Fifth Circuit Court of Appeal
State of Louisiana

No. 25-KA-517

STATE OF LOUISIANA

versus

OSCAR O. REYES

ON APPEAL FROM THE TWENTY-FOURTH JUDICIAL DISTRICT COURT
PARISH OF JEFFERSON, STATE OF LOUISIANA
NO. 21-5813, DIVISION "O"
HONORABLE DANYELLE M. TAYLOR, JUDGE PRESIDING

November 04, 2026

MARC E. JOHNSON

JUDGE

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

CONVICTIONS AND SENTENCES AFFIRMED;
REMANDED WITH INSTRUCTIONS

MEJ
SMC
SUS

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MORGAN NAQUIN
DEPUTY CLERK

COUNSEL FOR DEFENDANT/APPELLANT,
OSCAR O. REYES

Lane R. Trippe
James C. Lawrence

COUNSEL FOR PLAINTIFF/APPELLEE,
STATE OF LOUISIANA

Honorable Paul D. Connick, Jr.
Juliet L. Clark
Thomas J. Butler

JOHNSON, J.

Defendant, Oscar O. Reyes, seeks review of his convictions for sexual battery and indecent behavior (both of a juvenile under the age of thirteen) and the resulting sentences imposed by the 24th Judicial District Court. For the following reasons, we affirm Defendant's convictions and sentences.

FACTS AND PROCEDURAL HISTORY

On October 31, 2022, the Jefferson Parish District Attorney filed a bill of information charging Defendant, Oscar O. Reyes, with sexual battery upon a known juvenile under the age of thirteen (DOB 6/16/09) in violation of La. R.S. 14:43.1 (count one) and indecent behavior with a known juvenile under the age of thirteen (DOB 6/16/09) in violation of La. R.S. 14:81 (count two). Defendant was arraigned on January 5, 2023, and pled not guilty to both counts. On May 13, 2025, the case proceeded to trial; the following facts were adduced at trial.

Officer Immanuel Cohen of the Kenner Police Department (KPD) testified that on September 18, 2021, he was flagged down by Lesly Diaz Guevuara, who wanted to file a police report in reference to her daughter, A.D.[1], being sexually assaulted by Defendant, her ex-husband. Officer Cohen took a statement from Ms. Guevuara, who told him the incident happened in 2018 and that she had learned about it approximately one year prior in 2020. He contacted the Department of Children and Family Services, and the case was turned over to the late Detective Peter Foltz. Detective Foltz arranged for a forensic interview for the victim at the Jefferson Parish Child Advocacy Center (CAC). The Audrey Hepburn Care Center in New Orleans also performed a forensic medical examination on the victim. Through its investigation, KPD learned of two incidents where Defendant touched

[1] In the interest of protecting crime victims who are minors, victims of sexual offenses, and victims of human trafficking-related offenses as set forth in La. R.S. 46:1844(W), the judges of this Court have adopted a policy that this Court's published opinions and dispositions will use only initials to identify victims, and others, as needed, to protect the victims' privacy. *See State v. Pichoff*, 25-211 (La. App. 5 Cir. 12/18/25), 428 So.3d 932, 937 n.3; *State v. E.J.M., III,* 12-774, 12-732 (La. App. 5 Cir. 5/23/13), 119 So.3d 648, 652 n.1. *See also*, Uniform Rules–Courts of Appeal, Rule 5-2.

her and made her touch him on West Louisiana State Drive in Kenner and one prior incident in Honduras. In one of the incidents in Kenner, Defendant touched the victim's vagina, after which he forced her to touch his penis. A.D. also disclosed an incident in Honduras where Defendant kissed her and stuck his tongue in her mouth.

