

Fifth Circuit Court of Appeal
State of Louisiana

No. 25-KA-295

STATE OF LOUISIANA

versus

TRENTON TATUM

ON APPEAL FROM THE TWENTY-FOURTH JUDICIAL DISTRICT COURT
PARISH OF JEFFERSON, STATE OF LOUISIANA
NO. 21-6718, DIVISION "F"
HONORABLE MICHAEL P. MENTZ, JUDGE PRESIDING

February 25, 2026

SUSAN M. CHEHARDY
CHIEF JUDGE

Panel composed of Judges Susan M. Chehardy,
Jude G. Gravois, and Timothy S. Marcel

CONVICTIONS AFFIRMED; SENTENCE VACATED, IN PART;
SENTENCES OTHERWISE AFFIRMED.

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JGG

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JALISA WALKER
DEPUTY CLERK

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STATE OF LOUISIANA

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COUNSEL FOR DEFENDANT/APPELLANT,
TRENTON TATUM

Kevin V. Boshea

CHEHARDY, C.J.

Defendant, Trenton Tatum, appeals his convictions and sentences for second degree murder, conspiracy to commit armed robbery with a firearm, and two counts of possession of a firearm by a convicted felon. For the following reasons, we affirm defendant's convictions for second degree murder, conspiracy to commit armed robbery, and two counts of possession of a firearm by a convicted felon. We vacate that portion of defendant's sentence that imposed a crime lab fee. All of defendant's sentences for the aforementioned counts are otherwise affirmed.

PROCEDURAL HISTORY

On December 16, 2021, a Jefferson Parish Grand Jury indicted defendant, Trenton Tatum, for the second degree murder of Hassan Veal in violation of La. R.S. 14:30.1 (count one); conspiracy to rob Hassan Veal while armed with a firearm in violation of La. R.S. 14:26:64 (count two);¹ and, two counts of possession of a firearm by a convicted felon in violation of La. R.S. 14:95.1 (counts three and four).² Defendant was arraigned on March 16, 2022, and entered pleas of not guilty to all counts.

The case proceeded to trial before a twelve-person jury on January 6, 2025, and on January 10, 2025, the jury returned a verdict finding defendant guilty as charged on all counts.

Defendant filed a motion for new trial and for post-verdict judgment of acquittal on February 4, 2025. The district court denied these motions on February

¹ This citation format for La. R.S. 14:26:64 references a violation of both La. R.S. 14:26 and La. R.S. 14:64.

² Count three of the indictment provides that defendant possessed a firearm on or about August 5, 2021, and count four provides that defendant possessed "a Glock .40 caliber semi-automatic pistol" on or about August 11, 2021. As to both counts, the indictment provides that defendant was previously convicted of the crime of attempted second degree murder, in violation of La. R.S. 14:27:30.1, on August 16, 2010, under case number 09-3885, Division "N" in the Twenty-Fourth Judicial District Court.

The same indictment charges Tyron Edwards and co-defendant, Elijah Augustus, with second degree murder in count one. Defendant and Augustus were tried simultaneously. Augustus's appeal is currently pending before this Court.

5, 2025, and after delays were waived, sentenced defendant to life imprisonment without benefit of parole, probation, or suspension of sentence on count one, to imprisonment at hard labor for forty-nine years without benefit of parole, probation, or suspension of sentence on count two, and to imprisonment at hard labor for twenty years without benefit of parole, probation, or suspension of sentence each on counts three and four. The sentences on all counts were ordered to run concurrently with each other. Defendant's motion for appeal was granted on March 20, 2025.

FACTUAL BACKGROUND

The victim, Hassan Veal, was shot and killed August 5, 2021, during a planned robbery at Pard Playground in Marrero, Louisiana. The circumstances leading up to the time of the robbery and resulting murder were developed through the witnesses who testified at trial.³

Tyron Edwards

Edwards was one of the three men involved in the murder of the victim, Hassan Veal.⁴ On the evening of August 5, 2021, while at home on Primwood Drive in Harvey, Edwards was getting ready for work when he received a call from co-defendant, Elijah Augustus, that his uncle, Trenton Tatum, defendant herein, needed a ride to Pard Playground to engage in a sale for marijuana.⁵ Defendant and Augustus met Edwards at his home between 8:00 and 8:30 p.m., and he drove them in his car to Pard Playground. He did not notice any bulges or rifles on either of them at that time. All three men were clad in dark clothing. When they arrived

³ The first witness called was Kami Plaisance, an IT custodian of evidence for the Jefferson Parish 911 Communication Center, who identified a certificate of authenticity accompanying the dispatch report, and a CD containing the 911 call placed in this matter, which was published to the jury.

⁴ Under a plea agreement, Edwards pled guilty to manslaughter, and agreed to testify at the trial of this case in exchange for a twenty-five-year sentence, which he is currently serving. Edwards also pled guilty to conspiracy to commit armed robbery and received an additional twenty-five-year sentence.

⁵ According to Edwards, he knew Augustus from the neighborhood in the Woodmere area where he lived with his grandmother on Primwood Drive, and from school. Edwards positively identified both Tatum and Augustus in court.

at the playground, there was a discussion amongst the men that they were going to “do an armed robbery.”⁶ Edwards contends that he got “on board” with the robbery only after their arrival at the playground and parked. The plan was for Edwards to stay in the vehicle while Augustus and defendant hid on the side of a nearby house. When Veal arrived and approached Edwards’ car, defendant and Augustus were going to emerge from hiding and rob Veal at gunpoint.

Edwards was in possession of a Glock 21, .45 caliber model, while Augustus had a Glock 35, .40 caliber model, and defendant had a sawed-off rifle. The three men were at the playground in Edwards’ vehicle for approximately fifteen minutes when Veal texted to say that he was on his way. At that point, defendant and Augustus got out of the vehicle and moved into their position at the side of the house. About ten minutes later, Edwards saw a silver Honda Accord arrive at the playground and park. The driver then approached the passenger-side window of Edwards’ car. Edwards did not initially recognize Veal and was shocked when Veal called out his name. At that point, defendant and Augustus approached and pointed their weapons at Veal, who ran to the other side of Edwards’ vehicle. Defendant and Augustus chased him. Edwards got out of his vehicle and stopped Veal by pointing his .45 caliber firearm at him. Edwards denied that he fired his weapon directly at Veal, but stated that he fired one warning shot away from Veal to get him to stop running. According to Edwards, Veal told them that he did not have anything and pled for the men not to kill him. Defendant instructed Edwards to check Veal’s pockets and when he did, he found nothing. Augustus kept his gun pointed at Veal the entire time.

