Fifth Circuit Court of Appeal
State of Louisiana

No. 25-KA-434

STATE OF LOUISIANA

versus

TAJH JAYQUAN TERRELL

ON APPEAL THE TWENTY-FOURTH JUDICIAL DISTRICT COURT
PARISH OF JEFFERSON, STATE OF LOUISIANA
NO. 23-2618, DIVISION "O"
HONORABLE DANYELLE M. TAYLOR, JUDGE PRESIDING

May 29, 2026

JUDE G. GRAVOIS

JUDGE

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

AFFIRMED

JGG
FHW
MEJ

COUNSEL FOR DEFENDANT/APPELLANT,
TAJH JAYQUAN TERRELL

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COUNSEL FOR PLAINTIFF/APPELLEE,
STATE OF LOUISIANA

Honorable Paul D. Connick, Jr.
Thomas J. Butler
Darren A. Allemand
Molly Love
Leo M. Aaron

GRAVOIS, J.

Defendant, Tajh Jayquan Terrell, appeals his conviction by a jury of manslaughter, a responsive verdict to the charge of second degree murder. On appeal, he argues that the trial court erred in admitting into evidence the body camera footage of the responding officer, because such footage was graphic and highly prejudicial. Defendant also argues that the evidence was insufficient to convict him, because it failed to show he had the necessary requisite intent to kill or commit great bodily harm. Lastly, defendant argues that defense counsel was unduly restricted in his closing argument, which substantially prejudiced his case, warranting a reversal of his conviction. For the following reasons, finding no merit to the assigned errors, we affirm defendant's conviction and sentence.

PROCEDURAL HISTORY

On August 3, 2023, a Jefferson Parish Grand Jury indicted defendant, Tajh Jayquan Terrell, with second degree murder in violation of La. R.S. 14:30.1. Defendant was arraigned on August 8, 2023 and pled not guilty. On January 28, 2025, the case proceeded to trial, and on January 31, 2025, the jury unanimously found defendant guilty of manslaughter, a responsive verdict. On May 27, 2025, defendant filed a Motion for New Trial and for Post-Verdict Judgment of Acquittal. On May 28, 2025, the trial judge denied the motion for a new trial, after which defendant waived sentencing delays. The trial judge then sentenced defendant to the Department of Corrections for twenty-eight years, to run concurrently with any other sentence he was currently serving. On June 3, 2025, defendant filed a Motion for Appeal that was granted.

FACTS

In summary, the State presented evidence that defendant, Tajh Jayquan Terrell, intentionally shot and killed the victim, Trinity Castleberry, in front of the victim's residence at 2615 Greenwood Street in Kenner, Louisiana, after which defendant dropped the gun and ran away from the scene, along with other men who were standing nearby.

Numerous family members, friends, and neighbors, including Quyman Harris, Wyman Harris, and Major Robinson, were outside or nearby at the time of the shooting. Officers arrived at the Greenwood scene shortly thereafter and learned that defendant was the shooter. Other officers on the way to the Greenwood scene saw the Harris brothers running from the scene and stopped them nearby at 2801 Loyola Drive. A third group of officers responded to a second shooting nearby on Phoenix Street, where they found defendant, who had sustained a gunshot wound to his arm.

Evidence was also presented that Mr. Robinson picked up the gun dropped by defendant from the Greenwood scene, put it in his red Cadillac sedan, left the Greenwood scene, found defendant and shot him, and ultimately drove away with the gun in his vehicle. The gun was never recovered; however, ballistics evidence indicated that the casings from the Greenwood and Phoenix scenes matched. Defendant testified at trial and presented different scenarios of how the shooting occurred, including that he shot the victim or that the victim grabbed the gun from his (defendant's) pocket, they struggled with the gun, and the victim shot himself twice.

The following evidence was presented at trial. Officer Daniel Grayson of the Kenner Police Department testified that on April 8, 2023, he responded to a shooting at 2615 Greenwood Street in Kenner. When he arrived, he observed a car in the roadway and the victim, later identified as Trinity Castleberry, lying on the ground with many people standing around him. Officer Grayson determined that the victim had been shot in the neck, after which he started performing CPR while another officer held pressure on the victim's neck. EMS eventually arrived, and the victim was transported to the hospital where he later died. After speaking with a witness, Tracy Smith, Officer Grayson learned that the suspect, later identified as defendant, Tajh Jayquan Terrell, ran across a grass lot and then through an opening in the fence. They found two spent forty caliber casings in the middle of the street, but they did not find a firearm.

Officer Grayson testified that while they were securing the scene, a man, later identified as Major Robinson, ran up and told him that he had picked up the weapon the suspect dropped and put it in his car. Officer Grayson brought Mr. Smith to the 2700 block of Phoenix where he positively identified defendant as the shooter. He acknowledged that his body-worn camera recorded video of the scene and his transport of Mr. Smith.

Officer Victoria Schoen of the Kenner Police Department testified that on April 8, 2023, she and a recruit, Officer Keman Brown, were en route to the Greenwood shooting with their lights and sirens activated when they observed two black males running from the area of the shooting across Veterans to a strip mall at 2801 Loyola Drive. Officer Schoen bleeped her siren to get their attention, after which one of the men, Quyman Harris, stopped and put his hands up, but his brother, Wyman Harris, ran into a barbershop. She ordered Quyman to stop, and he yelled, "I didn't do it, I wasn't involved." They patted Quyman down but found no weapons, after which they handcuffed him and asked for assistance over the radio in capturing Wyman. Officers Paul Montgomery and Kara Cummings reported to the scene and apprehended Wyman.

Officer Schoen recalled that a second call came in approximately forty minutes later regarding a second shooting; however, she and the officers handling the Harris brothers were ordered to stay there. While they were there, another call came in about a red sedan possibly being involved in the second shooting and that the shooter was a black male wearing a white shirt. Officer Schoen said there was a red Cadillac sedan on the Loyola scene when she stopped the Harris brothers, but she did not think it was the red car involved in the second shooting. She acknowledged that at some point, law enforcement had radioed that the murder weapon used in the Greenwood shooting was in a red vehicle. Officer Schoen stated that an "excited" man in a white shirt came to the Loyola scene and spoke to the Harris brothers, after which law enforcement allowed him to drive away in the red vehicle without questioning him or searching the red vehicle. Officer Schoen was

equipped with a body-worn camera that recorded the events she described, which were admitted into evidence.

Officer Kevin Ballard of the Kenner Police Department testified that on April 8, 2023, officers were dispatched to a shooting at 27th and Phoenix Streets and 27th and Decatur Streets, which were a couple of blocks apart. Officer Ballard went to 27th and Decatur, not knowing that it was related to the Greenwood shooting. When he arrived, he spoke to a Hispanic male who witnessed the shooting. Officer Ballard located six forty caliber spent shell casings in the middle of the street at 27th and Decatur. He also observed damage to the witness's truck and to a fence.

