald” and why they were shooting at him. Defendant recalled that he was walking in front of the victim and that he heard the victim yell, “Because we love Reginald.”

Defendant testified that he looked back at the victim and jumped because he saw the victim chamber a live round in his gun. He stopped but did not shoot until he saw the victim reach for the gun in his waistband. Defendant admitted that he shot the victim twice. He stated that after the shooting, he walked away, but multiple men ran up to him with guns in their hands. Defendant pointed out that he did not know the name of the man who shot him. He stated that after he got shot, he fell down, and that bullets were flying and hitting the ground. Defendant stated that he got up, ran toward his car, dropped the gun in the grass on Freedom Court, got into his car, and left.

Defendant stated that he tried to call 9-1-1, but his phone was dead. He drove home, and Ms. Herbert helped him stop the bleeding.

LAW AND ANALYSIS

In this *pro se* appeal, defendant asserts (1) the evidence was insufficient to support his conviction for possession of a firearm by a convicted felon; (2) the trial court erred in not instructing the jury regarding the defense of justification and the defense under State v. Blache, 480 So.2d 304 (La. 1985); (3) the district attorney improperly charged him with felon in possession of a firearm and violated his right to a speedy trial; (4) he was subjected to a double jeopardy violation, and (5) La. R.S. 14:95.1 is unconstitutional as applied to him.

Sufficiency of the Evidence

In reviewing the sufficiency of the evidence, an appellate court must determine if the evidence, whether direct or circumstantial, or a mixture of both, viewed in the light most favorable to the prosecution, was sufficient to convince a rational trier of fact that all of the elements of the crime have been proven beyond a reasonable doubt. Jackson v. Virginia, 443 U.S. 307, 99 S.Ct. 2781, 61 L.Ed.2d 560 (1979). Under the Jackson standard, the appellate court does not consider whether the evidence at trial established guilt beyond a reasonable doubt, but instead whether any rational trier of fact could have found the defendant guilty beyond a reasonable doubt after viewing the evidence in the light most favorable to the prosecution. State v. Garrison, 19-62 (La. App. 5 Cir. 4/23/20), 297 So.3d 190, 203, writ denied, 20-547 (La. 9/23/20), 301 So.3d 1190.

It is not the function of the appellate court to assess credibility or reweigh the evidence. State v. Havies, 22-133 (La. App. 5 Cir. 12/22/22), 355 So.3d 677, 687, writ denied, 23-76 (La. 9/19/23), 370 So.3d 463. The trier of fact shall evaluate credibility, and when faced with a conflict in testimony, is free to accept or reject, in whole or in part, the testimony of any witness. Id., citing State v. Garrison, 297 So.3d at 204.

In order to convict a defendant of illegal possession of a firearm by a convicted felon, the State must prove beyond a reasonable doubt that defendant had:

(1) possession of a firearm; (2) a prior conviction for an enumerated felony; (3) an absence of the ten-year statutory period of limitation; and (4) the general intent to commit the offense. La. R.S. 14:95.1; State v. Kelly, 19-425 (La. App. 5 Cir. 7/31/20), 299 So.3d 1284, 1288. General criminal intent exists “when the circumstances indicate that the offender, in the ordinary course of human experience, must have adverted to the prescribed criminal consequences as reasonably certain to result from his act or failure to act.” La. R.S. 14:10(2). Intent is a question of fact and may be inferred from the circumstances of a transaction. State v. Barnes, 24-303 (La. App. 5 Cir. 5/28/25), 415 So.3d 519, 525-26, writ denied, 25-839 (La. 11/19/25), 420 So.3d 1183.

Defendant argues that the evidence was insufficient to support his La. R.S. 14:95.1 conviction because there was no evidence that he had any intention to carry or possess a weapon at any time before the incident that occurred. Contrary to defendant’s argument, the evidence showed that defendant armed himself with a firearm retrieved from his residence, drove to the parking lot across the street from the bar, exited his vehicle with the firearm, spoke to the victim, pointed the firearm at him, and shot him in the head. We conclude these circumstances are sufficient to establish that defendant had the general intent to possess the firearm.