⁶ Edwards claims that, initially, he did not know that the person they planned to rob was Veal, someone he also knew from the neighborhood and school. It was not until Veal approached his car immediately prior to the robbery that Edwards realized he knew him. Edwards denied that he knew about any prior arrangements involving money or payments between Augustus and Veal, and further denied that defendant was aware of any such payments.

After realizing that Veal had no valuables on his person, defendant went to check Veal's vehicle for anything of value. Edwards heard another voice coming from Veal's vehicle and he thought Veal may have brought someone else to the playground with him. Defendant remained at Veal's vehicle for a couple of minutes and then returned to Edwards' vehicle, again asking Veal if he had anything of value. When Veal confirmed that he did not, according to Edwards, defendant said "Man f*ck it, man f*ck it" and began shooting at Veal, followed by Augustus also shooting. Edwards claims that he remained standing there "watching it all play out," and then ran towards his vehicle with the intent to drive away, but his car door was broken and could not be opened from the outside. Once the shooting ceased, he drove away from Pard Playground with defendant and Augustus and returned to his home on Primwood Drive. According to Edwards, defendant and Augustus had been wearing ski masks and gloves, which were thrown out of the car as they drove away from the playground. He claims that when they arrived at his home, the men spoke briefly for about twenty minutes and then all went their separate ways. Prior to doing so, however, Edwards contends that he witnessed Augustus give defendant the .40 caliber firearm. He did not know what defendant did with that gun or what defendant did with the sawed-off rifle.⁷

Edwards saw defendant the following day in front of his paternal grandmother's home, where they briefly spoke about what had occurred the previous evening. Defendant told Edwards not to "let it get to you, don't say anything, just stay to yourself[.]"

Edwards testified that he had a gray iPhone 11, but realized that it was missing because he had left it at the crime scene. He also realized that he left

⁷ Edwards denied that he ever possessed, fired, or touched the .40 caliber firearm and could not explain why his DNA was later found on it. He claims that if he did touch it, this "probably" occurred after August 5, 2021. Edwards denied ever firing the rifle.

behind one of the Nike slippers that he was wearing. He retained possession of the .45 caliber handgun after the murder, and had it with him when he was apprehended by law enforcement at a friend's home on August 7, 2021, as he was being taken to the police station for questioning.

When shown video surveillance at trial, Edwards confirmed that the footage depicted him, defendant, and Augustus at Pard Playground during the murder. He identified himself, defendant, Augustus, Veal, and his vehicle. Specifically, Edwards testified that the footage showed himself, defendant, and Augustus sitting in his Honda Accord prior to the robbery, and then showed defendant exiting the vehicle first, followed by Augustus. Edwards identified Veal's car arriving at the playground and parking. He acknowledged that the video showed him standing by the driver's door of the car, and that the flicker of light seen was him firing his weapon. Edwards identified Augustus as the person standing near the vehicle, and defendant as the one walking towards Veal's vehicle. He explained that the brakes on his vehicle illuminated while the shooting continued.

Edwards also identified multiple text message exchanges that occurred shortly before the murder, including messages exchanged with Augustus about Veal's vehicle approaching the playground,⁸ messages exchanged with his girlfriend, Shantiane Cotton, stating he was "[w]ith Unc finna go with the move,"⁹ and messages exchanged with defendant, whom he referred to as "Unc." Edwards

⁸ Edwards testified that Augustus' name was saved in his phone as "E," and identified his own number under the contact as "Ty." He explained that they texted several times on the evening leading up to the murder, including a message he received from Augustus at 7:20 p.m., asking him "WYA," to which he replied, "CribRN." Augustus later texted him that "I'm trying to hold him," which Edwards explained meant that Augustus was trying to stall Veal so that he would not leave. Edwards texted Augustus at 10:21 p.m. stating, "Say" and "Ya'll seen that car?" Edwards explained that he was asking whether Augustus and defendant, who were together hiding on the side of a nearby house, saw Veal's silver car arrive at the playground. Edwards denied sending the message to an unknown number. He also denied communicating with Veal and stated that Augustus handled those communications.

⁹ Edwards stated that in the message he sent to Cotton at 10:08 p.m., the "move" referred to the planned marijuana sale, about which he claims she was aware, not the physical moving of his deceased father's furniture that Edwards and defendant, "Unc," had been involved with earlier that morning in Houston, Texas. Edwards claims that Cotton had no prior knowledge of the robbery or the murder.

conceded that he initially gave multiple inconsistent statements to police and during his proffer—including denying having a weapon at the murder scene, inventing a nonexistent additional participant, giving conflicting accounts of who was present at the playground, and changing his identifications of Augustus and defendant—despite signing the district attorney’s notes as accurate. He admitted that he gave conflicting accounts regarding firearms, the exchange of the .40 caliber handgun, and whether he fired a weapon. Edwards admitted discrepancies between those statements and his trial testimony, but maintained that his trial testimony identifying Augustus and defendant was truthful.¹⁰

Aviann Taylor

Taylor and the victim, Veal, had been dating for approximately eight months and lived together at his Primwood Drive residence when he was murdered. Earlier in the evening on the day of the murder, Taylor and Veal were driving in Veal’s automobile, a silver Honda Accord. Before returning to Veal’s mother’s house located on Primwood Drive in Harvey, they met up with co-defendant, Elijah Augustus. She saw the name “Elijah” show up on the car display when Veal was talking with him on the phone. This was Taylor’s first time ever seeing Augustus. Veal explained to Taylor that he was about to “get something from somebody[,]” and joked with her about Augustus having an “eye problem” or being “cross-eyed.” When they pulled up near Augustus’ house, Taylor got a good look at him as he walked around the front of Veal’s car before getting into the back passenger seat. Veal and Augustus spoke briefly, stating, “You got that,” and “Yeah, I got it on Cash App,” after which Augustus got out of the car. She stated the entire encounter lasted about “four to five minutes.” Taylor then learned that

¹⁰ According to Edwards, despite the inconsistencies, he ultimately identified defendant and Augustus before receiving any plea deal from the State, acknowledged responsibility for Veal’s death, and admitted that his cell phone and slipper linked him to the murder.

Veal had sent someone \$666.00 through the Cash App. While she did not know exactly what the transaction was for, she “had [her] suspicions.”

Later, around 7:00 p.m., Taylor accompanied Veal to the home of one of his friends located in Waggaman, where they stayed for a couple of hours, “chilling” and smoking “marijuana.” During that time, Veal’s phone was “blowing up” with calls from an unknown number. Initially, Veal did not answer the phone, but when he eventually did, she heard him say, “I’m gonna be on my way in a few.” At approximately 10:00 p.m., Veal and Taylor left Waggaman in Veal’s silver Honda Accord and headed to Pard Playground. Veal did not tell Taylor the purpose of their trip to the park. When they arrived, Taylor observed that a vehicle, possibly a silver Honda CRV, was already there, with its motor running, but lights off. Veal backed his vehicle into a parking space closest to the street.

