Fifth Circuit Court of Appeal
State of Louisiana

No. 25-KA-544

STATE OF LOUISIANA

versus

THOMAS MICHEAL WELTY

ON APPEAL FROM THE TWENTY-FOURTH JUDICIAL DISTRICT COURT
PARISH OF JEFFERSON, STATE OF LOUISIANA
NO. 21-5427, DIVISION "K"
HONORABLE ELLEN SHIRER KOVACH, JUDGE PRESIDING

November 04, 2026

MARC E. JOHNSON

JUDGE

Panel composed of Judges Marc E. Johnson,
John J. Molaison, Jr., and Scott U. Schlegel

CONVICTIONS AND SENTENCES ON COUNTS TWO TO FIVE AFFIRMED; SENTENCE ON COUNT ONE VACATED AND REMANDED FOR RESENTENCING; REMANDED WITH FURTHER INSTRUCTIONS

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JOHNSON, J.

Defendant, Thomas Michael Welty, appeals his convictions and sentences for second degree rape, trafficking children for sexual purposes, indecent behavior with a juvenile, contributing to the delinquency of a juvenile, and sexual battery rendered in the 24th Judicial District Court, Division "K". For the following reasons, we affirm Defendant's convictions. We vacate the sentence as to count one and remand the matter for resentencing. We also remand this matter for correction of the sentencing minute entry and the uniform commitment order as to count five. Additionally, we affirm the sentences for all other counts.

FACTS AND PROCEDURAL HISTORY

On June 29, 2023, the Jefferson Parish District Attorney filed a bill of information charging Defendant with second degree rape, in violation of La. R.S. 14:42.1 (count one) and trafficking children for sexual purposes, in violation of La. R.S. 14:46.3 (count two). Both counts pertained to a juvenile born on November 7, 2003. Defendant was arraigned and pleaded not guilty on August 25, 2023. However, multiple subsequent bills were filed by the State. On July 15, 2024, the State filed a bill charging Defendant with second degree rape, in violation of La. R.S. 14:42.1 (count one); trafficking children for sexual purposes, in violation of La. R.S. 14:46.3 (count two); indecent behavior with a juvenile, in violation of La. R.S. 14:81 (count three); contributing to the delinquency of a juvenile, in violation of La. R.S. 14:92 (count four); and sexual battery, in violation of La. R.S. 14:43.1 (count five). Counts one and two still pertained to the juvenile born on November 7, 2003. Counts three through five pertained to a juvenile born on September 4, 2004. Defendant was arraigned and pleaded not guilty on July 18, 2024.

A bill was filed on March 6, 2025, which specified that contributing to the delinquency of a juvenile (count four) was in violation of La. R.S. 14:92(A)(11)(a) and changed the date of birth of the victim in counts three through five from

September 4, 2004, to September 10, 2004. A final bill was filed on May 12, 2025. The last amended bill added the following language to count one: "and/or when the victim is incapable of resisting or understanding the nature of the act by reason of stupor or abnormal condition of the mind produced by a narcotic or anesthetic agent or other controlled dangerous substance administered by offender and without the knowledge of the victim."[1]

A jury was selected on May 12, 2025. Defendant pleaded not guilty to the last amended bill on May 13, 2025, and a mistrial was granted on May 14, 2025. Jury selection for the new trial began again on May 15, 2025.

At trial, it was presented that C.C., who was 21 years old at the time, was raised by her grandfather and step-grandmother, T.Z.[2] C.C. explained that her father left before she was born and that her mother could not raise her. T.Z. stated C.C.'s mother used drugs and that she took full custody of C.C. when she was seven months old. C.C. was also close to her maternal grandmother who died when C.C. was nine years old. C.C. was very upset by her maternal grandmother's death and felt abandoned, unloved, and hopeless. T.Z. described that, although C.C. was depressed and in counseling in fourth grade, she did well in elementary school. However, things went downhill in middle school when, at 10 years old, she started experimenting with drugs like marijuana and pain pills.

In 2019, C.C. was at a friend's house smoking marijuana and met Pricilla, also known as Carter, when she came over to smoke with them. At that time, C.C. was 14 or 15 years old. T.Z. described that Carter was younger than C.C. As their

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[1] The first bill used Defendant's full middle name, while the latter bills used his middle initial.

[2] C.C. testified that she was 21 years old at the time of trial. She testified on May 16, 2025. Counts one and two pertained to a victim born on November 7, 2003. At the time of trial, that victim would have been 21 years old.

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 work will use only initials to identify the victim. *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. Initials will also be used to refer to C.C.'s step-grandmother.

friendship grew, C.C. asked to sleep over at Carter's house and go to Mardi Gras 2019. After meeting her mother and being assured that C.C. would be safe and that it would only be the mother, Carter, and C.C. there, T.Z. allowed her to sleep over.

C.C. provided that they planned to go to parades that Mardi Gras. They waited for Carter's father (Defendant) to come home, and Carter asked him if he was okay with bringing them to Bourbon Street in the French Quarter. Defendant brought them there in his red truck. C.C. recounted who went, including R.M.[3] and a woman they picked up. C.C. stated that at 14 years old, she was the oldest child there. Defendant bought C.C. approximately eight drinks, including hand grenades, daiquiris, and mixed drinks. She said she was drunk but coherent when they returned to Defendant's truck.

C.C. explained that after dropping off the woman who was with them, they went to Defendant's house on Canterbury Lane in Metairie. She remembered Defendant carried her up the stairs and into his bedroom. C.C. testified that he put her on the bed. She did not hear anything for a short period but then heard the nightstand drawer close. C.C. testified that she felt a tourniquet around her arm and then a needle as Defendant administered methamphetamines to her. She felt sober and awake but physically "tingly and weird." No one else was in the room with them.

C.C. stated Defendant removed all his and her clothes. She testified that he began to "orally rape" her by putting his tongue on her vagina and then "vaginally rape" her by putting his penis in her vagina. She denied that she "in any way consent[ed] to being raped." C.C. stated she stayed still because she thought she would be hurt if she moved or screamed. She provided that he did not verbally

[3] R.M. testified at trial that she was 20 years old. She testified on May 16, 2025. The victim in counts three through five was born on September 10, 2004. As such, at the time of trial, the victim in those counts would have been 20 years old. Therefore, counts three through five pertain to R.M.

threaten her but that a firearm was on the dresser within Defendant's reach and that she did not know if he would use it on her.

C.C. testified that when Defendant finished, he called his friend Mike, who then arrived and "anally raped" her as Defendant watched. She said she was too afraid to say no. She testified that Defendant called another friend, Kenny. Kenny arrived and "vaginally raped" C.C., as Defendant was "hitting his pipe."[4] C.C. said Defendant gave her additional methamphetamine that night. She said he also used methamphetamine. Defendant brought her home, where she stayed during the day. She went back that night because the drugs were wearing off, and she liked the way they made her feel. She wanted more drugs.

C.C. stated Defendant picked her up two blocks away from her house every day for two months. She recalled that one day, Defendant told her that he was tired of picking her up and that she needed to move in. T.Z. indicated that after COVID-19 began, C.C. stayed "with the kids across the street" for a couple of weeks.[5] After "the girls" had an argument, C.C. asked T.Z. if she could stay at Carter's house. C.C. then stayed there.

C.C. explained that Defendant gave her more drugs. She said she often had sex with Defendant in exchange for methamphetamine. She recounted, "He, basically, says as long as I give him what he wants which is sex, then I can have whatever I want which would be drugs." C.C. stated Defendant got drugs from Mike, Kenny, and other people. C.C. testified that if she had sex with people, Defendant did not pay for the drugs. She said this happened almost daily and that

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[4] On cross-examination, C.C. was asked if Mike and Kenny were gay. She replied, "Does it honestly matter? I mean sex is sex. If they want to have sex, they're going to do what they need to do." She was also asked if Mike was HIV positive, and she stated she did not know. She testified that she has HPV and does not have HIV.

C.C. acknowledged that there was a time after she met Defendant that she alleged that she was pregnant. She said that, although she was on birth control, a pregnancy test Defendant gave her showed a plus sign. T.Z. recalled that C.C. had a miscarriage at some point. T.Z. testified that C.C. told her that Defendant "brought her to get abortions."