Defendant also asserts his possession of the firearm was legally justified under La. R.S. 14:18(5) through (7) and La. R.S. 14:19(A)(1)(a) because he was subjected to the threat of death or great bodily harm. Justification is a viable defense to illegal possession of a firearm by a convicted felon. State v. Blache, 480 So.2d 304, 308 (La. 1985). The Louisiana Supreme Court has held that when a felon is in imminent peril of great bodily harm or reasonably believes himself or others to be in such danger, he may take possession of a weapon for a period no longer than is necessary

or apparently necessary to use it in self-defense, or in defense of others. Id. at 308; State v. Lewis, 98-447 (La. App. 5 Cir. 10/28/98), 720 So.2d 1230, 1232. Defendant has the burden of proving by a preponderance of evidence that he was in imminent peril or great bodily harm or reasonably believed himself or others to be in such danger. State v. McKinney, 19-380 (La. App. 5 Cir. 12/26/19), 289 So.3d 153, 164. Even so, the defendant is only entitled to have possession of the weapon for a period no longer than was necessary or apparently necessary to use it in self-defense or in defense of others. State v. Blache, 480 So.2d at 308.

“‘Necessity,’ when raised as a defense to the illegal possession of a firearm, entails proof that the threat or force by another is *imminent and apparent*, and that the person threatened has *no reasonable alternative* but to possess the firearm.” State v. Lee, 00-1253 (La. App. 5 Cir. 1/30/01), 782 So.2d 1063, 1067, writ denied, 01-831 (La. 2/1/02), 808 So.2d 338.

Upon review, we find defendant did not prove by a preponderance of the evidence the lack of a reasonable alternative to his possession of the gun. Defendant testified that on September 24, 2022, someone shot his vehicle while it was parked in the parking lot located across the street from Tig’s Bar. He also testified that someone warned him that individuals were trying to kill him. Instead of avoiding the area where his vehicle had been shot, defendant took Ms. Herbert’s gun from her residence, drove to the parking lot across from Tig’s Bar, exited the vehicle with the loaded weapon in his hand, spoke to the victim, and then shot the victim in the head. Defendant purposefully armed himself with a firearm, drove to a perilous location, and shot the victim. Based on these facts, we find defendant had a reasonable alternative to possessing the firearm, i.e., he could have avoided the perilous area.

In addition, we find the evidence did not show that imminent and apparent danger existed when defendant left Ms. Herbert’s house with the gun or when he

exited his vehicle with the gun. Defendant chose to retrieve a firearm from his residence and approach the victim with the firearm.

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 a witness. State v. Le, 22-468 (La. App. 5 Cir. 8/9/23), 370 So.3d 162, 170, writ denied, 23-1230 (La. 2/6/24), 378 So.3d 752. 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. State v. Dominguez, 14-1 (La. App. 5 Cir. 8/28/14), 148 So.3d 648, 654, writ denied, 14-2033 (La. 5/22/15), 170 So.3d 982.

Considering the foregoing, we cannot say the record shows defendant established he was in imminent harm requiring possession of the firearm or that he did not have a reasonable alternative. Thus, the record does not contain anything to support application of the Blache defense. Accordingly, this assignment of error lacks merit.

The Jury Instructions

Defendant asserts that the trial court erred by removing the language of La. R.S. 14:18(5), (6), and (7) regarding the defense of justification from the jury instructions because it clearly applied in his case. Defendant also claims that he was in imminent peril of great bodily harm and had the right to take possession of a weapon for a period of time no longer than necessary to use it in self-defense or defense of others, indicating he believes the jury should have been instructed as to the Blache jury charge.