Detective Emile Sanchez, Jr. of the Kenner Police Department testified that he was first dispatched to the scene at 2801 Loyola, where the Harris brothers were located. He stated that he was then dispatched to a shooting at 2737 Phoenix Street, which was approximately four blocks away from 2801 Loyola. When Detective Sanchez arrived, he made contact with defendant, who had sustained a gunshot wound in his upper right arm. Defendant was in possession of a black and white sweatshirt with blood stains on it, and the sweatshirt had holes in the sleeve consistent with the injuries defendant had sustained.

Detective Sanchez testified that defendant said he was shot a few streets over, but did not provide the name of the street. He told defendant that they were working another shooting, but defendant did not admit to being at that scene. The detective heard over the radio a description of the suspect from the Greenwood shooting, including that the suspect was wearing a black and white sweatshirt. Detective Sanchez believed that the description matched defendant. EMS came to the scene. While defendant was in the back of the ambulance, a witness was transported to Phoenix Street and positively identified defendant as the suspect in the Greenwood shooting. Detective Sanchez was wearing a body camera that recorded his interactions with defendant. He said defendant had no injuries other than those caused by the gunshot.

Janiel Medal testified that she was a paramedic for East Jefferson General Hospital. On April 8, 2023, she responded to a call near the 2700 block of Phoenix, where she encountered defendant, who had a gunshot wound to his upper right arm. Ms. Medal stated that defendant was ambulatory, alert, and oriented and that all findings were normal except for the arm injury.

Detective Ismael Cornejo of the Kenner Police Department testified that on April 8, 2023, he responded to the shooting on Greenwood. When he arrived, Officer Grayson was already there along with several of the victim's family members. The victim's mother was hollering and screaming, and the police learned that "Tajh" was the perpetrator. Detective Cornejo was equipped with a body camera; however, it temporarily fell off. He stated that Lieutenant Robert McGraw arrived at the scene wearing a body camera, and he identified himself in that video. Detective Cornejo learned that there were other scenes potentially related to the Greenwood scene, *i.e.*, the Loyola scene and the Decatur/Phoenix scene. The police obtained surveillance video from 500 Veterans, 2609 Greenwood, 2612 Greenwood, 2615 Greenwood, 2717 Decatur, 2728 Decatur, and 2745 Bessemer. Detective Cornejo identified a compilation of the relevant surveillance video that was shown to the jury. He pointed out that there was no video footage of the actual homicide.

Detective Jesse Johnson of the Kenner Police Department testified that on April 8, 2023, he was the secondary standby detective and Sergeant Peter Foltz, who had since passed away, was the primary standby detective. Both of them were dispatched to the scene of the shooting at 2615 Greenwood. Detective Johnson summarized the investigation into the homicide that was detailed above by the testimony of the other officers.

Additionally, Detective Johnson testified that he assisted in monitoring defendant's jail calls after he was arrested. He provided recordings of two of those calls to Sergeant Foltz, who logged them into evidence. Detective Johnson stated that in the first call, the caller is referred to as "Tajh" and referenced him being shot in the arm. He

stated that in the second call, defendant's father asked defendant if he killed somebody, and defendant said that he was attacked and they were saying he killed someone. Detective Johnson also testified that the Harris brothers both said that the victim swung or struck defendant first and then there were gunshots and defendant was the shooter. Neither of the Harris brothers told him there was a struggle over the gun.

Linda Tran testified that she formerly worked as a firearms examiner for the Jefferson Parish Sheriff's Office. The trial court accepted her as an expert in the field of firearms and toolmark examination. Ms. Tran examined the six spent shell casings from the Greenwood scene, the two spent shell casings from the Decatur scene, and a bullet from the victim's autopsy. She concluded that all eight spent casings were fired from the same Glock or Glock-type firearm. Ms. Tran determined that the bullet from the autopsy was most consistent with .40 caliber. She explained that Glocks had three safeties—a trigger safety, a drop safety, and a fire pin safety—designed to protect against accidental firing. All three safeties must be disengaged for the gun to fire and the average trigger pull weight for a .40 caliber Glock pistol was between five and six pounds, which she explained was a very heavy trigger pull.

Dr. Dana Troxclair, chief forensic pathologist for the Jefferson Parish Coroner's Office, was accepted as an expert in the field of forensic pathology. On April 10, 2023, she performed an autopsy on the victim. The victim sustained two gunshot wounds: a penetrating wound to the right side of his neck and a penetrating wound to his left clavicle. Dr. Troxclair said that the path of the bullet to his neck was front to back and downward; *i.e.*, the victim was shot either from an elevated position or he was bent over or lying on the ground at the time he was shot. Because there was no soot, searing, or stippling, she classified the wounds as distant gunshot wounds, which meant the gun was more than two to three feet away from his skin.

Dr. Troxclair identified projectiles recovered from the victim's body. She did not observe any injuries to the victim other than the gunshot wounds. Dr. Troxclair concluded that the manner of death was

homicide, and the cause of death was multiple gunshot wounds. She noted that the victim was 5'8" and weighed 121 pounds.

Mr. Tracy Smith testified that the victim was his nephew; that the victim's mother, LaMecia Washington, was his sister; and that Le'Roger Washington was his nephew and the victim's brother. On April 8, 2023, he went to his sister's house where he saw his sister and Mr. Robinson. The three of them walked outside, after which Mr. Robinson walked across the street to his red car, and Mr. Smith and his sister sat in chairs on his sister's driveway. Two men subsequently pulled up in a white car and parked near the red car. The two men and Mr. Robinson left in the white car, and the three of them returned with a man later identified as defendant. He did not know defendant's name at that time and had never seen him before. The four men then stood outside the cars talking. Shortly thereafter, his nephews, Le'Roger Washington and the victim, arrived and greeted Ms. Washington but did not greet him at first, which he thought was unusual. The victim walked across the street and shook hands with Mr. Robinson and another man.

Mr. Smith testified that he did not feel like there was any danger, so he sat down, and a few seconds later he heard "pop, pop." When Mr. Smith jumped up, he saw Mr. Robinson and the other two guys running away. Mr. Smith also saw the victim and defendant standing very close to one another face-to-face, after which the victim fell back on the ground, and defendant ran away. He did not realize the victim had been shot, but when he did not get up, Mr. Smith hurried over and attempted to render aid to him. Blood started coming from the victim's neck, so Mr. Smith gave him mouth-to-mouth resuscitation. Mr. Smith asserted that he did not hear any fighting or screaming or commotion prior to the shots.

Mr. Smith testified that defendant ran through a vacant lot, "there was a fence," and defendant then came back. He did not realize defendant was the shooter until he fumbled with a gun, and it dropped to the ground. The two of them saw each other, and defendant ran away. Mr. Smith spoke to the police at the scene, after which they

transported him to another location where he positively identified defendant, who was sitting on a gurney near an ambulance, as the individual who was standing face-to-face with the victim, who shot the victim, and who dropped the gun afterwards. He also positively identified defendant in court as the person who shot the victim; however, he reiterated that he did not see the shooting.