A.D. testified that she was fifteen years old and that she currently lived with her mother in Destrehan. She is originally from Honduras but later moved to Jefferson Parish in approximately 2016; A.D. was approximately seven years old when she moved from Honduras to be closer to Defendant, who was her mother's husband. She recalled the incident in Honduras when Defendant kissed her happened when she was five years old. A.D. also testified about three incidents that occurred in Jefferson Parish when she was six or seven years old. Defendant touched her on or near her "privates" with his hand or mouth and forced her to touch his "privates." She also saw a pornographic video on Defendant's phone once when she borrowed his phone. A few months later, after learning about child abuse at school, she disclosed all the incidents of abuse to her mother, who she asked not to tell Defendant. She further testified that her mother confronted Defendant and started looking for another place to live; they moved out a few months later. A.D. explained the police got involved approximately a year later after her stepfather encouraged her mother to report the incident to the police.

Ms. Guevuara testified that A.D. had known Defendant since she was two years old and A.D. believed Defendant was her father at one point. She married Defendant in 2015. Ms. Guevuara testified that A.D. was eight years old when they moved to Jefferson Parish in May 2017. She did recall seeing Defendant place his tongue in A.D.'s ear and told him not to do that because it was inappropriate. She also recounted an incident where A.D. ran to the kitchen and Defendant came in behind her and reported that A.D. had kicked him in the testicles. Ms. Guevuara also testified that A.D. was once playful with Defendant, but that changed at some

point. She said that she and A.D. left the home at the beginning of June 2020, a week after A.D., crying "really hard," told her about the abuse which occurred in Ms. Guevuara's bed. Ms. Guevuara explained that it took her two years to report the abuse due to a lack of support and resources; later, her fiancé encouraged her to report the abuse.

Dr. Anne Troy, a forensic nurse practitioner and expert in the field of forensic child pediatrics, and former CAC child forensic interviewer Aubrey Ziegler also testified at trial. Dr. Troy stated that it would not surprise her if A.D. got a few of the small details wrong or did not remember her exact age at the time the abuse occurred; she stated that what A.D. told her was consistent with sexual abuse. Ms. Ziegler's interview of A.D., where she described being abused by Defendant, was recorded. Audiovisual recordings of that interview, and Dr. Troy's interview, were published to the jury.

On May 15, 2025, the jury found Defendant guilty as charged on both counts. On June 11, 2025, Defendant filed a motion for post-verdict judgment of acquittal and a motion for appeal. Defendant filed a motion for new trial on June 12, 2025. On that same date, the trial court denied the motion for post-verdict judgment of acquittal and the motion for new trial, after which defense counsel stated that she would re-file the motion for appeal because it was premature and advised the defense was ready for sentencing. The motion for appeal was stamped "moot." The trial court then sentenced Defendant to imprisonment for thirty years on count one and imprisonment for ten years on count two with the sentences to run concurrently. The trial court ordered twenty-five years of the sentence on count one and five years of the sentence on count two to be served without benefit of parole, probation, or suspension of sentence.

On June 18, 2025, Defendant filed a motion to reconsider sentence and

another motion for appeal. On July 21, 2025, the trial court denied Defendant's motion to reconsider sentence, after which it granted his motion for appeal.

ASSIGNMENTS OF ERROR

1. The district court erred in denying the motion for new trial.

2. By defense counsel's abandonment of and failure to preserve issues on appeal, the defendant received ineffective assistance of counsel in violation of his constitutional rights to due process and to counsel.

Defendant argues "[t]his is not a case involving insufficient evidence, as to either count of conviction. This is a case involving an overabundance of evidence as to multiple separate instances of each count charged, putting the jury in the position of being able to 'pick one' [to] find the Defendant guilty." During pre-trial, Defendant's counsel argued that the State should have billed each allegation as a separate count and it was error for the court to allow the prosecution to include multiple allegations in each count. The State responded that it was its practice to include multiple instances in a single count when they are unable to identify a specific date, so they state a period in which the alleged offense(s) occurred. Now, the State argues that the matter was not properly preserved for appeal and, even if it had been, the assignment of error is without merit.

Defendant further urges that his counsel's abandonment of the objection raised regarding the State's failure to file a separate count for each alleged incident and counsel's failure to preserve other issues constituted ineffective assistance of counsel.