[5] T.Z. elaborated that she underwent chemotherapy for breast cancer twice, most recently in 2018. She described that she was very afraid of catching COVID-19, so she let C.C. stay at other people's homes because she was going in and out of the house.

it happened with one to four people in a day. She denied that she "in any way consent[ed] to the defendant allowing other men to rape" her.

C.C. testified that during this time, she felt like she loved Defendant and explained that he made her believe that once she was of legal age, they could be together. She explained that Defendant treated her like a girlfriend and that his bedroom became hers.[6] She stated she never told Defendant she was over 18 years old.

C.C. explained that in late 2020 or early 2021, T.Z. picked her up from Defendant's house after she frantically called her. She stated that she overheard Defendant on the phone say that he was going to take her to Slidell. She said that until then, Defendant never brought her anywhere and that everyone would come to them. C.C. said this raised red flags, so she called T.Z.

T.Z. explained that one Friday in 2020, C.C. called her hysterically and said she needed to be picked up. T.Z. asked if she could do so in the morning, but C.C. said, "No, you need to come right now. He's in the shower. And you need to come right now." C.C. provided that she had to leave immediately because Defendant planned to bring her to Slidell. T.Z. speculated that she was either being sold or given away. C.C. said she would tell T.Z. everything when she picked her up. T.Z. picked C.C. up. As they drove home, C.C. explained that Carter's mother never lived there and that her father, Defendant, lived there instead.

C.C. testified that, after T.Z. picked her up, she told her everything. T.Z. testified that C.C. told her it started that Mardi Gras when she slept over. She explained that C.C. said that they missed Mardi Gras because "her, Carter and the

[6] C.C. identified a video of her and Defendant in his red truck and another of herself and R.M. sitting in Defendant's backyard at Canterbury Lane. C.C. described another video as depicting her in Defendant's bed smoking meth. She identified a photograph of herself, Defendant, and another girl in Defendant's bed and a photograph of herself and Defendant in his bed.

daddy got loaded all day long." C.C. recounted to T.Z. that they went to the French Quarter instead. T.Z. stated C.C. was worried she could not get in anywhere because she was 15 years old, but Defendant told her not to worry about it. When they returned from the French Quarter, C.C. could barely walk. C.C. told T.Z. that Defendant brought her to his bedroom and that the next thing she remembered was some type of tourniquet being applied to her arm and a shot being administered. T.Z. testified that C.C. said she was in and out of consciousness, but that she knew Defendant raped her several times; and when Defendant was done, he had a neighbor from upstairs and then a third person have sex with her. T.Z. explained that C.C. said Defendant put a gun to her head and threatened to hurt her family if she said anything. C.C. went back "many times" after the first incident.

C.C. told T.Z. what happened and instructed her not to say anything until after T.Z.'s son got married on July 11, 2020. T.Z. agreed. T.Z. testified that C.C. ran away that night and was gone for a week. She described that when C.C. came home, she was "really, really intoxicated, loaded, or whatever you want to call it." Due to C.C.'s belligerent behavior, T.Z. called the police.

Jefferson Parish Sheriff's Office ("JPSO") Deputy Manuel Estrada responded to a disturbance on July 18, 2020. He explained that a woman called because her daughter, C.C.,[7] was violent and was upset. The deputy encountered 16-year-old C.C., whom he described as "agitated." He explained that C.C. was cursing at her mother and wanted him to leave. Deputy Estrada handcuffed her because she could have harmed herself or others and because the mother said she may have been under the influence of narcotics. He told C.C.'s mother that he would "do an emergency committal" and bring her to the hospital. The deputy acknowledged that he got the impression that C.C. and her mother were discussing

[7] Although some witnesses referred to C.C. and T.Z. as mother-daughter, T.Z. was actually C.C.'s step-grandmother.

drug use and that C.C. was in trouble.

C.C. remembered a night when the police took her to a mental institution because T.Z. told her she could not leave to see Defendant. She explained that she missed the drugs. T.Z. recalled that the officer suggested C.C. go to the hospital. She rode in the police car to Ochsner Hospital. T.Z. testified that C.C. was ultimately brought to a rehabilitation facility because she "was strung out big time."[8]

Deputy Estrada returned the next day because C.C.'s mother wanted to report allegations that C.C. was given narcotics by and had sex with Defendant. He indicated that she had a picture of a license plate, which "came back to the same name of the person that they were saying was involved."[9] The deputy said that C.C. stayed at Defendant's house in March and April 2020 and that C.C. told her mother what was occurring in June 2020. He explained that reporting was delayed because of a family wedding in July. He also testified that C.C.'s mother hesitated to tell anyone because Defendant threatened the family.

T.Z. said C.C. was in the rehabilitation facility for approximately a week. T.Z. testified that six weeks later, C.C. was packing her belongings and said she was going to live with Defendant. She left the house that night without her phone. T.Z. stated C.C. had been sneaking out during those six weeks. The next day, T.Z. called the police, who searched C.C.'s room and ultimately found her at Defendant's house.[10]

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[8] T.Z. was asked, "When [C.C.] was able to view everything that had been happening with Thomas Welty, did she say to you who administered meth to her?" She replied affirmatively and explained that C.C. said Defendant always did it and stuck the needle in between her toes.

[9] T.Z. testified that when she first met Defendant, she looked him up on Facebook. She said that from her home camera, she obtained pictures of Defendant's truck as he dropped C.C. off on several occasions and that the truck matched a picture of a truck on Defendant's Facebook. She said that she once called C.C. over FaceTime and that Defendant, whom she recognized from his Facebook, picked up the call.

[10] C.C. stated the police were called after the wedding because she ran away with Defendant again. The police picked her up from the house where Defendant resided after being "kicked out" from his home on Canterbury Lane. That was the last time she was there.

C.C. said she went to rehab several times.[11] She explained that when she got out, she would text Defendant, he would pick her up, and she would relapse. She described a recurring pattern of exchanging sex with Defendant for drugs. C.C. explained that she got sober on March 23, 2021.[12]

R.M., who was 20 years old at the time of trial, testified that as a child, she lived with various family members and in a foster home. She explained that her parents struggled with drug problems. R.M. indicated that she suffered from depression when she was approximately 12 or 13 years old. Around that age, she moved from Mandeville to Metairie. At the age of 12 or 13 years old, she met Pricilla a/k/a Carter at school. R.M. identified Carter's father, Defendant, in court. Initially, they spent time at another friend's house but then they hung out mostly at Carter's house on Canterbury Lane. R.M. explained that they smoked marijuana, drank alcohol, and did drugs like Xanax and acid.

R.M. explained that she stayed at Carter's house so frequently it felt like she lived there, and she began to interact more with Defendant. They spoke about her childhood, and he comforted her by saying that his house was open to her. However, she agreed that at some point it became uncomfortable. She recalled that Defendant made various comments about her body and voice, such as comparing them to other young females in the house. She indicated there were likely five other girls in the house but more people, both men and women, came in and out. R.M. explained that Defendant also touched her over her clothing and that he would apologize as if it was an accident.

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[11] While in rehab, C.C. was medicated and diagnosed with various things, including depression, anxiety, and bipolar disorder. T.Z. acknowledged that C.C. had a mental health history and was treated at Acadia Vermillion Hospital, Acadiana Treatment Center, Louisiana United Methodist Children and Family Services, Brentwood Ochsner, and Adolescent Treatment Center. She explained that it was not all drug-related but because she needed help. T.Z. indicated that C.C. had depression and anxiety. She was unsure if the doctors mentioned bipolar disorder to her. T.Z. read from one hospital record, which included that the clinical work focused in part on her pattern of manipulation and dishonesty.

[12] Mary Caroline McNeil was previously a trauma informed clinical mental health counselor at Strehle Community School. While there, she provided C.C. talk therapy. She agreed that C.C. disclosed "that she had been sexually abused in September of 2020." Ms. McNeil reported this to the school resource officer, who worked for the JPSO.

R.M. recalled an incident when Defendant showed her how to use the tanning machine in the house, and he had her undress. While she was in the machine undressed, he tried to open the door. R.M. recalled that Defendant said he was not looking when he tried to give her a towel as she got out.

