

Fifth Circuit Court of Appeal
State of Louisiana

No. 25-KA-466

STATE OF LOUISIANA

versus

KEITH HARPER

ON APPEAL FROM THE TWENTY-FOURTH JUDICIAL DISTRICT COURT
PARISH OF JEFFERSON, STATE OF LOUISIANA
NO. 21-3562, DIVISION "M"
HONORABLE SHAYNA BEEVERS MORVANT, JUDGE PRESIDING

April 29, 2026

MARC E. JOHNSON
JUDGE

Panel composed of Judges Fredericka Homberg Wicker,
Jude G. Gravois, and Marc E. Johnson

MULTIPLE OFFENDER ADJUDICATION
AND ENHANCED SENTENCE
VACATED (COUNT ONE) AND REMANDED

MEJ

FHW

JGG

TRUE COPY



JALISA WALKER
DEPUTY CLERK

COUNSEL FOR PLAINTIFF/APPELLEE,
STATE OF LOUISIANA

Honorable Paul D. Connick, Jr.
Thomas J. Butler
Matthew R. Clauss

COUNSEL FOR DEFENDANT/APPELLANT,
KEITH HARPER

Remy V. Starns
Jane L. Beebe

JOHNSON, J.

Defendant, Keith Harper, appeals the enhanced sentence imposed after a multiple offender adjudication for his 2021 simple burglary conviction (count one). For the following reasons, we vacate the habitual offender adjudication and sentence, reinstate the original sentence on count one, and remand the matter to the 24th Judicial District Court.

FACTS AND PROCEDURAL HISTORY

The State filed a bill of information charging Defendant with three counts of simple burglary in violation of La. R.S. 14:62 on April 20, 21, and 27, 2021. He pled guilty as charged to all counts on July 11, 2022.¹ The district court imposed concurrent ten-year sentences at hard labor “pursuant to the re-entry program” under La. R.S. 13:5401.²

On August 14, 2024, after completion of the re-entry program, the court granted intensive supervision, suspended the remainder of the sentence effective August 20, 2024, and imposed five years of active probation. A motion to revoke probation was filed on February 11, 2025.

On March 20, 2025, the State filed a multiple offender bill as to count one, alleging Defendant: 1) pled guilty on January 30, 2012 to burglary of an inhabited dwelling in violation of La. R.S. 14:62.2 and received a ten-year sentence at hard labor as a double offender pursuant to La. R.S. 15:529.1; and 2) pled guilty on May

¹ Although not before this Court on appeal, Defendant also pled guilty at the same time in case number 21-3563 to two counts of theft less than one thousand dollars in violation of La. R.S. 14:67(B)(4).

² La. R.S. 13:5401 authorizes the creation of re-entry courts and provides for the implementation of the workforce development sentencing program in the re-entry courts. It also addresses eligibility requirements for participation.

La. R.S. 13:5401(B)(3)(a) provides:

- (a) If the defendant is eligible to participate in the workforce development sentencing program, the defendant shall waive the right to a trial. The defendant shall enter a plea of guilty to the charge, with the stipulation that the defendant shall be sentenced to custody of the Department of Public Safety and Corrections to participate in the Offender Rehabilitation and Workforce Development Program and after successful completion of that program, he may petition the court to suspend the remainder of his sentence and be placed on probation under the intensive supervision of the reentry division of court.

14, 1998 to simple burglary in violation of La. R.S. 14:62 and received a fifteen-year sentence at hard labor.

On April 16, 2025, Defendant stipulated to the alleged probation violations. The district court revoked Defendant's probation and reimposed concurrent ten-year hard-labor sentences on each count "in accordance with [the] initial plea", to run consecutively to any other sentences.

On June 11, 2025, after a multiple bill hearing, the district court adjudicated Defendant as a third-felony offender, vacated the initial sentence as to count one, and sentenced him to twenty years imprisonment at hard labor, to "run consecutive to any and all other sentences." The court denied Defendant's motion to reconsider sentence, and Defendant timely filed the instant appeal.

ASSIGNMENT OF ERROR

Defendant challenges the denial of his motion to reconsider sentence and argues the twenty-year term is an unconstitutionally excessive constructive life sentence given his age (67). We pretermitt those issues because, on initial review, the habitual offender adjudication and enhanced sentence must be vacated due to insufficient proof.

LAW AND DISCUSSION

To prove the defendant to be a multiple offender, the State must establish by competent evidence the defendant's prior convictions, and that the defendant is the same person who was convicted of the prior felonies. The State must also prove that the prior felony convictions, "the predicate convictions," each fall within the "cleansing period" prescribed by La. R.S. 15:529.1(C). *See State v. Wade*, 22-260 (La. App. 5 Cir. 2/27/23), 358 So.3d 937, 941.

Here, the multiple bill alleged two predicate convictions: 1) a January 30, 2012 burglary of an inhabited dwelling (case number 11-5684, Division "D", 24th Judicial District Court); and 2) a May 14, 1998 simple burglary conviction (case

number 183,561, Section “1”, First Judicial District Court). At the June 11, 2025 hearing, fingerprint expert Donna Quintanilla compared fingerprints from the current simple burglary conviction packet and the 2012 conviction packet. She did not compare fingerprints related to the 1998 conviction, and no conviction packet for the 1998 conviction was admitted into evidence. After Ms. Quintanilla’s testimony, the prosecutor explained the State would rely on Ms. Quintanilla’s testimony and alleged both the fingerprint cards contained in the current and predicate conviction packets and the fingerprints taken weeks before the hearing established Defendant’s identity as the perpetrator of the offenses. Despite the State’s request to adjudicate Defendant a second-felony offender, the court adjudicated him a “multiple” offender, according to the transcript, and the minute entry reflects the court found Defendant to be “a **3rd Offender**”. (Emphasis in original).