The State responds that La. R.S. 14:18(1) through (6) has no application to the instant case, and that the jury was instructed on all pertinent parts of La. R.S. 14:20 and La. R.S. 14:21, which govern justifiable homicide and the aggressor doctrine, respectively. The State asserts that although defendant made a vague reference to a Blache charge during the charge conference, he did not request that

charge. In addition, the State argues that any error in declining to give a Blache charge was harmless given the weight of the State's evidence.

The trial court has the duty to instruct the jurors as to "every phase of the case supported by the evidence whether or not accepted by him as true" and that duty extends to "any theory ... which a jury could reasonably infer from the evidence." State v. Joseph, 23-446 (La. App. 5 Cir. 4/24/24), 386 So.3d 688, 693. The evidence presented at trial must support a requested written charge for the jury. Id. The trial court's failure to give a requested jury instruction constitutes reversible error only when there is a miscarriage of justice, prejudice to the substantial rights of the accused, or a substantial violation of a constitutional or statutory right. Id.

"A party may not assign as error the giving or failure to give a jury charge or any portion thereof unless an objection thereto is made before the jury retires or within such time as the court may reasonably cure the alleged error." La. C.Cr.P. art. 801 C. This court has held that a defendant is required to make a timely objection under La. C.Cr.P. art. 801 C to preserve a jury charge issue for review. State v. Gardner, 05-62 (La. App. 5 Cir. 6/28/05), 907 So.2d 793, 801.

The record reflects that although defendant initially asked the trial court to read all of La. R.S. 14:18 and La. R.S. 14:20 to the jury, after the jury charge conference, he said he was "satisfied" and "okay" with the justification charge found on page eight of the jury instructions. The trial judge told defendant that he was not going to read all of La. R.S. 14:18 and La. R.S. 14:20 to the jury, that the "pattern charges" were sufficient and adequately explained the law to the jury. Defendant indicated that he went to page eight of the jury charges where it referenced justification and that he was "satisfied" with the instruction. He commented that the State had struck a vital part of La. R.S. 14:18, but "It's okay." Based on this exchange, defendant did not object to the jury charge on justification. Thus,

defendant did not preserve an issue relative to the justification charge for appellate review. *See* La. C.Cr.P. art. 801 C; Gardner, 907 So.2d at 801.

With respect to the Blache charge, although defendant referred to this case during the jury charge conference, he did not specifically request that charge. Nonetheless, the record does not support the inclusion of a Blache charge because the evidence did not support application of the Blache defense.

Other Procedural Claims

Defendant claims he was improperly charged, prosecuted, and convicted of La. R.S. 14:95.1 because he was not initially charged in commissioner's court with a La. R.S. 14:95.1 violation. The State responds that the district attorney later charged defendant with a La. R.S. 14:95.1 violation in a "direct bill" in addition to the offense for which he was arrested, pursuant to its authority under La. C.Cr.P. art. 61 and La. Const. art. V § 26.

The record shows that the police arrested defendant on September 26, 2022 for second degree murder with an arrest warrant. After a preliminary examination, the trial court found sufficient probable cause to hold defendant "as charged." On January 19, 2023, a Jefferson Parish Grand Jury indicted defendant with second degree murder in violation of La. R.S. 14:30.1 (count one) and possession of a firearm by a convicted felon in violation of La. R.S. 14:95.1 (count two).

"Subject to the supervision of the attorney general, as provided in Article 62, the district attorney has entire charge and control of every criminal prosecution instituted or pending in his district, and determines whom, when, and how he shall prosecute." La. C.Cr.P. art. 61. While it is accurate that the district attorney charged defendant with crimes different than those for which he was arrested, La. C.Cr.P. art. 61 gives the district attorney broad discretion in determining whom, when, and how to prosecute. State v. Clifton, 17-538 (La. App. 5 Cir. 5/23/18), 248 So.3d 691, 700. Thus, we find the district attorney had the discretion to seek an indictment

against defendant on January 19, 2023, for possession of a firearm by a convicted felon in addition to second degree murder.