The State counters that Defendant's allegations are "conclusory and speculative" and maintains that he cannot meet the evidentiary burden placed upon him by *Strickland v. Washington*, 466 U.S. 668, 687-88, 694, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984).

LAW AND DISCUSSION

Motion for New Trial and Alleged Defective Bill of Information

Defendant argues that the State should have been limited to proving one specific incident for each count. Defendant asserts that given the admission of multiple allegations, each of which could have been the basis for a conviction under either count, the failure to specify the charged conduct in each count denied him a fair trial by allowing the jury to choose one of multiple uncharged allegations to reach a verdict. Defendant avers the trial court erred when it denied his motion for new trial.

On October 31, 2022, the State filed a bill of information alleging that on or between May 21, 2017 and June 5, 2020, in Jefferson Parish, Defendant violated La. R.S. 14:43.1, in that he committed sexual battery upon a known juvenile (DOB 6/16/09), wherein the child was under the age of thirteen, by the intentional touching of the anus or genitals of the victim by the offender using any instrumentality or any part of the body of the offender and/or the touching of the anus or genitals by the victim using any instrumentality or any part of the body of the victim (count one).

In that same bill of information, the State also alleged that on or between those same dates, Defendant violated La. R.S. 14:81, in that he, being over the age of seventeen, and there being an age difference of greater than two years between the two persons, did commit a lewd and lascivious act upon or in the presence of a known juvenile (DOB 6/16/09), wherein the victim was under the age of thirteen with the intention of arousing or gratifying the sexual desires of either person (count two).

The decision on a motion for a new trial rests within the sound discretion of the trial judge, and his ruling will not be disturbed on appeal absent a clear showing of an abuse of discretion. *State v. Henry*, 13-558 (La. App. 5 Cir. 03/26/14), 138

So.3d 700, 718, *writ denied sub nom. State ex rel. Henry v. State*, 14-962 (La. 2/27/15), 159 So.3d 1064.

"[La.] C.Cr.P. art. 536 requires that a motion to quash be in writing, and relevant jurisprudence considers a failure to file a written motion as a waiver of the assignment of error." *State v. Arabie,* 507 So.2d 859 (La. App. 5 Cir. 1987), *citing State v. Rheams*, 352 So.2d 615 (La. 1977). In the present case, no written motion appears in the record.

At the May 12, 2025 hearing, Defense counsel argued that the State should only have to pick only one incident relative to count one and should not be able to offer evidence of possibly three separate events that occurred between May 2017 and June 2022. The trial court agreed and asked the State to provide case law on the issue, as the State argued that it charged Defendant as it had always charged these types of offenses; there was no ruling on the issue by the end of the hearing.

The transcript of the May 13, 2025 hearing reflects that the prosecutor said that the only outstanding motion was the "412" motion from the previous day. The prosecutor asserted that they would only be proceeding on the first incident in Honduras. He also asserted that they would not be proceeding with the second incident because that was going to be part of the State's case-in-chief. Defense counsel had no objection, stating that "the law sp[oke] for itself." He thereafter noted an objection for the record without argument. The trial judge subsequently ruled that the "412" information would be admissible. She asked if there was anything else before they called for the jury, and the prosecutor said, "Nothing from the State." The transcript of the May 13, 2025 hearing does not reflect that the issue raised by defense counsel the previous day regarding the charging of multiple incidents in count one was discussed or that a ruling was made. Thereafter, the victim testified at trial regarding multiple separate sexual abuse incidents committed against her by Defendant in Jefferson Parish with no objection by defense counsel.