R.M. testified that Defendant introduced her to GHB.[13] She explained that he gave it to her, Carter, and "Kiara," who R.M. said was 13 or 14 years old and younger than her. He told them it would make them feel drunk.

R.M. recalled another time when Defendant gave her GHB. She said she went to Defendant's room to finish a school project because it was quiet. It was only her and Defendant in the room. She testified that as she was doing her work, Defendant pulled out a jug of GHB. He drank it, and she asked for a capsule of it. She drank two water bottle caps of it. R.M. stated that Defendant repeatedly commented that her legs were not shaved. As the GHB took effect, she stated, "If it's like that big of a problem, then why don't you just shave it or something?" She said she was not serious and did not get the razor.

R.M. indicated that she was unconscious as Defendant shaved her. She regained consciousness in his bed, vomiting on herself. She felt Defendant carry her to the bathroom, where he helped take off her shirt. She did not know if she was wearing pants. She said when she became aware again, she was in the shower next to Defendant. Both of them were unclothed. R.M. testified that she looked down and saw her legs and vaginal area were shaved. She explained Defendant had shaved her whole lower body. She said Defendant told her that he was in the shower because she threw up and needed to wash himself. R.M. recalled that the house had two bathrooms with showers. She stated that Defendant made comments comparing her breasts to his daughter's. R.M testified that "he also did

[13] Gamma-hydroxybutyric acid ("GHB") is a Schedule I controlled dangerous substance. *See* La. R.S. 40:964.

this weird thing like with his finger: He took his finger and went to my clitoris area and booped it and literally just said, Boop." Defendant then got out of the shower and let her finish.

R.M. provided that Defendant left clothes for her on the bathroom counter, which she put on before going to bed. She said Defendant came upstairs and went into the room where she was trying to sleep. R.M. testified that he repeatedly asked her if he could perform oral sex on her, which she refused. She stated she began to distance herself and told Carter about it. When asked how Carter responded, R.M. explained that the response was like it was normal in that house.

R.M. recalled seeing C.C. at Defendant's house and that she spent a lot of time with him. She said C.C. spent the night in Defendant's bed multiple times. R.M. testified that after taking acid once, she saw Defendant and C.C. do methamphetamine. She indicated they offered it to her, and she smoked methamphetamine with them on his bed.

R.M. explained that she ultimately confided in Melanie Franklin, who came over to Defendant's girlfriend, Nicole's, house. Melanie "wanted to help [R.M.] come forward" and called the police for her. R.M. recalled telling the police what Defendant did and speaking to someone at the Children's Advocacy Center ("CAC").[14]

Melanie testified that she knew Defendant through her friends, Adam and Nicole Correll. She stated she worked for Adam and met Defendant, who was living at the Correll residence, the day they learned of Adam's death.[15] She indicated that she noticed that day that Defendant and Nicole were in a

[14] R.M. was shown three photographs. She said that in State's Exhibit 18, she was likely 12 years old and had not met Defendant yet. R.M. explained that State's Exhibit 19 was taken while she knew Defendant. She described that she was very underweight. She said State's Exhibit 20 was taken of her when she was trying to get away and had "come forward." She identified herself in a final photograph and said it was taken after she was at Defendant's home.

[15] She explained that prior to Adam's death, he moved "a bunch of drug addicts" into the house, including Defendant. She described that Adam was found dead in a hotel room.

relationship.

Melanie recounted a time when Defendant attempted to convince her and Nicole to put GHB in their wine and that he claimed it was good to take, like a daily vitamin. She said he made it sound like he took it regularly. She testified that she never saw Defendant provide drugs to juveniles or other people, but the drugs were on the counter in an eye dropper dispenser like vitamins. However, she testified that she was concerned when "the juvenile" told her that he was giving her that and "meth."

Melanie explained that she met R.M., who was friends with Defendant's daughter, at that house after Adam passed away. She stated that R.M. disclosed to her that Defendant gave her and her friends GHB and that when she woke up in the shower, Defendant was shaving her legs and vagina. Melanie recounted that R.M. said she tried to get away, Defendant asked her "for oral," and that she declined. Melanie confronted Defendant in front of Nicole. She said Defendant told her that he was trying to teach his 14-year-old daughter and her friends how to shave their legs. Melanie explained that there were other inappropriate things that Defendant could not justify. He became irate and stormed off. She recalled that there were other conversations about other incidents that she described as inappropriate and shocking. Melanie stated R.M. called the police and because she was a minor, she needed an adult present, so Melanie was that adult.

Amanda Hill worked in the personal violence unit of the JPSO on February 19, 2021, when she was called to speak to Melanie and R.M. regarding a sexual battery. JPSO Detective Biana Robinson with the Special Victims section was also dispatched that day and assisted Ms. Hill. Detective Robinson interviewed Melanie. Ms. Hill spoke to R.M., who said Defendant committed sexual crimes against her. She agreed that R.M. recounted that Defendant drugged her, took her to a bathroom, shaved and bathed her, and touched her on her private area.

Detective Robinson explained that R.M. was transported to her mother's house. The detective explained that R.M.'s mother did not initially answer the door but that when she did, she was very hostile. She was told what was going on and that R.M. would have to attend a forensic interview at the CAC.

Ms. Hill set up a CAC interview of R.M. Erika Dupepe stated a forensic interview with R.M. was conducted on February 24, 2021. In that interview, R.M. said that she wanted to write a book about her life because she has had traumatic experiences. She mentioned that she spent time living in a group home and that her father was in jail. She recounted how she came to make her disclosure to Melanie. R.M. said she was best friends with Defendant's child but that they were no longer friends. She said she hated Defendant, and that she and Carter used Defendant for rides to go to their friends' houses. She stated that Defendant tried to form bonds of trust with the kids in his house. She recalled that he showed everyone in the house his pornographic video. R.M. said that on multiple occasions, Defendant touched her in places he should not have and commented on things that he should not comment on. She recounted an incident when she was 16 years old, whereby Defendant touched her "boob and just like lifts it up" with his hand. R.M. said Defendant made comments about marrying the girls in the house.

R.M. described Defendant's house as a "trap house for kids." She stated that she previously did drugs. R.M. said she "took acid" and smoked methamphetamine for the first time. She remembered that she did it because her friend "[C.]" used to smoke it and told her, "if you want to try it, it's not that bad." She explained that she did not like smoking methamphetamine. R.M. said that around Mardi Gras, Defendant gave her and Carter "G," which she explained was liquid ecstasy, when they were at the house on Canterbury Lane. She said he told her and Carter that it was good for them. R.M. remembered that it made her feel drunk, which she did not like.

R.M. said Defendant gave her "G" one night when she was in his room doing schoolwork.[16] Defendant shaved her legs and vagina while she was on his bed. She indicated she consented to him shaving her legs but not to shaving her vagina. R.M. remembered him starting to shave her legs but did not remember the shaving beyond that. Although she described her memory as foggy and blurry, she remembered that she passed out and threw up in her sleep. R.M. explained that she was in and out of consciousness but woke up fully in the shower with him. They were naked. R.M. explained that she was not hurt and did not think he inserted anything in her. She said he tapped her vagina with one finger and commented on the symmetry of her breasts. R.M. remembered that she got out of the shower before Defendant and fell asleep in his bed. She said he asked to perform oral sex on her, and she declined the first time; he asked again, and she ignored him. R.M. stated he told her it was okay. She stated that she told Carter about it. R.M. indicated that Defendant bragged to other men in the house that he showered with her.

Ms. Hill testified that there were similarities but also inconsistencies between R.M.'s initial statement and her CAC interview, so she tried to contact R.M. again after that interview but was unsuccessful. As such, she closed the case. R.M. also explained that after the CAC interview, she did not have further contact with the police. She explained that at the time, she felt like she needed to distance herself from the case to move forward.

Ms. Hill testified that R.M. identified another victim, C.C. She agreed that it appeared R.M. and C.C. knew each other. She spoke to C.C., who relayed that Defendant sexually assaulted her when she was 15 years old. Ms. Hill agreed that C.C. described that she was Defendant's girlfriend.

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[16] R.M. could not remember if the two incidents she described involving "G" occurred on the same day.