According to Taylor, she and Veal stayed in his car for two to three minutes when his phone rang. The caller asked Veal if he had arrived. She looked around but did not see anyone. Veal got out of the car and moved towards the driver’s door of the other vehicle. As someone opened the driver’s door, Taylor observed another man come from behind a fence holding a rifle, and a third man “probably came from behind the car that . . . was already over there.”¹¹ She described the men as armed, wearing “[a]ll black, [h]oodies, ski masks, [and] gloves.” The man Taylor saw come from behind the fence approached the passenger side of Veal’s car where Taylor was sitting and began “jacking on the car door,” causing Taylor to unlock it and exit the vehicle.¹² He asked her “where the money, where the guns, where your purse,” to which she responded, “We ain’t got nothing.” She

¹¹ On cross-examination, Taylor stated that there were possibly two men standing by the driver’s door of the other vehicle and that a third man came from behind the fence.

¹² While the man that approached Veal’s car was fully clad in black, Taylor could see his eyes and recognized him (because he was cross-eyed) as the man that Veal had met with earlier in the day, co-defendant, Elijah Augustus. According to Taylor, all three of the men involved in the murder of Veal were between 5’6” to 5’8” tall.

claims Veal must have heard her because he screamed from over by the other vehicle—where the other two men, who were carrying “rifles with beams on them,” were holding Veal at gunpoint with his back against the fence and his hands in the air—“She ain’t got nothing.” Taylor stated that everything went momentarily silent and then gunfire erupted. She stated that the man standing next to Veal’s vehicle, whom she identified as Augustus, was not the person who starting the shooting. She claims that, frightened, she jumped into the driver’s seat of Veal’s car and sped off. As she did so, she looked in her rearview mirror and observed the other Honda vehicle pull out and move in the opposite direction. Once she determined that the men were not following her, she returned to the playground and spoke with law enforcement, who were already on the scene.

Taylor positively identified Augustus in court as the man who approached Veal’s vehicle.¹³ She testified that she had never before heard Veal speak of someone named Trenton Tatum, nor could she identify defendant at court.

Sergeant Steven Keller

Jefferson Parish Sheriff’s Office (“JPSO”) responded to a 911 call about a shooting at Pard Playground, where Veal was found near the canal bank with multiple gunshot wounds and spent casings nearby. Sergeant Keller was the lead homicide investigator in this case.¹⁴ By the time he arrived at Pard Playground, the scene was already cordoned off by deputies. Detective Scott Bradley accompanied him to the location of Veal’s body, gave him a briefing and pointed out certain pieces of evidence obtained, and advised him that there was a witness on the scene, Aviann Taylor, the victim’s girlfriend.

¹³ Taylor later acknowledged that she did not initially tell detectives that she recognized the man pointing the gun at her as Augustus. She explained that the interview occurred thirty minutes to an hour after the murder, at a time when she was extremely upset, crying, and scared, and consequently, was only able to provide limited information. She denied ever telling detectives that the person was a “tall, goofy kid, not over 21.”

¹⁴ On August 5, 2021, Keller was a JPSO detective assigned to the homicide division. In October 2024, he was promoted to sergeant and assigned to the robbery section of the department.

According to Keller, there was one .45 caliber casing found at the scene, four .40 caliber casings, and multiple .223 and 5.56 casings, with ballistic analysis indicating three firearms. He described surveillance footage, which was published to the jury, showing Edwards' vehicle arriving at the playground, Veal arriving shortly thereafter, and a confrontation near the driver's side of Edwards' vehicle, with visible muzzle flashes. A black iPhone was found near Veal's body, later determined to belong to Edwards, making him a suspect. Data subsequently extracted from the device pursuant to a search warrant included photographs confirming Edwards' identity, as well as images of a black vehicle matching the one seen leaving the area, including a license plate linked to Edwards' VIN number.¹⁵ Officers obtained a warrant for the Primwood Drive residence, located Edwards' vehicle during surveillance, and later apprehended him. A subsequent search of Edwards' vehicle revealed his wallet and driver's license. Officers also recovered a Glock Model 21 .45 caliber pistol from under the driver's seat with a round chambered, a magazine with seven rounds, and additional .45 caliber ammunition.

After being *Mirandized*, Edwards admitted being present at Pard Playground, driving the vehicle, knowing a robbery would occur, dropping his cell phone, and leaving behind a slipper at the murder scene. According to Keller, Edwards was "truthful to a point," initially denying being armed, giving false names, including a nonexistent "Demarcus Augustus," before eventually identifying defendant and Elijah Augustus as the men who were with him. Investigators identified Augustus' phone number through a 10:21 p.m. message sent from Edwards' phone the night of the murder. Through associated phone records, they also identified defendant's phone number. After identifying

¹⁵ Automated License Plate Recognition ("ALPR") data confirmed the license plate on Edwards' vehicle, showing it at 10:30 p.m. on the night of the homicide, approximately three minutes after the first 911 call, less than half a mile from the scene.

Edwards, defendant, and Augustus as the three suspects, Keller reviewed Edwards' social media accounts, obtained search warrants for defendant's and Augustus' Facebook accounts, and discovered photographs showing the three suspects together. When shown the photographs, Edwards confirmed the identity of defendant and Augustus as being the other two men that participated in the murder of Veal. Edwards was arrested pursuant to a warrant obtained by Keller, who also obtained warrants for the arrests of defendant and Augustus, as well as a warrant to collect DNA evidence from Edwards.

Defendant was eventually taken into custody at the Siesta Motel in Marrero. A search warrant was obtained for Room 121, where investigators recovered identification for defendant, a .40 caliber Glock firearm with ammunition, and a green laser attachment.¹⁶ Keller testified that this discovery was significant because Aviann Taylor described one of the men at the scene carrying a rifle with a green laser.¹⁷

After defendant was arrested was *Mirandized*, he voluntarily provided an audio/video statement that was played for the jury at trial. In the interview, defendant repeatedly denied knowing anything about the murder, denied being with Edwards on the night of the homicide, denied having a cell phone, and denied ever communicating with anyone involved. He told Keller that he had "nobody" other than his parents, that he had been released from prison and was attempting to live a "whole new life," and that he had served "twelve and two." Defendant claimed that he did not know why his name "came up" in the investigation and

¹⁶ Keller testified that a person named Jawan Harris, whom Edwards testified was a childhood friend, purchased the .40 caliber firearm and told Keller that he had given the weapon to Edwards. Keller testified that Edwards never identified Harris as a participant in the murder.