On June 12, 2025, Defendant filed a Motion for New Trial arguing, among other things, that "[t]he Prosecution presented and the Trial Court allowed evidence to come in pertaining to two or three offenses while only charged under one count of each crime in the Bill of Information." Defendant also argued that "[t]he prosecution failed to provide specificity as to the allegations against [Defendant] which did not allow [him] to adequately prepare his defense." On that same date, the trial court denied the Motion for New Trial without providing reasons. Article I, § 13 of the Louisiana Constitution requires that an indictment inform a defendant of the nature and cause of the accusation against him. *State v. Fuxan*, 24-302 (La. App. 5 Cir. 5/14/25), 415 So.3d 387, 410. La. C.Cr.P. art. 464 provides that the indictment shall be a plain, concise, and definite written statement of the essential facts constituting the offense charged. The State may provide that information in the indictment alone or in its responses to a defense request for a bill of particulars. *State v. Bernard*, 25-461 (La. App. 5 Cir. 10/15/25), 426 So.3d 50, 52, *writ denied*, *stay denied*, 25-1306 (La. 10/16/25), 419 So.3d 798 (citing *State v. DeJesus*, 94-261 (La. 9/16/94), 642 So.2d 854, 855). The time for testing the sufficiency of an indictment or a bill of information is before trial by way of a motion to quash or an application for a bill of particulars. *State v. Robinson*, 22-310 (La. App. 5 Cir. 4/12/23), 361 So.3d 1107, 1118.

The record does not reflect that defense counsel requested a bill of particulars or filed a motion to quash the bill of information. Although he argued that the State should have to choose one incident for each count, he failed to obtain a ruling on his oral motion. As such, any error regarding the admission of evidence of more than one incident for either count was waived by his failure to obtain a ruling on the matter prior to trial. *See State v. Carter*, 15-99 (La. App. 5 Cir. 7/29/15), 171 So.3d 1265, 1281, *writ denied*, 15-1618 (La. 10/17/16), 207 So.3d 1068 ("When a defendant does not object to the trial court's failure to rule on a motion prior to trial,

the motion is considered waived."). Additionally, defense counsel failed to make contemporaneous objections to the evidence in question during the trial. *See* La. C.Cr.P. art. 841; *State v. Hicks*, 17-419 (La. App. 5 Cir. 10/17/18), 258 So.3d 1031, 1035-36, *writ denied*, 18-1918 (La. 4/15/19), 267 So.3d 1122 ("To preserve the right to seek appellate review of an alleged trial court error, a party must state an objection contemporaneously with the occurrence of the alleged error, as well as the grounds for that objection."). Further, raising the issue in Defendant's motion for new trial does not amount to a contemporaneous objection under Article 841. *See State v. Chester*, 19-363 (La. App. 5 Cir. 2/3/21), 314 So.3d 914, 975, *writ denied*, 21-350 (La. 6/8/21), 317 So.3d 321 ("We find that Defendant raising his claim in his motion for new trial does not suffice as a contemporaneous objection under La. C.Cr.P. art. 841.").

Also, La. C.Cr.P. art. 495 provides that objections of misjoinder of offenses may be urged only by a motion to quash the indictment. Additionally, La. C.Cr.P. art. 536 requires that a motion to quash be in writing. The objection to the bill of indictment was made orally in open court and thus was not properly raised before the trial court.

Louisiana Code of Criminal Procedure article 61 provides, "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." The language of 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.

Further, C.Cr.P. art. 480 provides:

> If an offense may be committed by doing one or more of several acts, or by one or more of several means, or with one or more of several intents, or with one or more of several results, two or more of such acts,

> means, intents, or results may be charged conjunctively in a single count of an indictment, or set forth conjunctively in a bill of particulars, and proof of any one of the acts, means, intents, or results so charged or set forth will support a conviction.

Here, the bill of information gave Defendant sufficient notice of the offenses he was charged with and the period in which they occurred. A.D. testified about multiple incidents of sexual abuse that took place in Jefferson Parish during the time frame given in the bill of information. Further, the State has broad discretion in determining whom, when, and how to prosecute. *See* La. C.Cr.P. art. 61, *supra*; *State v. Johnson*, 95-1002, (La. App. 3 Cir. 3/6/96) 670 So.2d 651 (finding that evidence of multiple acts of aggravated rape of a child was admissible without *Prieur* notice where the Defendant was only charged with one count of rape, but the testimony indicated that the acts of rape occurred during the time frame provided by the indictment).