Ms. Hill spoke to Defendant, who agreed to an interview. However, he did not arrive at the scheduled interview and later declined to speak to her. Ms. Hill explained that she obtained an arrest warrant for Defendant, and he was arrested.

Detective Robinson testified that she did not have any further involvement with the case until February 2024, after being contacted by the D.A.'s office. The detective spoke to R.M., who said she wanted to reopen her case. Detective Robinson interviewed R.M. on February 8, 2024. The detective testified that the 2024 disclosure was consistent with her disclosure to Ms. Hill. She presented R.M. with a single photograph of Defendant, and she made an identification. After speaking to R.M., Detective Robinson authored an arrest warrant for Defendant, and he was arrested.

Louisiana State Police Lieutenant Nicole Barbe was accepted as an expert in the field of human trafficking. She discussed human trafficking, signs that someone may be a victim of human trafficking, and behavior changes of those victims. Lieutenant Barbe explained that C.C.'s background made her a target for human trafficking. She elaborated that C.C. ran away from home, had issues with her mother undergoing chemotherapy, and had a history of drug and alcohol abuse. Lieutenant Barbe described ways a trafficker may control a victim, such as money, drugs, isolation, threats, and violence. A sex trafficker could also control a victim by entering a sexual relationship with the victim that the victim believes is an actual relationship. Lieutenant Barbe agreed that a trafficker may isolate the victim by having the victim live with the trafficker, helping to create a dependency on the trafficker for emotional and financial support and stability.

Lieutenant Barbe acknowledged that if the trafficker administers an addictive narcotic like methamphetamine, the victim can become dependent on the narcotic and may seek it out. She stated that drugs commonly used by sex traffickers to control their victims include GHB, methamphetamine, and ketamine.

Lieutenant Barbe agreed that a trafficker could control a young victim by getting them addicted to narcotics and then withholding the drugs unless the victim has sex with the trafficker or others. She explained that often if the victims believe they are in a relationship with their trafficker, they do not want to make a report; they may also seek out their trafficker immediately after being away from them for a time, such as if the victims entered a rehabilitation facility.

Dr. Anne Troy, who works at the Audrey Hepburn Care Center, was accepted as an expert in child abuse and child abuse pediatrics.[17] She discussed disclosures of sexual abuse by children. She agreed that delayed disclosures are common for children and that she would not expect to find anything abnormal or physical evidence in the physical exam in such a case. Dr. Troy explained that sexual child abuse is determined by what a victim says and discussed how she assesses what is said and the process of disclosures by children. She addressed that what could appear to be inconsistencies from a disclosure can actually be the person saying different parts of the same overall event based on who they speak to, their environment, and how the person feels. Dr. Troy stated people often do not know the date trauma occurred to them. She explained that a blended memory occurs when there is chronic sexual abuse of a teenager or child and explained when and how things occur becomes blended. She indicated that a victim may trauma bond with and not leave a person who initially provided food, shelter, drugs, money, or love.

Dr. Troy was asked if a "victim then told you that they remembered being administered methamphetamines and then being raped, but when they were administered that methamphetamines, they became very -- they called it sobering up. Are they actually sober." She explained that the victim would not be sober

[17] Dr. Troy explained that neither victim in this case went to the care center, and she did not review any reports or records in this case.

because the antidote to alcohol is not methamphetamine. Dr. Troy stated a teenager cannot consent. She explained that such a person given methamphetamine intravenously for the first time may return the next day for more to avoid the feel of the crash from it. Dr. Troy indicated that a victim raped by a perpetrator presumed to be HIV positive does not necessarily contract HIV. She agreed that it was normal for a victim of sexual abuse to initially recall that she remembered the offender beginning to shave her legs and the type of razor used but for the victim to have a different recollection of the incident four years later.

Defendant acknowledged that he had prior convictions in 2000 and 2007 in Orleans Parish and Jefferson Parish relating to ketamine and cocaine.[18] He acknowledged that he did drugs at the time but said he only takes prescription drugs now. Defendant testified that he picked Carter up on March 30, 2019, and moved her in with him. They moved into a home on Canterbury Lane mid-April 2019. Defendant said R.M. and C.C. were friends of his daughter. He said that as Carter and R.M. grew closer, R.M. was at the house more often. Defendant stated Carter met C.C. about six months after she met R.M. He said he was rarely home but may have seen her at his house two or three times in two months. Defendant testified that when he first met C.C., she told him that she was 17 years old and about to turn 18 years old.

Defendant stated he did not go out for Mardi Gras 2019. He indicated that he helped set up Mardi Gras balls. Defendant recalled a night in January 2020 when he came home around 9:00 p.m. and that R.M. was in his bed. He described

[18] Donna Quintanilla, latent print section supervisor at the JPSO crime laboratory, explained that she took Defendant's fingerprints the day before her testimony. She compared those prints to prints related to three prior cases: a conviction in Orleans Parish wherein he pled guilty to possession of ketamine and possession of cocaine; a conviction in Jefferson Parish from May 10, 2000, for possession of ketamine; and a 2007 conviction in Orleans Parish for possession with intent to distribute ketamine. Ms. Quintanilla concluded that prints related to the three prior convictions were from Defendant. State's Exhibit 13, which was published to the jury, showed Defendant's date of birth as February 25, 1979. While the waiver of right and guilty plea form and the conditions of probation form in State's Exhibit 15 show the same date of birth, the minute entry in State's Exhibit 15 reflects that Defendant reported his date of birth as December 10, 1955. State's Exhibits 16 and 17 showed Defendant's date of birth as February 25, 1979.

that she appeared to be "passed out" and not merely sleeping. Defendant said he told her to get up but that when she did not, he got Carter. He explained that they tried to wake R.M. up, and he picked her up by her arm. Defendant said she then vomited on him and the bed. Defendant helped Carter get R.M. into the hall bathroom. He showered in his bathroom. He washed his clothes, R.M.'s clothes, and the bedding. He said he slept on the couch downstairs. He stated the next morning was uneventful and that he went to work. He denied that he was confronted by anyone at that time.

Defendant testified that Mardi Gras 2020 was on his birthday. He and Elizabeth, his girlfriend at the time, decided to go to Bourbon Street. He said they went with Carter, R.M., and C.C. around 10:30 p.m. and stayed for an hour. He recalled that toward the end of their time out, they got daiquiris—alcoholic for him and Elizabeth and non-alcoholic for the children. On the way home, C.C. said she did not feel well, so they brought her home before proceeding back to the house on Canterbury Lane. Defendant said he did not see C.C. the next day but that she and R.M. continued to come over.

Defendant acknowledged that he began a relationship with C.C. in April 2020. He explained that Carter had asked him to bring C.C. to a friend's house. As he was bringing her, he warned her that the house was very dirty and that she may not want to go there, but she said she wanted to go. Defendant said he dropped her off and was headed to a date when she called him and asked him to pick her up. He told her that he was on his way to a date. Defendant testified that she said, "I'll be your booty call." He explained that she had told him previously that she turned 18 years old, so he turned around. Defendant said that when he picked C.C. up, she asked him if he had drugs. He answered negatively. At her request, defendant brought her to her grandparents' house so she could get clothes. Also at her request, he parked away from the house because his truck was loud.

After that, they went to his house. Defendant said she showered, and they had sex.

After that, she started sleeping in his room. He said over time, they had sex five to 10 times. He explained that for a time, C.C. was his girlfriend. He stated she never did drugs around him but that he had a feeling drugs were being done in his bathroom. Defendant said that one morning, R.M. called him to say she met someone from C.C.'s school and learned that she was 16 years old, not 18 years old. He testified that he confronted C.C., who indicated that she lied about her age so that he would buy her cigarettes. Defendant said he kicked her out of his room but not his house. She began sleeping in Carter's room.

Defendant identified Nicole as his girlfriend, whom he met through her husband, his friend Adam. He explained that when it came time to move out of the house on Canterbury Lane, Adam offered to let him and Carter move in with him and Nicole. He said R.M. and C.C. continued to visit that house. However, he said R.M. was told she could no longer come to the house after she and Carter had an argument over a boy. Defendant said there was a time C.C. called Carter and said her grandparents threw her out of the house. She asked if Carter and Defendant could pick her up. Defendant said they did and that they brought her back to Nicole's house. He said she spent the night. The next night, she accompanied him to pick up several pizzas. While waiting in line, he got a call and was told to return to the house. When he did, the police were there waiting for C.C. Defendant said C.C. was banned from the house and that the police took her. Defendant testified he never saw her again but that she contacted him "saying her parents were going to put her in rehab and to come get her." He stated he told her to go to rehab.