Lillian Breaux testified that in April 2023, she was living in a duplex at 2615 Greenwood. She lived in one part of the duplex and that Ms. Washington and her two sons, Le'Roger and the victim, lived in another part. She was not outside when the victim was killed, but she heard the gunshots. She also heard Le'Roger say that someone shot his brother. Ms. Breaux went outside to help Mr. Smith provide aid to the victim. She saw "Wayne" trying to jump her fence and his brother running up the street. Ms. Breaux spoke to the police, who transported her to Loyola and Veterans, where she positively identified "Wayman" and his brother "Wyman" as the individuals who ran away.

Jamal Jones testified that on April 8, 2023, he lived at 2610 Greenwood diagonally across the street from Ms. Washington and her sons. On that date, Mr. Jones and his brother-in-law were outside barbecuing, and there were a lot of young men standing in the street talking. Mr. Jones stated that the victim walked out of his house and started mingling with the men, laughing and talking. Mr. Jones subsequently heard shots, looked over, and saw the victim falling backwards. He also saw a man with a gun in his hand, after which the man ran away. Mr. Jones stated that many other people ran to the corner and left. He did not see or hear arguing or fighting before the gunshots. Later, Mr. Jones talked to the police, who showed him a photographic lineup. Mr. Jones thereafter positively identified number six (defendant) as a photograph of the person who shot the victim.

Quyman Harris testified that the victim, Trinity Castleberry, was his friend and a good person. On April 8, 2023, he drove his mother's white Honda Accord to the victim's residence on Greenwood to meet Mr. Robinson. His brother, Wyman, and defendant were in the car with him. Mr. Robinson arrived approximately fifteen minutes later in a red

Cadillac. At some point, the victim and the victim's brother arrived and exited their vehicle. The victim then came across the street and talked to them. His back was to the victim, but he heard the victim say something to Mr. Robinson and then to defendant, but he did not know or remember what was said. Quyman testified that he subsequently blacked out and heard a gunshot. He did not see or hear the victim and defendant fighting before the gunshot. The victim walked up to defendant, and it did not seem like the victim was angry with defendant.

After the gunshot, Quyman and his brother ran towards the highway across the street by the barbershop, where the police later stopped them. He asserted that he never saw a gun and did not see anyone shoot a gun. Quyman acknowledged that he had his .40 Glock in his car and did not take it with him when he exited his vehicle prior to the shooting. His brother and defendant were both sitting near the gun in his car at one point, and he did not know that the gun was no longer in his car. Quyman denied shooting the victim, and he stated that Wyman and Mr. Robinson were not the shooters. He positively identified defendant as the shooter in a photographic lineup.

Wyman Harris testified that on April 8, 2023, he and Quyman, who was driving, went and picked up defendant, after which they went to the victim's residence on Greenwood to meet Mr. Robinson. When they arrived, he, Quyman, Mr. Robinson, and defendant were leaning on the white car talking. The victim and the victim's brother arrived in a car, and the victim walked over to them and was mad or upset about something. The victim "was trying to swing a lick" at defendant and got killed in front of them. He did not know if the victim swung at defendant, because everything happened so fast.

Wyman later testified that he thought the victim threw a punch. Wyman saw defendant shoot the victim. After the shots went off, he blacked out, and the victim held his neck. He did not see defendant and the victim fighting, and he did not hear them arguing before the shooting. He did recall the victim saying defendant knew what he had done. He tried to help the victim, but then walked away from the scene to the barbershop, where he and Quyman were stopped by the police.

Wyman positively identified defendant in a photographic lineup as the shooter.[1]

Gilberto Avila testified that he lived at 426 27th Street in Kenner. On April 8, 2023, he was standing outside his house when he saw a man driving a red car from 27th Street, after which another man came from 27th Street, opened the door, got inside the passenger side of the red car, and then exited quickly. The driver then got out of the car and started shooting toward the other man, who was running away. The man who was shot took off his shirt and asked him if the other man had shot him. Mr. Avila saw that the man had a gunshot wound to his arm. Afterwards, the man who was shot went toward 27th Street and kept running. Mr. Avila then called the police, who came to the scene and collected shell casings. His truck sustained damage from the gunshots.

Ms. Washington testified that she was the victim's mother. On April 8, 2023, Mr. Robinson came to her house to wash clothes and then went outside. Mr. Smith, her brother, came by, and she and Mr. Smith went outside and sat in chairs. Ms. Washington noticed that Quyman, Wyman, and "the light-skinned boy," later identified as defendant, were outside also. Her two sons came back home, parked the car, and the victim walked across the street. Ms. Washington's son, Le'Roger, whispered something in her ear, which caused her to stand up and look across the street. The victim greeted Mr. Robinson and the Harris brothers, after which he looked towards defendant. It appeared to Ms. Washington that the victim and defendant were talking to each other. She saw the victim start to walk off, but then he turned around and punched defendant once in his face. Defendant subsequently fell backwards and hit the trunk, after which defendant went into his jacket or hoodie as he was coming up off the trunk, brought his hand up, and shot twice.

Ms. Washington testified that after the shooting, defendant ran off, came back, looked at her, and then ran away again. She positively identified defendant in court as the person who killed her son. Ms.

[1] Wyman acknowledged accidentally circling two pictures, but stated that defendant was in picture number two.

Washington spoke to the police a few days later and positively identified defendant in a photographic lineup as the shooter. She testified that she did not see a struggle for the gun, nor did she see any wrestling or hear any screaming before the gunshot. Ms. Washington recalled that Mr. Robinson left the scene, but then came back, saying that the gun was in his car and that he needed to tell the police. Ms. Washington pointed out that the victim was not armed with a weapon and claimed he never carried one.

Le'Roger testified that he was the victim's older brother. On April 8, 2023, he and the victim arrived at their residence on Greenwood. Many people were outside, including Wyman, Quyman, Mr. Robinson, and a man, later identified as defendant, who the victim said had "scammed" or robbed him.[2] Le'Roger whispered to his mother and told his uncle's son that the victim thought defendant was the man who robbed him. Le'Roger recalled that the victim walked across the street and shook hands with Mr. Robinson and the Harris brothers, after which the victim and defendant talked. The victim started to walk away but instead turned around and hit defendant once, after which defendant fell onto the car. He saw defendant then come up off the car, pull a gun out, point it towards the victim, and shoot him twice. Le'Roger saw the gun being fired, describing it as a "big black gun." The victim and defendant were talking face-to-face and were within arm's reach of each other at the time the shot was fired.

Le'Roger called the police and went to comfort the victim. He saw defendant and the Harris brothers run away from the scene. Le'Roger positively identified defendant in court as the person who shot the victim. He also positively identified defendant in a photographic lineup as the shooter. Le'Roger stated that the victim did not have a gun and did not carry guns. He also stated that the victim did not tell him that he was about to go fight or beat defendant up before he walked across the street. Le'Roger did not see the victim and defendant fight or wrestle over the gun.