¹⁷ A second individual, Anthony Jones, was apprehended from the motel and taken to the investigations bureau for questioning. A search warrant for a buccal swab of his DNA was also obtained and later determined to be on the .40 caliber weapon found in the motel. The other three suspects, Edwards, defendant, and Augustus, were excluded from the profile found on the gun. While there was no other evidence linking Jones to the crime, Keller could not verify Jones' location on August 5, 2021, and did not know whether or not Jones was present at Pard Playground.

declined to identify any person who could verify his whereabouts. Defendant ultimately declared that he had nothing to say, maintained his innocence, and the interview ended. The discovery that defendant had “done time before” formed the basis for his arrest for being a convicted felon in possession of a firearm. Keller confirmed that he obtained paperwork reflecting defendant’s release from parole on that “particular conviction.” Specifically, Keller identified a “certification letter from the Department of Public Safety showing that as of January 19, 2023, defendant was eligible for release from parole.” Keller obtained a search warrant for a buccal swab from defendant for DNA comparison.

Keller testified that Detective Ryan Vaught from JPSO’s homicide division procured a search warrant for 3830 Clover Street, an address associated with Augustus, and pursuant to the search of that residence, officers located a rifle magazine containing twenty-eight .223/5.56. He stated that similar brands were recovered from the crime scene. The U.S. Marshall Service assisted in locating a Ford Fusion that Augustus was “known to own and operate” at a Metairie motel, which officers seized and thereafter searched.¹⁸ According to Keller, the vehicle’s license plate had been removed, which he opined was an attempt to conceal its identity. A single .40 caliber Smith & Wesson cartridge was found in the door handle of the front passenger seat. Additionally, a gray and black Rockbros brand mask was discovered in the trunk, which Keller stated corroborated Taylor’s statement that she believed the perpetrators of the murder were wearing masks.¹⁹ Mail addressed to Augustus on Clover Lane was also found in the vehicle.

Keller testified that after Augustus was arrested, a buccal swab for his DNA was obtained from him, and an iPhone IMEI in his possession was seized. He

¹⁸ Keller explained that ALPR cameras captured Augustus’ vehicle with a license plate both before and after the homicide, which plate investigators identified through vehicle registration records.

¹⁹ Keller conceded that he did not follow up with Taylor as to whether she recognized the mask discovered in Augustus’ trunk, nor did he request DNA testing of it.

stated that Cash App records obtained from Square, Inc. for the account “La E” confirmed a \$666.00 payment from Veal on August 5, 2021, and established that the account belonged to Augustus through his personal identifiers and listed address. Keller also noted additional Cash App transactions between defendant and Augustus, including a \$40.00 transfer on August 6, 2021, at 1:38 p.m.

Keller testified that during his review of defendant’s phone, he located a video depicting a firearm. He stated the video showed defendant holding a .40 caliber firearm with the serial number visible and confirmed that it was the same .40 caliber firearm recovered from the Siesta Motel and linked to the homicide.

Keller explained that forensic testing was limited to DNA swabs from a .45 caliber handgun recovered from Edwards’ vehicle and a .40 caliber Glock recovered from the Siesta Motel. DNA analysis of the .40 caliber Glock contained DNA from an unrelated individual, Anthony Jones, but did not have defendant’s DNA. Keller agreed that defendant may not have possessed the .40 caliber firearm on August 6, 2021. He stated that Edwards claimed possession of the .45 caliber firearm and that, although rifle-caliber ammunition was recovered at the scene, it could not be linked to defendant. Keller also stated that the .40 caliber ammunition consistent with the crime scene was found in defendant’s possession and that defendant was present in the motel room where the .40 caliber firearm was recovered.

On cross-examination, Keller acknowledged that no witness other than Edwards placed defendant inside Edwards’ vehicle on August 5, 2021, and confirmed that Edwards sent the text message, “Did ya’ll see that car,” only to Augustus’ phone. Further, Keller testified that the context of the jail calls Edwards made to defendant was unknown, and conceded that Taylor initially only identified Augustus.

Dr. Dana Troxclair

Dr. Troxclair, accepted at trial as an expert in the field of forensic pathology, conducted the autopsy on Veal. She testified that she found nine separate distant-range gunshot wounds: to Veal's left mandibular area (the cheek), fracturing the mandible and the base of his skull and penetrating brain stem, the right temporal lobe of the brain and the right parietal lobe; to Veal's right upper chest near the clavicle, penetrating the right lung, the esophagus, the aorta, the left lung, and the left posterior eighth rib; to Veal's anterolateral right wrist, exiting the left palm area; to Veal's mid lower chest, exiting the right upper chest; to Veal's anterior distal right thigh, fracturing the mid-right humerus; to Veal's anterolateral lower left leg, exiting the distal left thigh and resulting in fractures of the left femur; to Veal's distal right thigh that exited the left knee; to Veal's upper left thigh in the medial aspect that re-exited on the anterior scrotum; and, to Veal's anterior lateral right chest to the right of his nipple. According to Dr. Troxclair, the wounds to Veal's head, right upper chest, and lateral right chest were potentially fatal wounds, but the gunshot wound penetrating the brain stem was "an immediate fatal shot." She concluded that the cause of Veal's death was multiple gunshot wounds, and the manner of death was homicide.

Detective Ryan Vaught

Vaught, a detective in the JPSO homicide unit, participated in the execution of the search warrant at the Clover Lane residence, which residence Sergeant Keller had learned was associated with Augustus. During the search, investigators recovered a thirty-round rifle magazine containing twenty-eight GFL and Frontier brand .223/5.56 caliber ammunition, which Vaught explained were of interest because they were the same or similar to the fired cartridge casings recovered from the crime scene, which they knew were fired from a rifle.

Vaught also participated in the search of Room 121 at the Siesta Motel where defendant was apprehended. He testified that officers recovered and collected as evidence a Glock model 35 .40 caliber firearm from beneath the bed's headboard loaded with one round in the chamber and additional ammunition in the magazine, a blue duffel bag containing a flashlight and a green laser attachment compatible with a handgun, a separate bag containing items bearing defendant's name, an identification card, and a Samsung cell phone that was being charged. Another individual, Anthony Jones, was present in the room and was questioned after being *Mirandized*. Buccal swabs were collected from Jones and the firearm. Vaught stated that while the ammunition was seized, it was not fingerprint tested or swabbed for DNA (but clarified that ammunition is not typically fingerprinted or swabbed "because of the mechanism to put it in the magazine, a lot of pushing, swiping, smearing," which would make "fingerprinting ... futile"). Further, he conceded that he did not personally observe defendant possessing the firearm and could not confirm whether it belonged to defendant or to Jones. He explained that the absence of a person's DNA on the weapon, however, does not mean that person did not handle it.