Defendant said he moved out of Nicole's house for a month and a half. He saw R.M. during that time. He then began a relationship with Nicole, who was then separated from Adam, and moved back into her house after Adam passed

away. He stated Nicole was friends with Melanie, who was not happy about Nicole and Defendant's relationship. Defendant testified that Melanie confronted him about R.M.'s allegations every time she was drunk. He denied ever admitting to anyone that he shaved R.M.'s legs. He stated he never offered or gave drugs to C.C. or R.M. Defendant said, "I never called anybody to come rape anybody. I'm incapable of rape."

Pricilla Moreci testified that she prefers to go by Carter. She explained that in March 2019, her father picked her up from her grandparents in Florida and brought her to Metairie to live with him. They moved to Canterbury Lane in April 2019. She explained that she was in eighth grade and met R.M. through a boy she liked. She stated she and R.M. became friends. They played video games, listened to music, and smoked marijuana. Carter stated that when she and R.M. first started hanging out, R.M. smoked "weed" and used alcohol. As they began hanging out, they took acid together.

Carter testified that she was aware of the night R.M. said Defendant did things to her. She recounted that earlier that day, she bought a big bottle of alcohol. She said, "We started drinking around, like, 6:00, 7:00. And around, like, 9:00 or 10:00 she went to bed. We didn't have any spots in my room, as I had a bed and a couch in there. And I had multiple people over in the room was all chilling. So she went to go lay down in my dad's bed." She provided that he was still at work. Carter stated Defendant came home around 10:00 or 11:00 and went to wake up R.M. She testified that Defendant got her because R.M. threw up on the bed and on Defendant. Carter stated she took R.M.'s clothes and helped her into the shower in the guest bathroom. She said Defendant slept downstairs and that R.M. slept in Defendant's room. Carter testified that the next morning, R.M. claimed that Defendant got in the shower with her and shaved her. Carter provided that she did not believe it. She confronted Defendant, who denied it. Carter

testified that later that day, R.M. changed into shorts and that she could see that R.M. was not shaved.

Carter stated she met C.C. in December 2019 or January 2020 through a mutual friend. She said that when they met, C.C. said she was 18 years old. Carter described that she and C.C. concocted a plan so that C.C. could stay over at Carter's house more frequently. She explained that they persuaded Elizabeth to act like Carter's mother.

Carter acknowledged the allegations C.C. made against Defendant. She recalled that on February 25, 2020, Defendant, C.C., R.M., and other people went to Bourbon Street to celebrate Defendant's birthday. She testified that they were not there long before they left Bourbon Street in Defendant's truck. After being home for 10 minutes, C.C. said she did not feel well. Carter said C.C. was brought home.

Carter agreed that there was a time when it was evident something was going on between C.C. and Defendant. She said there were months when C.C. was sleeping in Defendant's bed. She said C.C. never complained that she was being mistreated. Carter described that when Defendant found out C.C.'s real age, he was upset and confronted her. After that, C.C. slept in Carter's room.

Carter acknowledged that at some point, she became aware of a video C.C. made of herself smoking methamphetamine in Defendant's robe, but she did not know when the video was made. Carter said she never saw Defendant give C.C. or R.M. any kind of drugs. She testified that she never saw C.C. or R.M. smoke methamphetamine.

Nicole Correll testified that Melanie worked for her husband, who owned a bar. She and her husband, Adam, became friends with Melanie. She explained that toward the end of her marriage with Adam, he became a drug addict. Nicole testified that Adam was living in the family home until a week or two before he

was found dead in a hotel room. She explained that before the city shut down because of COVID-19, Defendant helped Adam close his gym. Defendant and Carter moved in with Nicole and Adam around July 4, 2020. They stayed there until October 2020. Nicole did not remember Melanie visiting during that time, but she remembered R.M. and C.C. being at the house during that time. She said the last time she saw C.C. was around September 2020. She explained that the police came to the house looking for her and that they took her away.

Nicole explained that she and Defendant developed a relationship in December 2020, and Defendant moved back into the house in January 2021 after Adam died. She testified that during that second stay, R.M. returned to the house. C.C. did not return.

Carter said that when they moved in with Nicole, Nicole did not know that C.C. would stay the night and that she would sneak in the back door while Nicole slept. Nicole said that after Adam died, Melanie came to the house more frequently. She did not know if R.M. and Melanie spent quality time together. Nicole provided that R.M. told her about her accusations against Defendant, but she did not believe it. Nicole asked Defendant about it. He denied it, and she believed him. Nicole testified that Melanie never confronted her about R.M.'s accusations against Defendant, but sometime after R.M. told her, she saw Melanie confront Defendant. Nicole said Defendant never admitted to shaving R.M.'s legs and never offered her, Melanie, or "the kids" any drugs in her presence. She never saw C.C. or R.M. do drugs.

After the conclusion of the presentation of the evidence, the jury unanimously found Defendant guilty as charged on all counts on May 27, 2025. Defendant filed a motion for new trial on June 11, 2025. On June 12, 2025, after the judge denied the motion for new trial, Defendant was sentenced as follows: 30 years imprisonment at hard labor on count one; 30 years imprisonment at hard

labor on count two; seven years imprisonment at hard labor on count three; 10 years imprisonment at hard labor on count four; and 10 years imprisonment at hard labor on count five. The trial judge ordered the sentences to run concurrently with one another and any other sentences Defendant was serving at that time. The judge explained that Defendant was to register as a sex offender for life. Defendant filed a notice of appeal, motion to withdraw trial counsel, and motion for appointment of the Appellate Project on July 11, 2025. The judge granted the notice and motion on July 16, 2025. The instant appeal followed.

ASSIGNMENTS OF ERROR

On appeal, Defendant alleges: 1) there was insufficient evidence to sustain his second degree rape conviction; 2) the trial court erred in permitting the State to admit evidence of his past narcotics convictions; and 3) the trial court erred in failing to observe the 24-hour sentencing delay mandated by La. C.Cr.P. art. 873.

LAW AND ANALYSIS

Sufficiency of the Evidence

Defendant contends that the State presented insufficient evidence of the second degree rape of C.C. (count one). He explains that the purported stupor was the eight alcoholic drinks C.C. consumed, not the methamphetamine, which she said made her feel awake and sober. Defendant asserts, "Consequently, the road to a conviction for Second- Degree Rape was not paved through subsection (A)(2)." He further alleges that C.C. said he did not make any overt threats to her but that a firearm was nearby. He says there was no corroborating evidence of firearm use or threats. Defendant argues that this was not sufficient to establish that C.C. was prevented from resisting by force or threats of physical violence.

The State argues that any rational trier of fact could have found that it established the essential elements of the crime of second degree rape beyond a reasonable doubt. It explains that it was established that C.C. was prevented from

resisting by force or threats of physical violence under circumstances where she reasonably believed that such resistance would not prevent the rape and that Defendant's administration of methamphetamine to the victim, without her knowledge at the time, rendered her incapable of resisting by reason of stupor or abnormal condition of the mind produced by the drug. It points out that courts consider the victim's subjective state of mind. The State contends that not only did Defendant rape C.C., but he was also a principal to the rapes committed by "Kenny" and "Mike."

The question of sufficiency of the evidence is properly raised in the trial court by a motion for post-verdict judgment of acquittal pursuant to La. C.Cr.P. art. 821. *State v. Williams*, 24-567 (La. App. 5 Cir. 9/24/25), 423 So.3d 93, 99. Here, Defendant did not file a motion for post-verdict judgment of acquittal, but rather, on June 11, 2025, he filed a motion for new trial, wherein he contended that the verdict was contrary to the law and evidence. When a motion for a new trial is based on the verdict being contrary to the law and the evidence, there is nothing for review on appeal. *State v. Diaz*, 25-7 (La. App. 5 Cir. 12/29/25), 428 So.3d 1077, 1085. However, both the Louisiana Supreme Court and this Court have addressed the constitutional issue of the sufficiency of the evidence under this circumstance. *Id*.