For the 2021 offense, the second-offender range is from one-third to twice the longest term for the underlying offense; the third-offender range is from one-half to twice the longest term. *See* La. R.S. 15:529.1 (A)(1) and (A)(3)(a). Thus, Defendant’s enhanced sentence, twenty years at hard labor, is within the range for either a second- or third-felony offender. However, the evidence introduced into the record was insufficient to support the court’s finding that Defendant is a third-felony offender.

The State bears the burden of proving that the predicate convictions fall within the “cleansing period” prescribed by La. R.S. 15:529.1(C). *State v. McClure*, 14-520 (La. App. 5 Cir. 11/25/14), 165 So.3d 998, 1005, *writ denied*, 14-2694 (La. 10/9/15), 178 So.3d 1001. The commencement of the “cleansing period” is the date of discharge from State supervision; the discharge can take place earlier than the theoretical date of sentence completion due to pardon, commutation, or good time credit, or later, because of parole revocation. *State v. Stock*, 16-552 (La. App. 5 Cir.

2/22/17), 212 So.3d 1268, 1281. However, if less than the “cleansing period” has elapsed between a defendant’s conviction on a predicate felony and his commission of a subsequent predicate felony, the State need not prove the date of discharge on the earlier sentence in the habitual offender proceedings. *Id.*

The Habitual Offender Law, La. R.S. 15:529.1, was amended by 2017 La. Acts 282 to reduce certain sentencing ranges and to shorten the cleansing period for non-violent, non-sex offenses to five years. Here, neither predicate is a crime of violence nor sex offense; therefore, a five-year cleansing period applies in the instant case. *See* 14:2(B); La. R.S. 15:541; and La. R.S. 15:529.1(C)(1). The underlying offense (count one) occurred on April 20, 2021. The predicate conviction was on January 30, 2012; Defendant received a ten-year sentence. However, more than five years elapsed between the 2012 conviction and the 2021 offense. Therefore, the State must prove the date of Defendant’s release from correctional supervision or imprisonment for the 2012 conviction.

The record here reflects approximately nine years and two months elapsed between the 2012 conviction and the April 20, 2021 offense; thus, the State was required to provide evidence of the discharge date for the 2012 offense. Ms. Quintanilla did not testify as to a discharge date, and the 2012 conviction packet contained no discharge information. Therefore, the State failed to prove the predicate offense fell within the cleansing period. Accordingly, the habitual offender adjudication and enhanced sentence must be vacated, the original sentence reinstated, and the matter remanded. *See State v. Pike*, 22-113 (La. App. 5 Cir. 12/28/22), 355 So.3d 691, 696, *writ denied*, 23-35 (La. 9/26/23), 370 So.3d 470 (finding upon errors patent review of defendant’s multiple offender adjudication and sentence the record did not establish the applicable cleansing period or the defendant’s discharge date, but more than five years had lapsed between the dates of the prior conviction and the instant offense); *State v. Stock*, 212 So.3d at 1281

(finding the State failed to prove the defendant committed the subject offense within the ten-year cleansing period after his discharge date from State custody on the sentence served for the predicate offense).

However, as double jeopardy does not apply to sentence enhancement proceedings, the State may choose to retry Defendant on a multiple offender bill if it can cure those defects. *See State v. Heine*, 13-972 (La. App. 5 Cir. 4/23/14), 140 So.3d 278, 280.

DECREE

Considering the foregoing, we vacate Defendant's multiple offender adjudication and enhanced sentence on count one and reinstate the original sentence. The matter is remanded for further proceedings.

**MULTIPLE OFFENDER ADJUDICATION
AND ENHANCED SENTENCE
VACATED (COUNT ONE) AND REMANDED**

SUSAN M. CHEHARDY
CHIEF JUDGE

FREDERICKA H. WICKER
JUDE G. GRAVOIS
MARC E. JOHNSON
STEPHEN J. WINDHORST
JOHN J. MOLAISSON, JR.
SCOTT U. SCHLEGEL
TIMOTHY S. MARCEL

JUDGES



FIFTH CIRCUIT

101 DERBIGNY STREET (70053)

POST OFFICE BOX 489

GRETNA, LOUISIANA 70054

www.fifthcircuit.org

CURTIS B. PURSELL
CLERK OF COURT

SUSAN S. BUCHHOLZ
CHIEF DEPUTY CLERK

LINDA M. TRAN
FIRST DEPUTY CLERK

MELISSA C. LEDET
DIRECTOR OF CENTRAL STAFF

(504) 376-1400

(504) 376-1498 FAX

NOTICE OF 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 29, 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-466

E-NOTIFIED

24TH JUDICIAL DISTRICT COURT (CLERK)

HONORABLE SHAYNA BEEVERS MORVANT (DISTRICT JUDGE)

HONORABLE PAUL D. CONNICK, JR.
(APPELLEE)

JANE L. BEEBE (APPELLANT)

MATTHEW R. CLAUSS (APPELLEE)

MICHAEL A. MITCHELL (APPELLANT)

THOMAS J. BUTLER (APPELLEE)

MAILED

REMY V. STARNES (APPELLANT)

ATTORNEY AT LAW

301 MAIN STREET

SUITE 700

BATON ROUGE, LA 70825