Defendant also claims his right to a speedy trial under La. C.Cr.P. art. 701 was violated. The record indicates no Article 701 violation occurred because defendant was arrested on September 26, 2022, for second degree murder and indicted on January 19, 2023, less than 120 days from arrest. In addition, a statutory speedy trial claim under La. C.Cr.P. art. 701 becomes moot after conviction because the remedy for such a violation is pre-trial release of defendant, not a bar to prosecution. State v. Napoleon, 12-749 (La. App. 5 Cir. 5/16/13), 119 So.3d 238, 247.

Double Jeopardy

Defendant argues that a double jeopardy violation occurred when he was charged with second degree murder and possession of a firearm by a convicted felon because the same facts were used to support both offenses. The State responds that there was no double jeopardy violation because defendant was only convicted of possession of a firearm by a convicted felon and each crime has an element that the other one does not under Blockburger v. United States, 284 U.S. 299, 52 S.Ct. 180, 76 L.Ed. 306 (1932).

Louisiana courts are bound only to apply the standard established by the U.S. Supreme Court in Blockburger to protect against double jeopardy. State v. Frank, 16-1160 (La. 10/18/17), 234 So.3d 27. Under the Blockburger test, where the same act or transaction constitutes a violation of two distinct statutory provisions, the test to be applied to determine whether there are two offenses or only one is whether each provision requires proof of a fact which the other does not. Blockburger, 284 U.S. at 304, 52 S.Ct. 180; State v. Knowles, 392 So.2d 651, 654 (La. 1980). It is well-settled that an accused who commits separate and distinct offenses during the same criminal episode or transaction may be prosecuted and convicted for each offense without violating the prohibition against double jeopardy. State v. Nichols,

337 So.2d 1074, 1078 (La. 1976); State v. Stevens, 18-344 (La. App. 5 Cir. 12/5/18), 260 So.3d 776, 778.

Here, defendant was charged with and prosecuted for two separate and distinct offenses, second degree murder and felon in possession of a firearm. These offenses have distinct elements. Thus, there is no double jeopardy violation.

In addition, double jeopardy does not occur when a jury's verdict does not expressly convict or acquit defendant of an offense. State v. Gasser, 22-64 (La. 6/29/22), 346 So.3d 249, 256. "Because a non-unanimous verdict cannot acquit a defendant of the charge(s) faced, in that case, jeopardy did not attach, and the defendant could be retried on those same felony charges after a mistrial had been declared. State v. Seymore, 23-50 (La. App. 5 Cir. 9/20/23), 371 So.3d 587, 590. Likewise, in the case before us, we find that the non-unanimous verdict returned by the jury cannot acquit defendant of the second degree murder charge. Double jeopardy did not attach, and the State was permitted to retry defendant on the second degree murder charge.

DECREE

For the foregoing reasons, we affirm defendant's conviction and sentence for possession of a firearm by a convicted felon.

AFFIRMED

SUSAN M. CHEHARDY
CHIEF JUDGE

FREDERICKA H. WICKER
JUDE G. GRAVOIS
MARC E. JOHNSON
STEPHEN J. WINDHORST
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JUDGES



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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
AUGUST 19, 2026 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

25-KA-471

E-NOTIFIED

24TH JUDICIAL DISTRICT COURT (CLERK)
R. CHRISTOPHER COX, III (DISTRICT JUDGE)
DARREN A. ALLEMAND (APPELLEE)
THOMAS J. BUTLER (APPELLEE)
MATTHEW WHITWORTH (APPELLEE)

GRANT L. WILLIS (APPELLEE)
RACHEL E. WARREN (APPELLEE)
SARAH HELMSTETTER (APPELLEE)

HONORABLE PAUL D. CONNICK, JR.
(APPELLEE)

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