Detective Scott Bradley

Bradley is a JPSO detective in the homicide division who participated in the investigation of Veal's murder. He identified photographs taken at the scene showing the victim and items of evidence, including: thirty-one shell casings (one .45 caliber casing, four .40 caliber casings, and twenty-six assorted .223 and 5.56 caliber rifle casings); a black Apple iPhone that was located near the vicinity of Veal's body, surrounded by several of the fired cartridge casings; and a slipper.²⁰ Because a cell phone was found in the victim's pocket, the Apple iPhone was

²⁰ The victim was wearing one slipper and another one was found beside him. A third slipper was found away from the victim's body.

determined not to belong to him. Bradley stated that no firearms were found on Veal or in his general vicinity. Detectives located surveillance cameras nearby on the rear of a house on Trinity Street that recorded a video of the murder, which was played for the jury.

Detective Jesus Falcon

Falcon, a JPSO detective in the gun violence unit, assisted in the execution of a search warrant on Veal's silver Honda Accord. The vehicle was photographed, DNA swabs were obtained, and three possible friction ridge slides were collected. A scale was located in the center console. Additionally, one Glock brand 9 mm magazine loaded with thirteen rounds of ammunition were recovered from a backpack found in the vehicle's trunk.

Falcon also participated in executing a search warrant for Edwards' Honda Accord. The search was also documented with photographs. Edwards' wallet was located between the seat and door frame containing a Louisiana driver's license belonging to Tyron Edwards. A Glock 21 .45 caliber firearm, a magazine loaded with 8 Winchester caliber cartridges, and a box of Dynamic Research Technologies ("DTR") ammunition were located underneath the driver's seat. A box of ammunition was also found in the glove box.

Detective Dustin Ducote

Extensive cell phone evidence was introduced at trial. Detective Ducote, an expert in digital device analysis, testified that the JPSO digital forensics unit extracted data from phones belonging to Edwards (iPhone), Augustus (iPhone XR), and defendant (Samsung). The victim's phone was determined to be too damaged to be extracted.

Ducote testified that Edwards' iPhone reported its location in Houston earlier on August 5, 2021, and near Pard Playground in Marrero at approximately 10:19 p.m. that same night. The extraction confirmed messaging between Edwards

and Augustus throughout the evening, including communications coordinating the meeting and Edwards' 10:21 p.m. message shortly before the shooting inquiring about whether "ya'll" had seen the victim's vehicle.²¹ The extraction also confirmed Edwards' 10:08 p.m. message to his girlfriend stating he was "with Unc ... finna go with the move,"²² and other communications between Edwards and defendant consistent with Edwards' testimony. The extraction revealed that Edwards' phone also exchanged messages with defendant's phone, saved in the device as "Trent." For example, on July 23, 2023, at 12:37 p.m., Edwards texted, "Wyd, Unc," and at 1:17 p.m., defendant responded, "wats good," followed by Edwards' message at 1:18 p.m., "Dude had text back. E [aka Augustus] was tryna see where you at or WYA." On August 1, 2021, Edwards again sent "Wyd Unc," to which defendant replied, "Just made it home wat's good."

Regarding the Samsung device associated with defendant, Ducote identified three photographs on the device that helped confirm its possessor: one depicting a driver's license or ID taken on March 5, 2021; another taken on April 1, 2021, which also appeared on Facebook; and, a third photograph logged on August 10, 2021. Ducote also confirmed the same message thread previously recovered from Edwards' phone appeared on the Samsung device.

Defendant's Samsung phone contained messages with the contact saved as "E," which correlates with Augustus' cell phone number, including messages from August 2 and August 5, 2021. Ducote explained that these messages had been deleted from the phone, but were retrieved through the extraction.

On August 2, 2021, at approximately 3:19 p.m., defendant messaged Augustus, "Need a lic tonight. Son for real. A lil nice something ASAP." Later

²¹ Keller explained that this message coincided with Veal's arrival at the playground and occurred approximately six minutes prior to the first 911 call.

²² Keller testified that Edwards' girlfriend, Ms. Cotton, confirmed that Edwards left the house with defendant on the night of the homicide, and Ms. Cotton identified defendant. Sergeant Keller stated that Ms. Cotton said that she did not know what Edwards was doing, but she knew he was with defendant.

that evening, Augustus responded, “Dude got the yeahs?” Defendant replied that they could “just get the AR and one hand thing,” followed with a message stating, “Or just get the AR for us 4 gone go,” to which Augustus responded, “Ightt [or “alright”] it’s good.”²³ On the morning of the murder, defendant messaged Augustus to “set something up for tonight,” to which Augustus replied, “Bet that,” followed by, “Might got some in mind call me.” That evening, Augustus asked where defendant was located, and defendant responded that he was “at Tyron house.”²⁴

Extracted messages revealed continued communication on August 6, 2021, the day following the murder. On that afternoon, defendant messaged Augustus, “Ima need u to pull up by ant,” to which Augustus responded that he was coming.²⁵ Ducote explained that he could not confirm whether “Ant” referred to defendant, Anthony Jones, or another individual. Later in the evening, Augustus messaged defendant, and defendant directed him to the Siesta Motel, stating “k street the siesta motel room 227 just knock on the door.” At the same time, defendant sent the message, “He need a 40,” to which Augustus replied that he was “10 mins away.”²⁶

Ducote reviewed the internet search history on defendant’s Samsung device. It showed that on August 6, 2021, the device searched, “WGNO, JPSO, man killed

²³ Sergeant Keller, having reviewed the extracted messages between defendant and Augustus, testified that, based on his experience, he believed that the phrase used by defendant, “Need a lic[k] tonight,” referred to committing a robbery to obtain money. Keller explained that the term, “yeahs,” used in Augustus’ message is slang for guns.

²⁴ Keller testified that these messages confirmed that defendant texted Augustus that he was at Edwards’ residence. According to Keller, the message also corroborated the statements of both Ms. Cotton and Edwards that Edwards was with his uncle, defendant, at the time of the homicide.

²⁵ According to Ducote, the Samsung phone contained messages in which the user identified himself as “Ant,” including messages sent on July 20 and August 7, 2021, stating, “This is Ant.” Ducote explained that he could not confirm whether “Ant” referred to defendant, Anthony Jones, or another individual.

²⁶ Keller stated that the reference to needing “a 40,” referred to a .40 caliber firearm, and that the murder weapon was a .40 caliber firearm, Keller testified that text messages exchanged showed that Augustus brought the .40 caliber weapon to the Siesta Motel where defendant was located. Further, he stated that messages sent on August 6, 2021, discussed another individual seeking to obtain the .40 caliber firearm and also referenced meeting at the Siesta Motel, including directions to a specific room.

in last night Marrero shooting.” Ducote explained that on August 8, 9, and 10, 2021, multiple searches were conducted on the device related to murder investigations, evidentiary requirements, criminal liability, cooperating witnesses, and background information, as well as searches for Edwards and for himself through an online inmate and background search service.