[2] Le'Roger later testified that defendant scammed the victim and did not rob him.

Defendant testified on his own behalf. He said that on April 8, 2023, Quyman and Wyman picked him up. Quyman was driving, and Wyman was in the back seat. He got into the front passenger seat, where he saw a black "Glock 40," also on the front passenger seat. They later went to Greenwood to meet up with Mr. Robinson. They left immediately to pick up the Harris brothers' toddler niece and nephew. At some point, defendant put Quyman's gun in the front pocket of his black hoodie to prevent the toddlers from accessing it. After dropping the toddlers off, they returned to Greenwood, exited the vehicle, and stood outside the car. Castleberry, the victim, walked up to them and shook hands with everybody but him. The victim turned to him and asked, "Where's the money?"

Defendant claimed that it was a "shocking moment," an "out-of-body experience," and he felt like he was getting robbed. He stated that he immediately tried to order an Uber to leave the area. Defendant asserted that he put his head down, looked at his phone, and tried to ignore the victim. Next, he felt somebody attack him, which he described as a blow to the left temple area of his head. The blow "knocked him off his feet" and caused him to stumble onto the car. The victim then reached into the front pocket area of his (defendant's) hoodie and pulled out the gun. He stated that they had a "struggling match" over the gun, he was scared, and he was "fighting for his life." When he was "pulling at the gun" with the victim, two gunshots went off.

Defendant testified that after the victim asked for money and hit him, no one came to assist him. After the shooting, defendant heard threats from everyone in the area, including "get him," so he fled the scene. Defendant ran to a fenced area, but then came back, dropped the gun, and left the area. Later, someone came along and shot him in his right arm. He did not know who shot him. He did not call 9-1-1 because his phone was struck by a bullet while he was being shot. Defendant ran a couple of blocks and asked a young woman to call 9-1-1 for him. The police arrived, questioned him about the Greenwood shooting, and did not care about his injury. They held him in an ambulance until someone arrived and identified him. At some point,

the ambulance took him to the hospital. Defendant testified that he did not intend to kill the victim, he did not threaten the victim, and he did not go there to fight the victim.

On cross-examination, defendant admitted that he was the person who shot and killed the victim and he (defendant) was holding the gun. He claimed that the gun was "pretty heavy" and he forgot he had the gun on him. Defendant also said that it would be hard to conceal the weapon because it was "fairly big." He claimed that the victim knew the gun was in his (defendant's) pocket, but he himself did not remember it was there. Defendant explained that the victim was pulling at the gun and the shots went off. The victim pulled the gun out of his pocket and that he (defendant) was holding the back or the butt of the weapon trying to re-grab it. Defendant stated that the victim's hands were on the trigger and the front barrel.

When asked if the shooting was an accident, or if the victim shot himself, or if it was self-defense, defendant responded that the victim shot and killed himself. He also claimed that after being shot in the neck, the victim shot himself again in the shoulder. Defendant later testified that the gun went off while they were tussling.

Defendant claimed that numerous people lied during their testimony. He stated that Ms. Medal, the paramedic, was lying when she testified that he was not confused or dazed and that he had full understanding. Detective Sanchez was also lying, and the medical records were false when they indicated he had no injuries other than the gunshot wound. Mr. Smith was lying when he testified that after the shooting, he saw defendant standing there and the victim falling to the ground. Quyman was lying when he denied hearing a struggle, and Wyman was lying when he testified that he never saw a struggle over the gun. Le'Roger and Ms. Washington were lying when they testified that they saw defendant point a gun at the victim and shoot him twice. Defendant maintained that he was the only person during the trial who told the truth. He pointed out that all the State's witnesses saw and heard different things and contradicted themselves.

The case thereafter went to the jury, who returned a unanimous verdict of guilty of manslaughter, a responsive verdict to the charge of second degree murder.

ASSIGNMENT OF ERROR NUMBER TWO[3]

Sufficiency of the evidence

Defendant argues the evidence was insufficient to support either a manslaughter or second degree murder conviction because the State failed to prove he had the specific intent to kill or to inflict great bodily harm. He asserts that eight purported eyewitnesses testified for the State and they had conflicting statements about the circumstances surrounding the shooting. Defendant contends there was no evidence that he intended to kill or harm the victim. He states the only evidence of a problem between him and the victim was the victim's mistaken belief that he had scammed the victim out of money. Defendant maintains there was no argument or fight prior to the victim punching him in the face. He submits he did not have the specific intent necessary to support a manslaughter or a second degree murder conviction.

The State responds that the evidence was sufficient to support defendant's conviction as it proved defendant's specific intent to kill or to inflict great bodily harm. Defendant shot the victim twice, which allowed the fact-finder to infer specific intent. The State asserts that defendant's claim the victim accidentally shot himself twice was absurd. It points out that the witnesses did not see or hear a struggle prior to the shooting, the firearm had multiple safety features and a heavy trigger negating the likelihood of one or two accidental discharges, the forensic evidence showed the shots were distant and not

[3] When the issues on appeal relate to both sufficiency of the evidence and one or more trial errors, the reviewing court should first determine the sufficiency of the evidence by considering the entirety of the evidence. *State v. Hearold*, 603 So.2d 731, 734 (La. 1992). The reason for reviewing sufficiency first is that the accused may be entitled to an acquittal under *Hudson v. Louisiana*, 450 U.S. 40, 101 S.Ct. 970, 67 L.Ed.2d 30 (1981), if a rational trier of fact, viewing the evidence in accordance with *Jackson v. Virginia*, 443 U.S. 307, 99 S.Ct. 2781, 61 L.Ed.2d 560 (1979), in the light most favorable to the prosecution, could not reasonably conclude that all of the essential elements of the offense have been proven beyond a reasonable doubt. *Id.*

the product of a close struggle for the firearm, defendant fled from the scene, and he admitted during a jail call to killing the victim.

In reviewing 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, 319, 99 S.Ct. 2781, 61 L.Ed.2d 560 (1979).

Evidence may be either direct or circumstantial. Circumstantial evidence consists of proof of collateral facts and circumstances from which the existence of the main fact can be inferred according to reason and common experience. *State v. Gatson*, 21-156 (La. App. 5 Cir. 12/29/21), 334 So.3d 1021, 1034. When circumstantial evidence is used to prove the commission of an offense, La. R.S. 15:438 provides that "assuming every fact to be proved that the evidence tends to prove, in order to convict, it must exclude every reasonable hypothesis of innocence." *State v. Woods*, 23-41 (La. App. 5 Cir. 11/15/23), 376 So.3d 1144, 1155, *writ denied*, 23-1615 (La. 5/29/24), 385 So.3d 700. This is not a separate test from the *Jackson* standard, but rather provides a helpful basis for determining the existence of reasonable doubt. All evidence, both direct and circumstantial, must be sufficient to support the conclusion that the defendant is guilty beyond a reasonable doubt. *Id.*

The directive that the evidence be viewed in the light most favorable to the prosecution requires the reviewing court to defer to the actual trier of fact's rational credibility calls, evidence weighing, and inference drawing. *State v. Aguilar*, 23-34 (La. App. 5 Cir. 11/15/23), 376 So.3d 1105, 1108. This deference to the fact-finder does not permit a reviewing court to decide whether it believes a witness or whether the conviction is contrary to the weight of the evidence. *State v. McKinney*, 20-19 (La. App. 5 Cir. 11/4/20), 304 So.3d 1097, 1102.