In reviewing the sufficiency of the evidence, an appellate court must determine that the evidence, whether direct, circumstantial, or a mixture of both, viewed in the light most favorable to the prosecution, was sufficient to convince a rational trier of fact that all of the elements of the crime have been proven beyond a reasonable doubt. *Jackson v. Virginia*, 443 U.S. 307, 99 S.Ct. 2781, 61 L.Ed.2d 560 (1979); *State v. Martin*, 24-233 (La. App. 5 Cir. 2/26/25), 406 So.3d 702, 713-14. Under the *Jackson* standard, a review of the record for sufficiency of the evidence does not require this Court to determine whether the evidence at the trial

established guilt beyond a reasonable doubt, but rather whether, upon review of the whole record, any rational trier of fact would have found guilt beyond a reasonable doubt. *State v. Gilmore*, 24-552 (La. App. 5 Cir. 8/27/25), 421 So.3d 1039, 1052. When addressing the sufficiency of the evidence, consideration must be given to the entirety of the evidence, including inadmissible evidence that was erroneously admitted, to determine whether the evidence is sufficient to support the conviction. *State v. Reed*, 24-329 (La. App. 5 Cir. 4/2/25), 413 So.3d 1166, 1177, *writ denied*, 25-561 (La. 9/10/25), 415 So.3d 1277.

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. Salvant*, 24-205 (La. App. 5 Cir. 3/19/25), 411 So.3d 74, 88, *writ denied*, 25-485 (La. 9/16/25), 416 So.3d 473. When circumstantial evidence is used to prove the commission of the offense, La. R.S. 15:438 provides, "[A]ssuming every fact to be proved that the evidence tends to prove, in order to convict, it must exclude every reasonable hypothesis of innocence." *Id*.

On appeal, the reviewing court does not determine if another possible hypothesis suggested by the defendant could afford an exculpatory explanation of the events. *State v. Ford*, 24-197 (La. App. 5 Cir. 2/26/25), 406 So.3d 652, 668, *writ denied*, 25-356 (La. 5/20/25), 409 So.3d 216. Instead, the appellate court must evaluate the evidence in a light most favorable to the State and determine whether the possible alternative hypothesis is sufficiently reasonable that a rational juror could not have found proof of guilt 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. *Martin*, 406 So.3d at 714. 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. *Id*. Further, a reviewing court errs by substituting its appreciation of the evidence and the credibility of witnesses for that of the fact-finder and overturning a verdict on the basis of an exculpatory hypothesis of innocence presented to, and rationally rejected by, the jury. *Salvant*, 411 So.3d at 88.

The credibility of a witness is within the sound discretion of the trier of fact, who may accept or reject, in whole or in part, the testimony of any witness. *State v. Ellis*, 25-96 (La. App. 5 Cir. 10/29/25), 426 So.3d 120, 128. Additionally, 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. *Gilmore*, 24-552, 421 So.3d at 1052. 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. *Id*.

Defendant was charged and convicted of second degree rape, in violation of La. R.S. 14:42.1 (count one); trafficking children for sexual purposes, in violation of La. R.S. 14:46.3 (count two); indecent behavior with a juvenile, in violation of La. R.S. 14:81 (count three); contributing to the delinquency of a juvenile, in violation of La. R.S. 14:92 (count four); and sexual battery, in violation of La. R.S. 14:43.1 (count five). On appeal, Defendant only challenges the sufficiency of the evidence as to the conviction for second degree rape.

Rape is the act of anal, oral, or vaginal sexual intercourse with a male or female person committed without the person's lawful consent. La. R.S. 14:41. La. R.S. 14:42.1(A)[19] states in pertinent part:

> Second degree rape is rape committed when the anal, oral, or vaginal sexual intercourse is deemed to be without the lawful consent of the victim because it is committed under any one or more of the following

[19] For all purposes, "forcible rape" and "second degree rape" mean the offense defined by the provisions of this section and any reference to the crime of forcible rape is the same as a reference to the crime of second degree rape. Any act in violation of the provisions of this section committed on or after August 1, 2015, shall be referred to as "second degree rape." La. R.S. 14:42.1(C).

circumstances:

> (1) When the victim is prevented from resisting the act by force or threats of physical violence under circumstances where the victim reasonably believes that such resistance would not prevent the rape.
>
> (2) When the victim is incapable of resisting or of understanding the nature of the act by reason of stupor or abnormal condition of the mind produced by a narcotic or anesthetic agent or other controlled dangerous substance administered by the offender and without the knowledge of the victim.

The jury was instructed under subsections one and two. Methamphetamine is a Schedule II controlled dangerous substance considered to have a stimulant effect on the central nervous system. *See* La. R.S. 40:964.

Here, C.C. explained that after she had multiple alcoholic beverages purchased by Defendant, he carried her up the stairs and into his bedroom. C.C. testified that he put her on the bed. She did not hear anything for a short period of time. Then she heard the nightstand drawer close. C.C. testified that the next thing she felt was a tourniquet around her arm and then a needle when Defendant administered methamphetamine to her. She described that she felt "sober and awake," physically "very tingly and very unsure," and "very weird."

Dr. Troy was asked if a victim "told you that they remembered being administered methamphetamines and then being raped, but when they were administered that methamphetamines, they became very -- they called it sobering up. Are they actually sober." She explained that the victim would not be sober because the antidote to alcohol is not methamphetamine. Dr. Troy testified that the liver has to break down what is in the body. She stated, "So, you're putting a stimulant on top of a sedative, and so you might feel more awake, but you're certainly not, by any definition, sober."

C.C. stated defendant removed all of his and her clothes. She testified that he began to "orally rape" her by putting his tongue on her vagina and then "vaginally rape" her by putting his penis in her vagina. She denied that she "in any

way consent[ed] to being raped." C.C. stated she stayed still because she thought that she would be hurt if she moved or screamed. She provided that he did not verbally threaten her but that there was a firearm on the dresser within his reach. However, T.Z. explained that C.C. told her that Defendant put a gun to her head and said, "If you tell anybody or you say anything, I'm going to go hurt your family."

The jury believed the testimony that Defendant injected C.C. with methamphetamine and raped her while in the presence of a firearm. Accordingly, considering the law and the evidence admitted at trial, we find that a rational trier of fact, viewing the evidence in a light most favorable to the prosecution, could have found beyond a reasonable doubt that the evidence was sufficient under the standard set forth in *Jackson* to support Defendant's conviction for second degree rape.[20] *See* La. R.S. 14:42.1(A)(1) and (2).[21]

Prior Bad Acts

Defendant argues that evidence of his prior convictions should not have been admitted at trial. He explains that the conviction for simple possession of cocaine occurred in 2000 and that neither victim made any allegations involving cocaine. As to the convictions involving ketamine, Defendant provides that neither victim asserted she was given ketamine. He says he never denied that he personally used narcotics, including GHB. Defendant asserts that evidence of his past drug convictions was not relevant to refute a claim of ignorance or to establish his access to controlled dangerous substances of this type. He argues that the allegations against him involve methamphetamine, which he asserts is the opposite of ketamine. Defendant avers that the error in admitting his prior convictions was

[20] The State raises the notion that Defendant was also a principal to the two other rapes that occurred. However, the jury was not instructed as to the law of principals.

[21] Although not specifically challenged, this Court has an obligation under *State v. Raymo*, 419 So.2d 858, 861 (La. 1982), to note insufficiency of the evidence. After reviewing the record, we find that the State presented sufficient evidence under the *Jackson* standard to establish the essential statutory elements of counts two, three, four, and five.

not cured by his decision to testify. He concludes that the prior convictions were not relevant, were more prejudicial than probative, and that their admission constitutes reversible error.