Had the State amended the bill to charge each incident proven by the evidence offered at trial, as Defendant claims they were required to do, it likely may have resulted in additional convictions and sentences; Defendant admitted in his brief that the evidence supported all of the victim's allegations against him.[2] Therefore, we find Defendant had adequate notice of the charges he was facing in order to defend himself, the trial court did not abuse its discretion in denying his motion for new trial, and this assignment of error has no merit.

Ineffective Assistance of Counsel Claim

Defendant argues that he received ineffective assistance of counsel. He contends that there were numerous instances where defense counsel failed to preserve issues for appeal, abandoned a critical issue raised at the outset of trial, and did not review or neglected to review with a minimum of care the discovery

[2] Although Defendant asserted the evidence against him was more than sufficient, this Court, pursuant to its obligation under *State v. Raymo*, 419 So.2d 858, 861 (La. 1982), reviewed the record. We find that the State presented sufficient evidence under the standard set by *Jackson v. Virginia*, 443 U.S. 307, 99 S.Ct. 2781, 61 L.Ed.2d 560 (1979) to establish the essential statutory elements of counts one and two.

produced by the State resulting in his being unprepared to meet the State's case and the defects therein.

The State responds that Defendant fails to make any arguments as to how these allegations affected the outcome or how the outcome would have been different. It further responds that some of the allegations relate to trial strategy and cannot support an ineffective assistance of counsel claim. The State argues that Defendant has failed to meet his burden regarding either prong of the *Strickland* test.

Under the Sixth Amendment to the United States Constitution and Article I, § 13 of the Louisiana Constitution, a defendant is entitled to effective assistance of counsel. *State v. McMillan*, 23-317 (La. App. 5 Cir. 12/27/23), 379 So.3d 788, 798-99, *writ denied*, 24-131 (La. 9/4/24), 391 So.3d 1057. To prove ineffective assistance of counsel, defendant must show: (1) that counsel's performance was deficient; that is, that the performance fell below an objective standard of reasonableness under prevailing professional norms; and (2) that the deficient performance prejudiced the defense. *Strickland v. Washington*, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984); *State v. Robinson*, 23-277 (La. App. 5 Cir. 6/28/23), 368 So.3d 737, 742, *writ denied*, 23-1042 (La. 12/5/23), 373 So.3d 979.

An error is considered prejudicial if it was so serious as to deprive the defendant of a fair trial, or "a trial whose result is reliable." *Robinson*, 368 So.3d at 742. To prove prejudice, the defendant must demonstrate that, but for counsel's unprofessional conduct, the outcome of the trial would have been different. *Id.* To prevail, the accused must overcome a strong presumption that counsel's conduct falls within the wide range of reasonable professional assistance. *State v. Gatson*, 21-156 (La. App. 5 Cir. 12/29/21), 334 So.3d 1021, 1040. Any inquiry into the effectiveness of counsel must be specific to the facts of the case and must take into consideration the counsel's perspective at the time. *Id.* The Sixth Amendment does not guarantee "errorless" counsel or counsel judged ineffective by hindsight. *State*

v. Ledet, 20-258 (La. App. 5 Cir. 1/27/21), 310 So.3d 810, 821. Furthermore, "[g]eneral statements and conclusory allegations will not suffice to prove a claim of ineffective assistance of counsel." *State v. Fisher*, 19-488 (La. App. 5 Cir. 6/24/20), 299 So.3d 1238, 1247.

An alleged error that is within the ambit of trial strategy does not establish ineffective assistance of counsel because "opinions may differ on the advisability of such a tactic." *State v. Starks*, 20-429 (La. App. 5 Cir. 11/3/21), 330 So.3d 1192, 1199. The time and manner of making objections is part of the trial strategy decision-making of the trial attorney. *State v. Moore*, 16-644 (La. App. 5 Cir. 3/15/17), 215 So.3d 951, 968. The selection of witnesses and the introduction of evidence are questions of trial strategy, and the mere choice of trial strategy is not a foundation for finding ineffective assistance of counsel. *State v. Bell*, 21-599 (La. App. 5 Cir. 6/22/22), 343 So.3d 914, 926, *writ denied*, 22-1179 (La. 9/27/22), 47 So.3d 155.