In making this determination, a reviewing court will not re-evaluate the credibility of witnesses or re-weigh the evidence. *Woods*, 376 So.3d at 1157. Indeed, 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. Lavigne*, 22-282 (La. App. 5 Cir. 5/24/23), 365 So.3d 919, 940. Thus, in the absence of internal contradiction or irreconcilable conflicts with physical evidence, the testimony of one witness, if believed by the trier of fact, is sufficient to support a conviction. *State v. Sly*, 23-60 (La. App. 5 Cir. 11/2/23), 376 So.3d 1047, 1072, *writ denied*, 23-1588 (La. 4/23/24), 383 So.3d 608. A defendant's flight and attempt to avoid apprehension are circumstances from which a trier of fact may infer a guilty conscience. *State v. Lopez*, 23-335 (La. App. 5 Cir. 8/21/24), 398 So.3d 167, 179, *writ denied*, 24-1187 (La. 1/14/25), 398 So.3d 650.

Defendant was charged with second degree murder, but was convicted of manslaughter. Second degree murder is defined as the killing of a human being when the offender: (1) has specific intent to kill or to inflict great bodily harm; or (2) is engaged in the perpetration or attempted perpetration of one of several enumerated felonies even though he has no intent to kill or to inflict great bodily harm. La. R.S. 14:30.1(A). Here, the jury was instructed as to the first theory of second degree murder.

Specific criminal intent is "that state of mind which exists when the circumstances indicate that the offender actively desired the prescribed criminal consequences to follow his act or failure to act." La. R.S. 14:10(1). It need not be proven as a fact, but may be inferred from the circumstances of the transaction and the actions of the defendant. *Lopez*, 398 So.3d at 181. Specific intent to kill may be inferred from a defendant's act of pointing a gun and firing at a person, as well as the extent and severity of the victim's injuries. *State v. Bannister*, 11-602 (La. App. 5 Cir. 2/14/12), 88 So.3d 628, 634, *writ denied*, 12-628 (La. 6/15/12), 90 So.3d 1060.

Evidence that would support a conviction of a charged offense would necessarily support a conviction of an authorized responsive verdict or lesser included offense. *State v. Otkins-Victor*, 15-340 (La. App. 5 Cir. 5/26/16), 193 So.3d 479, 502, *writ denied sub nom. State ex rel. Otkins-Victor v. State*, 16-1495 (La. 10/15/18), 253 So.3d 1294

(citing *State v. Simmons*, 01-293 (La. 5/14/02), 817 So.2d 16, 19). Manslaughter is an authorized responsive verdict to a charge of second degree murder. La. C.Cr.P. art. 814(A)(3). When a defendant does not object to a legislatively established responsive verdict, the defendant's conviction will not be reversed, whether or not that verdict is supported by the evidence, as long as the evidence is sufficient to support the offense charged. *State v. Johnson*, 11-336 (La. App. 5 Cir. 2/14/12), 91 So.3d 365, 371, *writ denied*, 15-44 (La. 5/22/15), 170 So.3d 984. In the instant case, defendant did not object to the responsive verdict of manslaughter.

At trial, Ms. Washington, the victim's mother, and her son and the victim's brother, Le'Roger Washington, both testified that the victim hit defendant, after which defendant fell backwards onto the trunk of the car, went into his hoodie as he was coming up off of the trunk, pulled out a gun, pointed it towards the victim, and shot him twice, striking him in the neck and shoulder, resulting in the victim's death. Specific intent to kill may be inferred from a defendant's act of pointing a gun and firing at a person, as well as the extent and severity of the victim's injuries. *Bannister*, 88 So.3d at 634. Additionally, neither Ms. Washington nor Le'Roger saw the victim and defendant struggle or wrestle over the gun prior to the shooting.

Other witnesses also observed defendant shoot the victim. Mr. Smith, the victim's uncle, testified that he heard shots and then saw the victim and defendant standing face-to-face, after which the victim fell back onto the ground, and defendant ran away. Mr. Smith also saw defendant come back to the scene, fumble with a gun, drop it on the ground, and run away again. Mr. Jones, a neighbor, testified that he heard shots, looked over, and saw the victim falling backwards. He also saw a man with a gun in his hand run away. Ms. Washington, Le'Roger, Mr. Smith, Mr. Jones, Quyman, and Wyman all positively identified defendant in photographic lineups as the person who shot the victim. Defendant claimed that the State's witnesses were lying and he was the only person who told the truth.

Defendant first testified that he was holding the gun and was the person who shot and killed the victim. However, he later testified that the victim pulled the gun out of his (defendant's) pocket, the victim's hands were on the trigger and the front barrel, he (defendant) was holding the back of the gun, they struggled over the gun, and the victim shot himself twice. Importantly, Dr. Troxclair classified the gunshot wounds as distant, which meant that the gun was more than two to three feet away from the victim when he was shot (more than an arm's length), which refutes defendant's claim that the victim shot himself during a struggle.

After hearing the testimony and viewing the evidence, even considering the minor discrepancies in the witnesses' testimony, the jury clearly believed the State's witnesses and rejected defendant's claim that the victim shot himself twice. A reviewing court will not re-evaluate the credibility of witnesses or re-weigh the evidence. *Woods*, 376 So.3d at 1157. 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. *Lavigne*, 365 So.3d at 940. In light of the foregoing, we conclude that a rational trier of fact could have found that the evidence was sufficient to support a conviction of the charged offense of second degree murder, and therefore, it was sufficient to support the conviction of manslaughter, the lesser-included offense.[4] This assignment of error is without merit.

ASSIGNMENT OF ERROR NUMBER ONE

Admission of body-camera video into evidence

In this assignment of error, defendant argues that the trial court erred by admitting Officer Grayson's body-camera video into evidence. He contends that the video depicted the victim's friends and family sobbing hysterically, screaming, and cursing as the officer performed CPR on the victim's bleeding body. He further contends that this scene

[4] Although the jury was also instructed regarding the law on self-defense, defense counsel did not argue self-defense in his closing argument, defendant did not testify at trial that it was self-defense, and defendant's appellate counsel did not argue it on appeal.

was explicit, graphic, disturbing, and brutal to view. Defendant argues that the video had no probative value and was extremely prejudicial.