The State provides that drugs formed a fundamental part of Defendant's calculated plan to abuse and exploit underage girls for his own sexual gratification and/or the procurement of narcotics. It argues that Defendant's administering and supplying methamphetamine to C.C. constituted an integral part of his scheme to advance his criminal objectives. The State posits that counts three through five relate to Defendant furnishing GHB to R.M. It asserts that the use of illegal narcotics was prominent in this case because Defendant denied offering, giving, or seeing either victim with any type of illegal drug and attempted to misrepresent his possession, use, and knowledge of various substances. The State argues that evidence demonstrating that Defendant "possessed sufficient familiarity with and exposure to illicit drugs to understand what substances to give to his victims, how and in what quantities to administer/provide them, and the effects those substances would produce was highly relevant." It asserts that the prior convictions demonstrated that Defendant possessed the "requisite knowledge and contacts to obtain both a 'club'/'date rape' drug like GHB and a 'street drug' such as methamphetamine." The State concludes that even if the court erred, it was harmless.

On March 10, 2025, the State filed "State's Notice of Intent to Introduce Evidence Under La. C.E. Article 404(B)." The State explained that it intended to introduce at trial the following prior convictions: possession of cocaine, in violation of La. R.S. 40:967(C)(2), and possession of ketamine, in violation of La. R.S. 40:968(C) on October 6, 2000, in Orleans Parish; possession of ketamine, in violation of La. R.S. 40:968(C) on March 29, 2001, in Jefferson Parish; and possession with the intent to distribute ketamine, in violation of La. R.S.

40:968(A)(1) on April 17, 2008, in Orleans Parish. The State explained that ketamine is in the same pharmacological heterogenous group of psychoactive compounds commonly referred to as "club drugs," which include GHB and Rohypnol. The State argued that the introduction of the prior convictions was relevant to show that "he had access to possess [sic] of these types of drugs that he used to drug his victims." It asserted that it also showed Defendant's knowledge "of the effects of these drugs upon the user is part and parcel of understanding why the defendant chose these particular drugs to administer to his victims." The State explained that Defendant is charged with general and specific intent crimes and contended that the prior convictions tend to show that Defendant acted with the requisite criminal intent.

On May 14, 2025, after the first jury was selected and trial began, the State's notice was addressed. Defense counsel objected. At a bench conference, the judge asked, "How are you able to do that?" The prosecutor stated they had a hearing to introduce other crimes evidence and that the State was able to introduce Defendant's prior convictions to show opportunity. The judge interrupted to say that she did not remember having a hearing. The judge then removed the jury. The judge asked if the matter was Article 404(B), and the prosecutor responded affirmatively. The judge asked to see "the 404B" and asked if it addressed the other convictions. The prosecutor again answered affirmatively. The judge asked what the objection was for, and defense counsel stated his "objection is the motion." An off-the-record discussion was held. Afterward, the judge explained that the State filed the motion on March 10th and that it was set for a hearing on March 17th. She said the record did not have a ruling on the motion, so a hearing would be held at that time.

The prosecutor offered exhibits into evidence related to the prior convictions. He explained that the convictions were relevant to show access to

drugs commonly used against victims in sexual offenses and to show a lack of mistake as to the effects of the drugs. The judge pointed out the issue regarding the timing of the hearing, asked her law clerks to verify if there was a ruling, and took a recess.

Later, the trial judge explained that, although the motion hearing was set for March 17th and reset to April 24th, it appeared the motion was not addressed. Defense counsel moved for a mistrial. The State took no position on the request. The judge explained that motions in limine on Article 404(B) are supposed to be heard before trial. She granted the mistrial.

At the subsequent motions hearing, the prosecutor explained the prior convictions and that ketamine is in the same class as GHB and what is known as the date-rape drug. He argued that the evidence would show that "he had access to, he would -- had not claimed that it was a mistake that he had this drug because he is very well aware that it is an illegal substance due to the fact that he pled guilty to possession and possession with the intent to distribute." The prosecutor asserted that the evidence would also show Defendant's knowledge of the sedative effects of the drugs because he had possession with intent to distribute and would know the effects of the drug he was selling. The prosecutor again offered the exhibits related to the prior convictions into evidence. The exhibits were admitted.

Defense counsel asked if the State sought to introduce the convictions for the sole purpose of showing that Defendant knew the effects of the drugs. The judge said she thought that was part of it. Counsel stated, "That's like saying that everybody that gets convicted of having ketamine or anything like ketamine, you know, you need to keep an eye on that guy because he's going to be into human trafficking." He also questioned the connection between convictions from over 15 years prior and the current charges. He averred that time was a factor. The prosecutor explained that the convictions were in 2000, 2001, and 2008. He

argued that it showed a history of Defendant's knowledge. The judge ruled the evidence was admissible. Defense counsel objected.

The fundamental rule in Louisiana governing the use of evidence of other crimes, wrongs, or acts is that such evidence is not admissible to prove that the accused committed the charged crime because the defendant has committed other such crimes in the past. *State v. Ivey*, 24-564 (La. App. 5 Cir. 12/19/25), 428 So.3d 962, 981. However, while the State may not admit evidence of other crimes to prove the defendant is a person of bad character, evidence of prior crimes may be admitted if the State establishes an independent relevance aside from proving the defendant's criminal character. *Id*. Evidence of other crimes, wrongs, or acts is allowed to prove motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake or accident, or when it relates to conduct, formerly referred to as *res gestae*, that constitutes an integral part of the act or transaction that is the subject of the present proceeding. *Id*. *See also* La. C.E. art. 404(B)(1).

Other crimes evidence may be used to prove knowledge when proof of such knowledge is required to establish guilt. *State v. Chester*, 19-363 (La. App. 5 Cir. 2/3/21), 314 So.3d 914, 951, *writ denied*, 21-350 (La. 6/8/21), 317 So.3d 321. Guilty knowledge is used to negate an innocent explanation for an undoubtedly unlawful act, as possibly done unknowingly. *Id*.

Even when the other crimes evidence is offered for a purpose allowed under Article 404(B)(1), the evidence is not admissible unless it tends to prove a material fact at issue or to rebut a defendant's defense. In order for other crimes evidence to be admitted under La. C.E. art. 404(B)(1), one of the factors enumerated in the article must be at issue, have some independent relevance, or be an element of the crime charged. *State v. Gilmore*, 24-551 (La. App. 5 Cir. 8/27/25), 421 So.3d 1062, 1074, *writ denied*, 25-1244 (La. 3/25/26), 428 So.3d 682. The State is only required to make some showing of sufficient evidence to support a finding that the

defendant committed the other independently relevant acts. *Id*.

Additionally, the probative value of the extraneous evidence must outweigh its prejudicial effect. La. C.E. art. 403. Remoteness in time from the charged incident is one factor to be considered in weighing the probative value of the evidence against its prejudicial effect, but a lapse in time will generally go to the weight of the evidence rather than its admissibility. *State v. Magee*, 24-435 (La. App. 5 Cir. 7/16/25), 420 So.3d 158, 184.

The defendant bears the burden to show that he was prejudiced by the admission of the other crimes evidence. *State v. James*, 24-508 (La. App. 5 Cir. 7/30/25), 417 So.3d 103, 112. Absent an abuse of discretion, a trial court's ruling on the admissibility of evidence pursuant to La. C.E. art. 404(B)(1) will not be disturbed. *Id*.

Here, we find that the other crimes evidence was properly admitted. The evidence was relevant to show Defendant's familiarity with narcotics. Also, the lapse in time will generally go to the weight of the evidence rather than its admissibility.

Nevertheless, even if the trial court erred in admitting this evidence, any such error is subject to a harmless error analysis. *See State v. Washington*, 24-550 (La. App. 5 Cir. 8/27/25), 421 So.3d 1020, 1037, *writ denied*, 25-1190 (La. 2/10/26), 425 So.3d 1201. An error is harmless when the guilty verdict actually rendered was surely unattributable to the error. *State v. Myers*, 25-46 (La. App. 5 Cir. 10/29/25), 426 So.3d 133, 147.[22]

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[22] *See also*, *State v. Jenkins*, 18-645 (La. App. 5 Cir. 4/3/19), 267 So.3d 203, *writ denied*, 19-1223 (La. 10/21/19), 280 So.3d 1169, where the defendant was convicted of obscenity. That offense was defined, in pertinent part, as the intentional exposure of the genitals in any prison or jail, with the intent of arousing sexual desire or which appeals to prurient interest or is patently offensive. Based on the elements that the State had to prove, this Court found that the trial court abused its discretion in allowing the admission of evidence relating to the defendant's 2008 battery of a correctional facility employee conviction at trial. This Court explained that the prior crime, which involved spitting on a correctional officer, occurred approximately nine years prior to the instant offense, was not of a sexual nature, was factually unrelated, and was not relevant to the defendant's intent to commit obscenity. However, this

Evidence of Defendant's guilt was not enhanced by admitting evidence of his prior drug-related convictions from 2000, 2001, and 2008. There was ample evidence to support Defendant's convictions without consideration of the prior convictions. Both victims testified at trial. 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. Harvey*, 24-631 (La. App. 5 Cir. 12/23/25), 428 So.3d 1029, 1045.