Ducote testified that on the Samsung device, he also located two videos depicting an individual holding a firearm. Both videos, which were played for the jury, were accessed and modified on April 10, 2021, approximately four months prior to the homicide, and originated from the Samsung device based on their file paths.²⁷ Ducote agreed that he was not suggesting the person holding the gun in the video was the same person who possessed a similar firearm on August 5, 2021, as none of the videos he reviewed involved August 5 or August 11, 2021, the two dates that are contained in the indictment. He could not determine who was holding the firearm in the April 10, 2021 video or whether it belonged to that individual.²⁸

Ducote stated that, in his expert opinion, the user of the Samsung device was associated with the account “TrentonTatum91@gmail.com,” and explained that the Facebook ID and most of the accounts were linked to this same email address. He clarified that the phone did not contain an ownership box identifying “Trenton Tatum,” defendant, as the owner, but that the repeated use of the “Trenton Tatum” user ID on the device suggested his ownership. Ducote also confirmed that,

²⁷ The first video shows a firearm resting on a car seat, when an individual’s hand enters the frame, strokes the weapon, and can he heard saying, “The baby, the baby, you see her,” before the hand moves from the screen. The second video begins with a close-up of what appears to be a Glock 35 firearm, with a visible serial number. The video then pans outward to show the full weapon, including a magazine held in an individual’s hand. Sergeant Keller likewise testified that, during his review of defendant’s phone, he located a video depicting a firearm. According to Keller, the video showed defendant holding a .40 caliber firearm, with the serial number visible, which he confirmed was the same .40 caliber weapon recovered from the Siesta Motel and linked to the homicide.

²⁸ In his testimony, Ducote mistakenly referred to the April 10, 2021 video as an August 11, 2021, video. There was no August 11, 2021 video extracted from the Samsung device.

because the Samsung device did not have the location services data turned on, there was no data placing the device at Pard Playground on August 5, 2021.²⁹

Regarding the iPhone associated with Augustus, Ducote testified the device's location data placed it at Pard Playground on August 5, 2021, from approximately 10:02 p.m. to 10:27 p.m., corresponding with the time of the first 911 call. The phone contained the same text-message conversations previously described. Ducote explained that some communications sent via Messenger would not appear in carrier call detail records. The iPhone also showed that Cash App had been installed and later deleted.

Jene Rauch

Rauch is the lead firearm and toolmark examiner for the JPSO crime lab. She testified that twenty-six 5.56 or .223 casings, four .40 caliber casings, and one .45 caliber casing were recovered at the scene of the homicide, along with thirteen unfired 9mm cartridges. Projectile fragments from the autopsy were also examined. It was determined that the Glock Model 21, Gen 4, .45 firearm recovered from Edwards' vehicle was not the source of the .45 casing recovered at the scene. The Glock Model 35, .40 Smith & Wesson recovered from the Siesta Motel fired the four .40 caliber casings recovered at the scene. The twenty-six 5.56 or .233 casings were fired from the same unrecovered 5.56 caliber weapon, and the unfired .223 ammunition recovered from defendant's residence was consistent with those casings. The cartridge found in the firearm recovered from the motel was a .40 Smith & Wesson cartridge consistent with the .40 casings from the scene. She stated that the autopsy projectiles were .22 caliber class, consistent with .223 or 5.56 caliber ammunition, and were fired from the same weapon.

²⁹ According to Ducote, the Samsung phone revealed several usernames over time, including "Flyguy91" and "FG Moola," as well as a Facebook Messenger username of "Fly Guy Moola." He explained that the photograph associated with the Messenger account matched a photograph previously recovered from within the phone.

Rauch testified that no conclusions could be drawn regarding the remainder of the lead-like projectiles recovered from the victim.

Deputy Donna Quintanilla

Deputy Quintanilla fingerprinted defendant in court and identified and confirmed the fingerprint card. She also confirmed a certified conviction packet for defendant, indicating it related to defendant's guilty plea to attempted second degree murder in case number 09-3885 on August 16, 2010. Quintanilla provided that the conviction packet stated that defendant's sentence was fifteen years imprisonment at hard labor from that date giving defendant credit for all time served on these charges only. She examined the ten-print card from the Automated Fingerprint Identification System ("AFIS") offered into evidence by the State and compared them with the fingerprints taken from defendant the day prior. In her comparison, Quintanilla found sufficient features in agreement to identify defendant's right thumb.

April Solomon

Ms. Solomon, an expert in the field of forensic DNA analysis, testified that as to several items submitted to her for analysis, there was either no DNA detected or too little DNA was detected to move to the next step of the analysis. She obtained DNA profiles from the swabs of the Glock .45 caliber firearm, the Glock .40 firearm, and from reference buccal swabs of defendant, Augustus, Edwards, and Jones. She testified that touch DNA tends to be low quantity, low quality, and difficult to work with. DNA testing of the Glock .45 caliber weapon provided strong support for Edwards as a contributor, while Augustus, defendant, and Jones were excluded. She further testified that DNA testing of the Glock .40 caliber weapon provided very strong support for Jones as a contributor, while defendant and Augustus were excluded.

ASSIGNMENTS OF ERROR

Defendant raises the following assignments of error: (1) the evidence was insufficient to establish his identity as the perpetrator of the charged offenses, and therefore the district court erred in denying his motions for new trial and post-verdict judgment of acquittal; (2) the district court erred in admitting photographs taken at the victim's autopsy, whose prejudicial effect outweighed their probative value, and in denying the motion for mistrial based on the erroneous admission of the photographs; and (3) the district court erred in the admission of prior bad acts pursuant to La. C.E. art. 404(B) without the State providing pretrial notice or its intent to introduce such evidence.

DISCUSSION

Sufficiency of the Evidence

Defendant first contends the evidence was insufficient to establish his identity as the perpetrator of the charged offenses. Specifically, defendant argues the State failed to present physical, scientific, or eyewitness evidence linking him to the homicide. He maintains the record does not establish his presence at the scene or his participation in the offenses. Defendant argues the State's case relied on the unreliable testimony of Edwards consisting of repeated lies, conflicting statements about firing a weapon, unexplained DNA on a firearm, and multiple convictions. According to defendant, Edwards' self-interest and lack of corroboration made his testimony insufficient to support defendant's convictions. Consequently, he maintains the motion for post-verdict judgment of acquittal, or in the alternative, a new trial, should have been granted.

In response, the State argues that defendant's identity was proven through a combination of surveillance video, eyewitness testimony, digital evidence, and physical evidence. The State avers that, based on the testimony and evidence presented a trial, a rational juror could find beyond a reasonable doubt that

defendant was one of the three perpetrators and was guilty of second degree murder, conspiracy to commit armed robbery with a gun, and possession of a firearm by a convicted felon.