The State responds that the trial court did not err by admitting the body-camera video into evidence, as it was relevant to show the severity of the victim's wounds, the nature of the scene, and the reactions of the witnesses who observed a murder and not an act of self-defense. The State further responds that even when cause of death is not at issue, it is entitled to the moral force of its evidence. It asserts that if the crime scene was gruesome, it was because of defendant's actions in shooting and killing the victim. The State argues that even assuming the trial court erred by admitting the video, any error was harmless considering the strength of its other evidence.

During the direct examination of Officer Grayson, the prosecutor sought to show him a portion of his body-camera video. Defense counsel said he did not object to the State showing Officer Grayson "the witness portions" of the video. The prosecutor then began playing the video. Officer Grayson identified himself in it. The prosecutor introduced the video into evidence, but defense counsel objected, stating, "I'm going to have the same objection once people start actually speaking and communicating on the bodycam but I don't have an objection to the video being played without sound."

A bench conference was then held. The prosecutor stated that she planned to play the beginning of the video where the officer arrived on the scene and started to administer aid to the victim, arguing it was relevant to counter defense counsel's claim in his opening statement that the shooting was in self-defense and individuals on the scene were putting defendant in fear for his life. She further argued that she wanted to play portions of the video for three other reasons: to prove the killing of a human being, to show Mr. Robinson "hysterically" saying the gun was in his car, and to show the identification of defendant by Mr. Smith.

Defense counsel responded that the identification of defendant by Mr. Smith was hearsay and there was a confrontation issue regarding Mr. Robinson unless he testified. The prosecutor argued that the officer had already testified about Mr. Robinson, Mr. Robinson was extremely

"hysterical" in the video clip, and this was a hearsay exception. She further argued that as to the identification under La. C.E. art. 801, Mr. Smith had already testified, and therefore, it was also a hearsay exception. The trial judge then overruled the objection.

Thereafter, the prosecutor started playing Officer Grayson's body-camera video at forty-five seconds. Defense counsel objected based on relevancy and respect for the family. A bench conference was held, but the bench microphone did not record the exchange. Officer Grayson then testified that he was in the video performing CPR on the victim. He indicated that there were many people around the victim. The prosecutor subsequently forwarded the video to ten minutes and thirty seconds. Officer Grayson testified that Mr. Robinson was shown in the video telling him the gun used to shoot the victim was in his car. He acknowledged that he testified earlier about what Mr. Robinson told him. Officer Grayson stated that he repeated that information to other officers who were either on that scene or at another scene at 2801 Loyola.

Officer Grayson acknowledged that he previously testified about Mr. Smith who, he learned, had witnessed the incident. He conducted a show-up identification by taking Mr. Smith to the 2700 block of Phoenix. The prosecutor forwarded the video to thirty minutes and nine seconds. Officer Grayson stated that in the video, Mr. Smith said he recognized two men at 2801 Loyola who were with or near the suspect. Officer Grayson testified that in the video, he said "positive" after Mr. Smith told him the man in the back of the ambulance was the person who shot his nephew.[5]

At trial, defense counsel did not object to the showing of Officer Grayson's video; rather, he objected to the audio being played while the video was being shown. Defense counsel later lodged an objection below based on relevancy and respect for the family. He did not object

[5] Mr. Smith previously testified that Mr. Castleberry, the victim in the instant case, was his nephew. He also testified that the officer drove to where the ambulance was, he saw defendant sitting up on a gurney, and he positively identified defendant as the person who shot his nephew.

below that the video showing Officer Grayson providing CPR to the victim was explicit or brutal to view as he does on appeal.

La. C.Cr.P. art. 841(A) provides, in part, that "an irregularity or error cannot be availed of after verdict unless it was objected to at the time of occurrence." In order to preserve the right to seek appellate review of an alleged trial court error, the party claiming the error must state an objection contemporaneously with the occurrence of the alleged error, as well as the grounds for that objection. Defendant is limited on appeal to matters to which an objection was made and also to the grounds for his objection articulated at trial. *State v. James*, 24-508 (La. App. 5 Cir. 7/30/25), 417 So.3d 103, 111; *State v. Faciane*, 17-224 (La. App. 5 Cir. 11/15/17), 233 So.3d 195, 211, *writ denied*, 17-2069 (La. 10/8/18), 253 So.3d 797. Defendant's claim that the video was explicit or brutal to view was not preserved for review on appeal.

However, the claim that the audio should not have been played for the jury was preserved, and because this claim is intertwined with the playing of the video, we address the merits of this claim.

"All relevant evidence is admissible, except as otherwise provided by the Constitution of the United States, the Constitution of Louisiana, this Code of Evidence, or other legislation. Evidence which is not relevant is not admissible." La. C.E. art. 402. "Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, or waste of time." La. C.E. art. 403. The trial court is afforded great discretion in evidentiary rulings and, absent a clear abuse of that discretion, rulings on admissibility of evidence will not be disturbed on appeal. *State v. Frickey*, 22-261 (La. App. 5 Cir. 3/1/23), 360 So.3d 19, 41–42, *writ denied*, 23-468 (La. 11/8/23), 373 So.3d 59.

The issue of admissibility of a videotape is similar to the issue of the admissibility of still photographs; a videotape, like a photograph, may be admissible to corroborate other testimony in a case, such as location of the body, manner of death, specific intent to kill, cause of death, and the number, location, and severity of wounds. *State v. Lee*,

05-456 (La. App. 1 Cir. 5/16/07), 964 So.2d 967, 995–96, *writ denied*, 07-1288 (La. 3/7/08), 977 So.2d 896, *abrogated on other grounds*, 05-2098 (La. 1/16/08), 976 So.2d 109.

"Photographs are generally admissible if they illustrate any fact, shed any light upon an issue in the case, or are relevant to describe the person, thing, or place depicted." *State v. Magee*, 11-574 (La. 9/28/12), 103 So.3d 285, 322, *cert. denied*, 571 U.S. 830, 134 S.Ct. 56, 187 L.Ed.2d 49 (2013). Even when the cause of death is not at issue, the State is entitled to the moral force of its evidence, and post-mortem photographs of murder victims are generally admissible to prove *corpus delicti*, to corroborate other evidence establishing cause of death, location, placement of wounds, or positive identification of the victim. *State v. Brown*, 18-1999 (La. 9/30/21), 330 So.3d 199, 244, *cert. denied*, -- U.S. --, 142 S.Ct. 1702, 212 L.Ed.2d 596 (2022). Photographic evidence will be admitted unless it is so gruesome as to overwhelm the reason of the jurors and lead them to convict the defendant without sufficient evidence, specifically when the prejudicial effect of the photographs substantially outweighs their probative value. *Id.*

Moreover, the cumulative nature of photographic evidence does not render it inadmissible if it corroborates the testimony of witnesses on essential matters. *State v. Cartagena*, 11-774 (La. App. 5 Cir. 3/13/12), 90 So.3d 1170, 1177. The admission of gruesome photographs is not reversible error unless it is clear that their probative value is substantially outweighed by their prejudicial effect. *State v. Johnson*, 09-992 (La. App. 5 Cir. 6/29/10), 47 So.3d 449, 453, *writ denied*, 10-1704 (La. 1/28/11), 56 So.3d 966. Generally, an appellate court places great weight upon a trial court's ruling on the relevancy of evidence and such a determination will not be reversed absent a clear abuse of discretion. *Id.*