C.C. testified that when she was under the age of 18, Defendant injected her with methamphetamine and had sex with her without her consent. A firearm was within Defendant's reach at the time. Defendant testified at trial that he had sex with C.C. multiple times and that she was not 18 years old at the time. Further, C.C. testified that she often had sex with defendant in exchange for methamphetamine. She stated that if she had sex with people, Defendant did not pay for the drugs. She denied that she "in any way consent[ed] to the defendant allowing other men to rape" her.

Additionally, R.M., who was also under the age of 17 at the time, indicated that Defendant touched her breast. Although Defendant denied it, R.M. stated he also shaved her from the waist down and was naked in the shower with her. While in the shower, he touched her vagina with his finger. R.M. testified that Defendant gave her GHB. Melanie recounted a time when Defendant attempted to convince her and Nicole to put GHB in their wine. While she said she never saw Defendant provide drugs to other people, she described that the drugs were on the counter in an eye dropper dispenser like vitamins.

Also, after the prior convictions were introduced through another witness, Defendant testified at trial and admitted to the prior convictions. Further, the

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Court also found that the trial court's improper admission of the other crimes evidence was harmless and did not require reversal of the defendant's conviction. *Id*. at 207-08.

record reflects that the trial court gave a limiting instruction to the jury regarding the limited purpose it was to consider the other crimes evidence at the time it read the jury instructions. Based on the foregoing, we find that the verdict was surely unattributable to the admission of the other crimes evidence.

Sentencing Delay

Defendant argues that because he was not offered the 24-hour delay after the denial of his post-trial motions and did not explicitly waive it, the court committed reversible error. He contends that his sentences must be vacated and the matter remanded for resentencing.

The State avers that because Defendant has shown no prejudice and has not challenged any of his sentences on appeal, any error should be deemed harmless.

La. C.Cr.P. art. 873 provides that "[i]f a motion for a new trial, or in arrest of judgment, is filed, sentence shall not be imposed until at least twenty-four hours after the motion is overruled. If the defendant expressly waives a delay provided for in this article or pleads guilty, sentence may be imposed immediately."

Defendant filed a motion for new trial on June 11, 2025, which was denied at a hearing on June 12, 2025. Following a victim impact statement presented at this hearing, the trial court sentenced Defendant.

Absent a showing of prejudice, when a defendant does not waive the delay afforded in La. C.Cr.P. art. 873, and does not challenge the penalty imposed, the error may be harmless. *State v. Perez-Espinosa*, 23-353 (La. App. 5 Cir. 5/22/24), 389 So.3d 284, 294, *writs denied*, 24-431 (La. 10/15/24), 394 So.3d 812, 24-811 (La. 10/15/24), 394 So.3d 818, and 24-464 (La. 10/15/24), 394 So.3d 823. However, when a defendant challenges the penalty imposed and the sentence is not mandatory, the failure to observe the twenty-four-hour delay mandated in La. C.Cr.P. art. 873 cannot be considered harmless error. *Id*. Generally, when a defendant challenges a non-mandatory sentence and the delay is not waived, the

defendant's sentence must be vacated and the matter remanded for resentencing. *Id*.

While the trial court failed to observe the 24-hour delay between ruling on the post-trial motion and sentencing mandated by La. C.Cr.P. art. 873, defense counsel does not challenge the penalties imposed. We find that because there is no evidence of prejudice resulting from the failure to afford Defendant the statutory delay, this error is harmless. *See State v. Lopez*, 23-335 (La. App. 5 Cir. 8/21/24), 398 So.3d 167, 185, *writ denied*, 24-1187 (La. 1/14/25), 398 So.3d 650 (On error patent review, this Court found that although the court failed to observe the delay mandated by La. C.Cr.P. art. 873, defense counsel did not object to the immediate imposition of sentence nor raise a sentencing issue on appeal. This Court found that because there was no evidence of prejudice resulting from the failure to afford the defendant the statutory delay, this error was harmless.).

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 following errors were found.

The trial judge failed to impose the statutory restriction of benefits as to counts one and five. As to count five, La. R.S. 14:43.1(C)(1) states that whoever commits the crime of sexual battery shall be punished by imprisonment, with or without hard labor, without benefit of parole, probation, or suspension of sentence, for not more than 10 years. Generally, when a trial court does not mention the restriction of benefits, such conditions are deemed to exist by operation of law under La. R.S. 15:301.1. *State v. Nguyen*, 25-312 (La. App. 5 Cir. 11/12/25), 427 So.3d 267, 288, *writ denied*, 25-1475 (La. 5/12/26), 430 So.3d 1087. Nevertheless, we remand this matter for correction of the sentencing minute entry and the uniform commitment order ("UCO") as to count five and direct the Clerk of Court

for the 24th Judicial District Court to transmit the original of the corrected UCO to the institution to which defendant has been sentenced and to the Department of Corrections' legal department. *See State v. Robichaux*, 25-147 (La. App. 5 Cir. 12/15/25), 428 So.3d 803, 814-15 (where this Court found the restriction of benefits to be self-activating but remanded the matter for correction of the sentencing minute entry and the UCO and directed the Clerk of Court for the 24th Judicial District Court to transmit the original of the corrected UCO to the institution to which the defendant was sentenced and to the Department of Corrections' legal department).

Next, the bill alleges that the count one offense occurred between January 1, 2019 and October 1, 2021. The sentencing provision of La. R.S. 14:42.1(B) in effect from August 1, 2015 to July 31, 2020 sated that whoever committed the crime of second degree rape shall be imprisoned at hard labor for not less than five nor more than 40 years and that at least two years of the sentence imposed shall be without benefit of probation, parole, or suspension of sentence. There was conflicting testimony at trial as to whether count one occurred on Mardi Gras 2019 or on Mardi Gras 2020. Regardless, Mardi Gras of both years would have occurred between August 1, 2015 to July 31, 2020. Thus, at least two years of the sentence imposed on count one should have been without benefit of probation, parole, or suspension of sentence.

The trial court's failure to impose the statutory restrictions is not cured by La. R.S. 15:301.1 because the portion of the sentence to be served without benefits is left to the discretion of the trial court. *See Nguyen*, 427 So.3d at 288. Therefore, we vacate the sentence as to count one and remand the matter for resentencing. *See State v. Au*, 23-90 (La. App. 5 Cir. 12/20/23), 378 So.3d 265, 280 (where this Court vacated the sentence and remanded the matter for resentencing because the trial court did not restrict benefits for any portion of the sentence imposed even

though the statute called for at least two years of the sentence to be imposed without benefits).

DECREE

For the foregoing reasons, we affirm Defendant's convictions. We vacate the sentence as to count one and remand the matter for resentencing. We also remand this matter for correction of the sentencing minute entry and the uniform commitment order as to count five. The sentences for all other counts are affirmed.

CONVICTIONS AND SENTENCES ON COUNTS TWO TO FIVE AFFIRMED; SENTENCE ON COUNT ONE VACATED AND REMANDED FOR RESENTENCING; REMANDED WITH FURTHER INSTRUCTIONS

SUSAN M. CHEHARDY
CHIEF JUDGE

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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-544

E-NOTIFIED

24TH JUDICIAL DISTRICT COURT (CLERK)
HONORABLE ELLEN SHIRER KOVACH (DISTRICT JUDGE)
JUSTIN C. HARRELL (APPELLANT)
TERRY M. BOUDREAUX (APPELLEE)
REMY V. STARNS (APPELLANT)
ANDREA F. LONG (APPELLEE)
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