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. Nguyen*, 22-286 (La. App. 5 Cir. 2/27/23), 359 So.3d 108, 118. On February 4, 2025, defendant filed a motion for new trial and post-verdict judgment of acquittal asserting that, even when viewed in the light most favorable to the State, the evidence was insufficient. He further argued the verdict was contrary to the law and evidence, and that the ends of justice required a new trial. After submission, the district court denied the motions.³⁰

In reviewing claims challenging the sufficiency of the evidence, an appellate court must determine if the evidence, whether direct or circumstantial, or a combination of both, viewed in the light most favorable to the prosecution, was sufficient to convince a rational trier of fact that all 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. Lane*, 20-181 (La. App. 5 Cir. 1/27/21), 310 So.3d 794, 804. 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 trial established guilt beyond a reasonable doubt, but rather, whether, upon review of the entire record, any rational trier of fact would have found guilt beyond a reasonable doubt. *State v. McKinney*, 20-19 (La. App. 5 Cir. 11/4/20), 304 So.3d 1097, 1103. When addressing the sufficiency of the evidence, consideration must be given to the entirety of the evidence, including evidence that

³⁰ While this Court has previously recognized that the denial of a motion for new trial based on the verdict being contrary to the law and evidence is not subject to review on appeal, both the Louisiana Supreme Court and this Court have still addressed sufficiency claims under these circumstances. *State v. Ellis*, 18-463 (La. App. 5 Cir. 7/15/19), 276 So.3d 633, 642.

was erroneously admitted, to determine whether the evidence is sufficient to support the conviction. *State v. Hearold*, 603 So.2d 731, 734 (La. 1992). See also *State v. Griffin*, 14-251 (La. App. 5 Cir. 3/11/15), 169 So.3d 473, 483.

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. *State v. Burnham*, 16-468 (La. App. 5 Cir. 2/8/17), 213 So.3d 470, 474, writ denied, 17-664 (La. 4/6/18), 240 So.3d 184. In the event of conflicting testimony as to factual matters, the resolution of which depends on a determination as to the credibility of the witnesses, this is a matter of the weight of the evidence and not the sufficiency of the evidence. *State v. White*, 472 So.2d 130, 132 (La. App. 5 Cir. 1985). The credibility of witnesses is not to be reweighed on appeal. *State v. Rowan*, 97-21 (La. App. 5 Cir. 4/29/97), 694 So.2d 1052, 1056. As the Louisiana Supreme Court has stated, “the *Jackson* standard does not serve as a vehicle for the reviewing court to second guess the rational credibility determinations of the fact finder at trial.” *State v. Juluke*, 98-341 (La. 1/8/99), 725 So.2d 1291, 1293.

Evidence may be 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. 12/19/21), 334 So.3d 1021, 1034. When circumstantial evidence is used to prove the commission of the 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. *Id.* All evidence, both direct and circumstantial, must be

sufficient to support the conclusion that the defendant is guilty beyond a reasonable doubt. *Id.* Additionally, evidence of flight, concealment, and attempt to avoid apprehension is relevant and admissible to prove consciousness of guilt from which the trier of fact may infer guilt. *State v. Davis*, 18-485 (La. App. 5 Cir. 4/10/19), 269 So.3d 1123, 1132, *writ denied*, 19-716 (La. 11/12/19), 282 So.3d 229.

In addition to proving the statutory elements of the offense, the State is also required to prove the defendant's identity as the perpetrator. Where the key issue is identification, the State is required to negate any reasonable probability of misidentification in order to carry its burden of proof at trial. *State v. Lopez*, 23-335 (La. App. 5 Cir 8/21/24), 398 So.3d 167, 176-77, *writ denied*, 24-1187 (La. 1/14/25), 398 So.3d 650. Identification by only one witness is sufficient to support a conviction. *State v. Williams*, 08-272 (La. App. 5 Cir. 12/16/08), 3 So.3d 526, 529, *writ denied*, 09-143 (La. 10/16/09), 19 So.3d 470. In the absence of internal contradiction or irreconcilable conflict with physical evidence, one witness' testimony, if believed by the trier of fact, is sufficient to support a requisite factual finding. *State v. Caffrey*, 08-717 (La. App. 5 Cir. 5/12/09), 15 So.3d 198, 202, *writ denied*, 09-1305 (La. 2/5/10), 27 So.3d 297.

The gravamen of defendant's insufficiency argument on appeal focuses primarily on identity and credibility. Specifically, defendant argues the State failed to establish that he was one of the perpetrators of the homicide and that the accomplice testimony was insufficient to support the convictions. Although defendant centers his argument on identity and credibility, this Court also has an obligation under *State v. Raymo*, 419 So.2d 858 (La. 1982), to address insufficiency of the evidence. In *Raymo*, the Supreme Court held that "[b]ecause the state's case was devoid of evidence of an essential element of the charged offense . . . defendant's conviction and sentence must be set aside . . . regardless of

how the error is brought to the attention of the reviewing court.” *Id.* at 861. 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*, 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.* Alternatively, the accused could be entitled to a reduction of the conviction to a judgment of guilty of a lesser and included offense. La. C.Cr.P. art. 821; *Hearold*, 603 So.2d at 734. Consequently, we address the sufficiency of the evidence as to all of the charged offenses.

A. Second Degree Murder (Count One)

Defendant was convicted of second degree murder, which is defined as the killing of a human being when the offender (1) has specific intent to kill or inflict great bodily harm, or (2) is engaged in the perpetration or attempted perpetration of one of several enumerated felonies, including armed robbery, even though the offender has no intent to kill or inflict great bodily harm. *See* La. R.S. 14:30.1(A)(2); *State v. Davis*, 22-281 (La. App. 5 Cir. 3/8/23), 360 So.3d 82, 89-90, *writ denied*, 23-507 (La. 1/10/24), 376 So.3d 133.

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. 14:301(A)(1). Specific intent need not be proven as a fact, but may be inferred from the circumstances surrounding the offense and the defendant’s conduct. *Lopez*, 398 So.3d at 176-77. 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. La. R.S. 14:30.1(A)(2) contains the

circumstances under which a defendant can be found guilty under the felony murder rule, which dispenses with the necessity of proving *mens rea* accompanying a homicide; the underlying felony supplies the culpable mental state. *State v. Redell*, 22-457 (La. App. 5 Cir. 4/26/23), 361 So.3d 1153, 1162, *writ denied*, 23-734 (La. 2/6/24), 378 So.3d 752.