The following cases provide this Court with guidance in our consideration of this issue. In *State v. Koon*, 96-1208 (La. 5/20/97), 704 So.2d 756, 776, *cert. denied*, 522 U.S. 1001, 118 S.Ct. 570, 139 L.Ed.2d 410 (1997), the Supreme Court conducted a capital sentencing

review. The sentence report indicated that the jury revealed great emotion when the video of the immediate crime scene was shown. A videotape had been made of the crime scene at a time when the body of the defendant's estranged wife was still in the backyard and the body of her father was still in the house. The tape was shown at the guilt phase of the trial without objection. The Supreme Court found no error, pointing out that the State was entitled to the moral force of its evidence and postmortem photographs of murder victims were admissible to prove *corpus delicti*, and to corroborate other evidence establishing cause of death, location, placement of wounds, as well as to provide positive identification of the victim. It asserted that photographic evidence would be admitted unless it was so gruesome as to overwhelm the jurors' reason and lead them to convict the defendant without sufficient other evidence. The Supreme Court found no indication that happened in its case.

Also, in *State v. Alvarado*, No. 2013 KA 0201, 2013 WL 5459757 (La. App. 1 Cir. Sept. 30, 2013), *writ denied*, 13-2579 (La. 4/11/14), 137 So.3d 1214, the defendant argued that the trial court erred by admitting into evidence the first thirteen minutes of her initial video-recorded interview with the police. The court described the defendant in the video as clearly upset—screaming, cursing, and ranting about the police being lazy and inept, and making threats to the police. On appeal, the defendant argued that the video was irrelevant and overly prejudicial. In response, the State contended that the defendant's behavior in the interview room went to the core of her self-defense argument in that it demonstrated her aggressive behavior. The appellate court found the defendant's behavior had no relevance regarding whether she was the aggressor. However, the appellate court found the error in admitting the video was harmless, as other evidence clearly established the defendant's guilt. *Alvarado*, at *1–4.

In the instant case, Officer Grayson's body-camera video shows him arriving at the scene. There are some individuals standing around the victim and other individuals kneeling on the ground by him. Several of the individuals are heard crying and wailing about the victim's condition. The officer then kneels down and performs chest

compressions on the victim, who has a lot of blood on and around his neck and has his eyes open. The video is close-up. EMS subsequently arrives and takes over performing chest compressions on the victim. Later, the video shows Officer Grayson talking to Mr. Robinson, who is in an agitated state. Mr. Robinson says he picked up the gun and put it in his car. Officer Grayson is subsequently shown in the video taking Mr. Smith to a show-up identification of defendant.

Upon review, we find the trial court did not abuse its discretion by admitting Officer Grayson's body-camera video/audio into evidence. The State was entitled to the moral force of its evidence. The video/audio was relevant to corroborate the cause of death, the location of wounds, the positive identification of the victim, and the attempts to save the victim's life. *Brown*, 330 So.3d at 244. The video/audio was relevant to show the chaotic scene, the presence of numerous witnesses at the scene, Mr. Robinson telling the officer that he picked up the gun and put it in his car, and the positive identification of defendant. Additionally, we disagree that the video/audio was so gruesome as to overwhelm the reason of the jurors and lead them to convict defendant without sufficient evidence.

However, even if the video/audio was improperly admitted, the erroneous admission of irrelevant evidence is subject to a harmless error analysis. An error is considered harmless when the verdict is surely unattributable to the error. *State v. Williams*, 09-48 (La. App. 5 Cir. 10/27/09), 28 So.3d 357, 365, *writ denied*, 09-2565 (La. 5/7/10), 34 So.3d 860. (*See also State v. Green*, 19-123 (La. App. 5 Cir. 12/26/19), 286 So.3d 1230, 1243–44, *writ denied*, 21-51 (La. 3/9/21), 312 So.3d 583, *cert. denied*, -- U.S. --, 142 S.Ct. 206, 211 L.Ed.2d 88 (2021) ("Moreover, even if the photographs were improperly admitted, the erroneous admission of irrelevant evidence is subject to a harmless error analysis."). In the instant case, any error in the admission of the video/audio was harmless, considering the overwhelming other evidence of defendant's guilt as discussed in assignment of error number two. Also, the jury was instructed that they were not to be influenced by sympathy, passion, prejudice, or public opinion.

Thus, we conclude the trial court did not abuse its discretion by admitting the video/audio into evidence. This assignment of error is without merit.

ASSIGNMENT OF ERROR NUMBER THREE

Declined admission of photograph of a handgun into evidence

In his final assignment of error, defendant argues that the trial court erred by prohibiting him from using a digital photograph of a handgun to demonstrate to the jury that the Glock could have discharged while he and the victim were fighting over it, even though there were safety mechanisms on the gun. He contends that closing argument was his last opportunity to convince the jury of this defense. Defendant asserts that the exclusion of this photograph deprived him of his right to present a defense.

The State responds that this claim was not preserved for review because defense counsel did not proffer the substance of his exhibit or otherwise satisfy the requirements of La. C.E. art. 103(A)(2) to make the substance of the evidence known to the court.[6] It further responds that although defendant raised this issue in his motion for a new trial, it was too late to do so, as it did not suffice as a contemporaneous objection. Alternatively, the State argues that the trial court did not err by excluding the photograph during closing argument because it was never properly introduced into evidence at trial. It further argues that even if the trial court erred in excluding the photograph, any error was harmless considering the strength of its case against defendant.

The transcript reflects that during closing argument, the prosecutor objected when defense counsel wanted to use a photograph, not previously admitted into evidence, showing the Glock's safety

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[6] La. C.E. art. 103(A)(2) states:

> A. Effect of erroneous ruling. Error may not be predicated upon a ruling which admits or excludes evidence unless a substantial right of the party is affected, and
>
> *.*.*
>
> (2) Ruling excluding evidence. When the ruling is one excluding evidence, the substance of the evidence was made known to the court by counsel.

mechanisms. There was a bench conference, but the bench microphone did not work to record the exchange. The trial court sustained the objection. Defense counsel then told the jury that he would instead talk about the safety mechanisms on the Glock, and did so.

After he was convicted, defendant filed a "Motion for New Trial and for Post-Verdict Judgment of Acquittal." In that motion, defendant argued that he was prevented from displaying this photograph during closing arguments to demonstrate to the jury the safety mechanisms discussed during testimony. He argued that the denial prevented him from presenting the defense of his choosing, in violation of La. Const. art. 1, § 16.