Hindsight is not the proper perspective for judging the competence of counsel's trial decisions, and an attorney's level of representation may not be evaluated based on whether a particular strategy is successful. *Robinson*, 361 So.3d at 1121-22. Counsel's decisions as to which questions to ask on cross examination generally form a part of trial strategy. *State v. Howard*, 24-145 (La. App. 5 Cir. 12/18/24), 409 So.3d 915, 937, *writ denied*, 25-96 (La. 4/8/25), 405 So.3d 566.

Generally, an ineffective assistance of counsel claim is most appropriately addressed through an application for post-conviction relief filed in the district court, where a full evidentiary hearing can be conducted, if necessary, rather than by direct appeal. *State v. Kimble*, 22-373 (La. App. 5 Cir. 5/8/24), 389 So.3d 902, 927, *writ denied*, 24-882 (La. 12/27/24), 397 So.3d 1219. However, when the

record contains sufficient evidence to rule on the merits of the claim, and the issue is properly raised in an assignment of error on appeal, it may be addressed in the interest of judicial economy. *Gatson*, 334 So.3d at 1040. In the instant matter, we find that the record on appeal is sufficient to address Defendant's complaints.

Here, Defendant specifically contends that his counsel was ineffective based on the following list of alleged deficiencies:

1) defense counsel did not object or file a motion in limine regarding Dr. Troy's prejudicial and conclusory notes in the "CHC" medical records;
2) defense counsel did not object when the State began its examination of Dr. Troy by publishing the medical records;
3) defense counsel did not describe on the record the agreements it made with the State about what evidence would be admitted;
4) despite raising the issue the day before trial, defense counsel did not object to the State being permitted to introduce multiple instances of conduct to prove each count and abandoned the issue until its motion for new trial;
5) defense counsel did not object or move for a recess regarding the State's failure to disclose *Brady* material when the victim testified that she told the State that she disclosed the abuse to a friend;
6) defense counsel mischaracterized the victim's account of the first instance of abuse during cross examination;
7) defense counsel failed to request contemporaneous instructions to the jury when other crimes or bad acts evidence was introduced;
8) defense counsel filed short post-trial motions for post-verdict judgment of acquittal and for new trial containing no supporting law or argument; and
9) defense counsel submitted a short motion to reconsider sentence without argument to support lower sentences.

First, this list appears to contain general statements and conclusory allegations that are insufficient to prove a claim of ineffective assistance of counsel. *See Fisher*, 299 So.3d at 1247. Although some of these allegations involve the failure to object at trial (numbers one, two, four, and five), the time and manner of making objections is part of the trial strategy decision-making of the trial attorney. *See Moore*, 215 So.3d at 968.

Defendant argues that despite raising the issue before trial, his counsel did not object to the State being permitted to introduce multiple instances of conduct to prove each count and abandoned the issue until its motion for new trial. However,

this issue was discussed in the first Assignment of Error, not preserved for review, and it does not have merit. When the substantive issue that an attorney has not raised has no merit, then the claim that the attorney was ineffective for failing to raise the issue also has no merit. *State v. Dressner*, 18-828 (La. 10/29/18), 255 So.3d 537, 544, *cert. denied*, 587 U.S. 1053, 139 S.Ct. 2691, 2692, 204 L.Ed.2d 1093 (2019).

Defendant contends that his counsel failed to request contemporaneous instructions to the jury when other crimes or bad acts evidence was introduced. But the jury was given limiting instructions prior to deliberations; one advised the accused could not be found guilty of the instant offenses merely because he may have committed another offense.

Defendant also maintains that his counsel mischaracterized the victim's account of the first instance of abuse during cross examination. However, counsel's decisions as to which questions to ask on cross examination generally form a part of trial strategy. *Howard*, 409 So.3d at 937. Again, an evaluation of the success of employing any particular strategy cannot be used to evaluate counsel's performance. *See Robinson*, 361 So.3d at 1121-22.

Defendant asserts that his counsel filed short post-trial motions for post-verdict judgment of acquittal and for new trial containing no supporting law or argument. However, a review of the motion for post-verdict judgment of acquittal reveals that it adequately raised the sufficiency issue, and the motion for new trial was thorough, as it alleged seven specific grounds for a new trial.

Finally, Defendant argues the submission of a short motion to reconsider sentence without any argument to justify lower sentences in this case supports finding counsel's performance deficient. We disagree. Defendant received a sentence of thirty years on count one; the sentencing range for that offense is twenty-five to ninety-nine years. *See* La. R.S. 14:43.1. The trial court imposed a sentence of ten years for count two, which is less than the midpoint of the two- to twenty-

five-year sentencing range. *See* La. R.S. 14:81. Also, the trial judge ordered the sentences for the two counts to run concurrently. Furthermore, Defendant's appellate counsel did not assign the excessiveness of his sentences as an assignment of error.

Considering the foregoing, we find that Defendant has not met either prong of the *Strickland* test, as he has failed to show that his counsel's performance was deficient and the deficient performance prejudiced the defense. Thus, this assignment of error has no merit.

Errors Patent

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. 5th Cir. 1990). The following errors require correction.

The sentencing minute entry does not reflect that the trial court designated Defendant's conviction of sexual battery upon a known juvenile under the age of thirteen in count one as a crime of violence. Per La. C.Cr.P. art. 890.3(C), sexual battery "shall always be designated by the court in the minutes as a crime of violence." Therefore, we order the correction of the minute entry to designate the sexual battery upon a known juvenile under the age of thirteen conviction as a crime of violence. *See State v. Le*, 22-468 (La. App. 5 Cir. 8/9/23), 370 So.3d 162, 178, *writ denied*, 23-1230 (La. 2/6/24), 378 So.3d 752; *State v. Williams*, 20-428 (La. App. 5 Cir. 4/28/21), 347 So.3d 1023, 1030, *writ denied*, 21- 717 (La. 10/1/21), 324 So.3d 1059.

Second, the sentencing minute entry and the uniform commitment order (UCO) reflect that the trial judge ordered both sentences to run "concurrently with each count and with any and all other sentences Defendant may be currently serving." However, the transcript shows that the trial judge ordered the sentences to run concurrently with each other. "The transcript must prevail." *State v. Lynch*, 441 So.2d 732, 734 (La. 1983). We remand this matter to the trial court to correct the

minute entry and the UCO by deleting the provision stating that the sentences would run concurrently with "any and all other sentences Defendant may be currently serving." Then, the Clerk of Court for the 24th Judicial District Court shall transmit the original of the corrected UCO to the officer in charge of the institution to which Defendant has been sentenced and to the Department of Corrections' legal department. *See State v. Johnson*, 23-401 (La. App. 5 Cir. 4/24/24), 386 So.3d 345, 353.

DECREE

Considering the foregoing, Defendant's convictions and sentences are affirmed. The case is remanded with instructions to correct the sentencing minute entry and UCO as directed.

CONVICTIONS AND SENTENCES AFFIRMED; REMANDED WITH INSTRUCTIONS

SUSAN M. CHEHARDY
CHIEF JUDGE

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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 **NOVEMBER 4, 2026** TO THE TRIAL JUDGE, CLERK OF COURT, COUNSEL OF RECORD AND ALL PARTIES NOT REPRESENTED BY COUNSEL, AS LISTED BELOW:

Curtis B. Pursell

CURTIS B. PURSELL
CLERK OF COURT

25-KA-517

E-NOTIFIED
24TH JUDICIAL DISTRICT COURT (CLERK)
HONORABLE DANYELLE M. TAYLOR (DISTRICT JUDGE)
LANE R. TRIPPE (APPELLANT)
JULIET L. CLARK (APPELLEE)
THOMAS J. BUTLER (APPELLEE)
JAMES C. LAWRENCE (APPELLANT)

MAILED
NO ATTORNEYS WERE MAILED