It is unclear whether defense counsel proffered the demonstrative aid, *i.e.*, the picture of a handgun, he wished to use during closing argument, because during the bench conference, the microphone was not working. In any event, following the bench conference, defense counsel said he would not use the picture and that he would explain it to the jury. Because the substance of the demonstrative aid was made known to the court, we find that this claim has been preserved for review. *See* La. C.Cr.P. art. 841.[7]

Closing arguments in criminal cases should be restricted to the evidence admitted, to the lack of evidence, to conclusions of fact that may be drawn therefrom, and to the law applicable to the case. The State's rebuttal shall be confined to answering the argument of the defendant. *See* La. C.Cr.P. art. 774.

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[7] La. C.Cr.P. art. 841 states:

> A. An irregularity or error cannot be availed of after verdict unless it was objected to at the time of occurrence. A bill of exceptions to rulings or orders is unnecessary. It is sufficient that a party, at the time the ruling or order of the court is made or sought, makes known to the court the action which he desires the court to take, or of his objections to the action of the court, and the grounds therefor.
>
> B. The requirement of an objection shall not apply to the court's ruling on any written motion.
>
> C. The necessity for and specificity of evidentiary objections are governed by the Louisiana Code of Evidence.

The trial judge has broad discretion in controlling the scope of closing arguments, and a conviction will not be reversed on the basis of improper closing argument unless thoroughly convinced that the remarks influenced the jury and contributed to the verdict. *State v. Honor*, 19-379 (La. App. 5 Cir. 1/29/20), 289 So.3d 249, 259, *writ denied*, 20-370 (La. 7/24/20), 299 So.3d 72.

In the instant case, the trial court did not abuse its discretion by refusing to allow defense counsel to show a picture of a handgun to the jury to demonstrate its safety features during closing argument. The picture of the gun was not admitted into evidence during trial, and La. C.Cr.P. art. 774 provides, among other things, that closing arguments in criminal cases should be restricted to the evidence admitted. In any event, the firearms expert, Ms. Tran, testified at trial that Glocks had three safety features designed to protect against accidental discharges, that all three safety features had to be disengaged for the gun to fire, and that Glocks had very heavy trigger pulls. During closing argument, defense counsel reminded the jury about Ms. Tran's testimony, and he explained about the safety features of Glocks and how they differed from other guns. Because defense counsel was allowed to explain to the jury what the picture of the Glock meant to his case, we conclude that the trial court did not abuse its discretion by not allowing him to use the picture. This assignment of error is without merit.

ERRORS PATENT REVIEW

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 review reveals no errors patent except for the trial court's failure to specifically rule on defendant's motion for post-verdict judgment of acquittal; however, we conclude that the error was harmless and no corrective action is needed.

The minute entry dated May 28, 2025 reflects that the trial court denied the motion for post-verdict judgment of acquittal and the motion for a new trial. However, the transcript reflects that the trial court only denied the motion for a new trial. The order attached to the combined

post-trial motion is not signed. As such, the trial court did not specifically rule on the motion for post-verdict judgment of acquittal.

La. C.Cr.P. art. 821 provides that a defendant may move for a post-verdict judgment of acquittal following the verdict, and that such motion must be made and disposed of prior to sentencing.[8] However, in the following cases, appellate courts have indicated that the failure to rule on post-trial motions under certain circumstances is harmless error.

In *State v. Wise*, No. 2009 KA 1753, 2010 WL 1838403 (La. App. 1 Cir. May 7, 2010), *writ denied*, 10-1324 (La. 1/7/11), 52 So.3d 884, prior to sentencing, a motion for post-verdict judgment of acquittal and a motion for a new trial, both based on the sufficiency of the evidence, were filed. The trial court denied the motion for a new trial, the defendant waived sentencing delays, and the sentence was imposed. The appeal was ordered on December 9, 2008. The trial court did not rule on the motion for post-verdict judgment of acquittal until September 22, 2009. The First Circuit found no inherent prejudice to defendant when the trial court failed to timely rule on the motion for

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[8] La. C.Cr.P. art. 821 provides as follows:

> A. The defendant may move for a post verdict judgment of acquittal following the verdict. A motion for a post verdict judgment of acquittal must be made and disposed of before sentence.
>
> B. A post verdict judgment of acquittal shall be granted only if the court finds that the evidence, viewed in a light most favorable to the state, does not reasonably permit a finding of guilty.
>
> C. If the court finds that the evidence, viewed in a light most favorable to the state, supports only a conviction of a lesser included responsive offense, the court, in lieu of granting a post verdict judgment of acquittal, may modify the verdict and render a judgment of conviction on the lesser included responsive offense.
>
> D. If a post verdict judgment of acquittal is granted or if a verdict is modified, the state may seek review by invoking the supervisory jurisdiction of or by appealing to the appropriate appellate court.
>
> E. If the appellate court finds that the evidence, viewed in a light most favorable to the state, supports only a conviction of a lesser included responsive offense, the court, in lieu of granting a post verdict judgment of acquittal, may modify the verdict and render a judgment of conviction on the lesser included responsive offense.

post-verdict judgment of acquittal when the trial did rule, before sentencing, on the motion for a new trial that raised the same grounds (insufficient evidence) raised in the motion for post-verdict judgment of acquittal.

Also, in *State v. Fair*, 24-759 (La. App. 1 Cir. 7/11/25), 417 So.3d 1166, 1173, *writ denied*, 25-933 (La. 1/21/26), 424 So.3d 1092, the defendant's counsel filed a motion for post-verdict judgment of acquittal that the trial court denied. The defendant also filed a combined *pro se* motion for a new trial or for post-verdict judgment of acquittal that raised the same grounds. However, the record did not reflect a ruling by the trial court on the defendant's *pro se* post-trial motion. The appellate court thus found that any error in the trial court's failure to rule on the *pro se* motion was harmless.

In the instant case, both the motion for post-verdict judgment of acquittal and one of the grounds in the motion for a new trial were based on sufficiency of the evidence. Further, the post-trial motions were combined into one motion. In denying the motion for a new trial, the trial judge stated that the verdict was supported by the evidence and the applicable law. For these reasons, we conclude that the error in failing to specifically rule on the motion for post-verdict judgment of acquittal was harmless.

CONCLUSION AND DECREE

For the foregoing reasons, defendant's conviction and sentence are affirmed.

AFFIRMED

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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 **MAY 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

CURTIS B. PURSELL
CLERK OF COURT

25-KA-434

E-NOTIFIED

24TH JUDICIAL DISTRICT COURT (CLERK)
HONORABLE DANYELLE M. TAYLOR (DISTRICT JUDGE)
HOLLI A. HERRLE-CASTILLO (APPELLANT)
HONORABLE PAUL D. CONNICK, JR. (APPELLEE)
REMY V. STARNS (APPELLANT)
MICHAEL A. MITCHELL (APPELLANT)
THOMAS J. BUTLER (APPELLEE)
LEO M. AARON (APPELLEE)
MOLLY LOVE (APPELLEE)
DARREN A. ALLEMAND (APPELLEE)

MAILED

NO ATTORNEYS WERE MAILED