In presenting its theory of felony murder, the State alleged that defendant was engaged in the commission or attempted commission of armed robbery. Armed robbery is defined as “the taking of anything of value belonging to another from the person of another or that is in the immediate control of another, by use of force or intimidation, while armed with a dangerous weapon.” La. R.S. 14:64(A); *State v. Martin*, 07-1035 (La. App. 5 Cir. 10/28/08), 996 So.2d 1157, 1160. La. R.S. 14:27(A) provides, “[a]ny person who, having a specific intent to commit a crime, does or omits an act for the purpose of and tending directly toward the accomplishing of his object is guilty of an attempt to commit the offense intended; and it shall be immaterial whether, under the circumstances, he would have actually accomplished this purpose.”

In the instant matter, the jury was instructed on both the specific intent and felony murder theories of second degree murder. A jury is not constitutionally required to agree on a single theory to convict a defendant where it is instructed as to alternative theories. *See State v. Seals*, 09-1089 (La. App. 5 Cir. 12/29/11), 83 So.3d 285, 346, *writ denied*, 12-293 (La. 10/26/12), 99 So.3d 53, *cert. denied*, 569 U.S. 1031, 133 S.Ct. 2796, 186 L.Ed.2d 863 (2013).

Based on the record before us, we find that a rational trier-of-fact could have found the evidence sufficient under the *Jackson* standard to support defendant’s conviction of second degree murder under the specific intent theory. At trial, the State presented evidence that three individuals were involved in the shooting of Veal at Pard Playground on the night of August 5, 2021. Aviann Taylor testified

that earlier that day, she and Veal met with Augustus for a Cash App transfer, and that around 10:00 p.m., after Veal had received several calls, she drove to the playground with him. She stated that when they arrived, two masked men wearing gloves emerged with weapons equipped with green lasers. One of the men approached Veal's vehicle and asked about wallets, money, and whether she or Veal had any guns. She testified that when the men realized she nor Veal had any valuables, gunfire erupted, causing her to flee the playground in Veal's vehicle.

Edwards testified regarding his involvement and identified defendant, his uncle, as one of the shooters. He stated that Augustus told him the agreed upon plan was to rob the victim at gunpoint. He further stated that he drove Augustus and defendant to Pard Playground, that Augustus carried a .40 caliber Glock, defendant carried a sawed-off rifle, and he had a .45 caliber firearm. According to Edwards, when Veal reached the passenger side of the car, Augustus and defendant emerged from the side with guns drawn. Edwards stated that defendant fired multiple shots at close range, despite Veal begging not to be killed, and that Augustus then fired as well.

Surveillance footage from a nearby residence corroborated Edwards' account of the ambush and subsequent shooting, although the identities of the men in the video could not be discerned. The video showed two men arriving, waiting near the fence line, ambush Veal when he approached Edwards' car, and multiple muzzle flashes consistent with Edwards' and the shooters' gunfire. Further, digital evidence also reflected communication between Edwards, Augustus, and defendant on the night of the homicide and placed some of their phones in the area of Pard Playground around the time of the shooting. Ballistics established that twenty-six 5.56/.223 casings recovered from the scene and the autopsy projectiles were all fired from a single unrecovered 5.56 caliber rifle, consistent with Edwards' testimony that defendant carried a rifle. The autopsy confirmed that Veal suffered

nine distant-range gunshot wounds, including to the head and chest, causing his death.

Defendant challenges the credibility and reliability of Edwards' testimony, citing his prior lies to police, shifting statements about whether or not he fired a weapon, his felony record, and the absence of DNA or fingerprint evidence linking defendant to the scene. He argues that Edwards had an incentive to shift blame and that his testimony should not be credited without independent corroboration.

The record, however, confirms that the jury heard and considered Edwards' inconsistencies, prior conflicting statements, the circumstances of his arrest, and the impeachment evidence offered by the defense. The jury also heard and considered the State's corroborating evidence, including surveillance footage, the digital evidence linking the phones, and the firearm recovered from defendant's motel room. The resolution of conflicting testimony rests solely with the trier of fact, who may accept or reject, in whole or in part, any witness' testimony.

Burnham, 213 So.3d at 474. In the absence of internal contradiction or irreconcilable conflicts with physical evidence, the testimony of a single witness, if believed, is sufficient to support a conviction. *McKinney*, 304 So.3d at 1103.

By returning a guilty verdict, the jury obviously credited Edwards' testimony. The record indicates that his version of events was also supported by other evidence presented by the State, including cell phone evidence reflecting communications between defendant and Augustus, coordinated phone activity on the night of the offense, and surveillance footage. Based on our review of all the evidence, viewed in the light most favorable to the State, we find that a rational trier of fact could find beyond a reasonable doubt find that defendant was one of the perpetrators of the homicide,³¹ that he possessed the specific intent to kill or

³¹ The jury was instructed as to the definition of "principals." Under La. R.S. 14:24, "[a]ll persons concerned in the commission of a crime, whether present or absent, and whether they directly commit the act constituting the offense, aid and abet in its commission, or directly or indirectly counsel or procure

inflict great bodily harm, and that the State negated any reasonable probability of misidentification.

B. Conspiracy to Commit Armed Robbery (Count Two)

Defendant was also convicted of conspiracy to commit armed robbery in violation of La. R.S.14:26 and La. R.S. 14:64. As previously stated, armed robbery is defined in La. R.S. 14:64 as “the taking of anything of value belonging to another from the person of another or that is in the immediate control of another, by use of force or intimidation, while armed with a dangerous weapon.” The elements of the crime of conspiracy are an agreement or combination of two or more persons for the specific purpose of committing a crime and an act done in furtherance of the object of the agreement or combination. La. R.S. 14:26(A); *State v. Tatum*, 09-1004 (La. App. 5 Cir. 5/25/10), 40 So.3d 1082, 1089. An essential element of the crime of conspiracy is specific intent. The existence of specific intent is an ultimate legal conclusion to be resolved by the trier of fact. *State v. Banks*, 05-830 (La. App. 5 Cir. 2/27/06), 924 So.2d 1059, 1062. The foundation of the offense is the combination of at least two minds for an unlawful purpose and a corrupt agreement imparting guilty knowledge on the part of each. *State v. Robbins*, 43,129 (La. App. 2 Cir. 3/19/08), 979 So.2d 630, 638.

We find the State presented sufficient evidence establishing that defendant had an agreement with Augustus and Edwards, and had specific intent, to rob Veal. Text messages sent from defendant’s phone to Augustus’ phone stated, “Need a lic tonight. Son for real. A lil nice something ASAP.” Sergeant Keller confirmed that the term “lic” refers to obtaining money through robbery. Edwards testified

another to commit the crime, are principals.” Only those persons who knowingly participate in the planning or execution of a crime are principals to that crime. *State v. Battle*, 23-272 (La. App. 5 Cir. 6/17/24), 391 So.3d 130, 144, *writ denied*, 24-912 (La. 1/14/25), 398 So.3d 649. Additionally, under the law of principals, a person may still be convicted of a crime even if he has not personally fired the fatal shot. *Id.* Mere presence at the scene of a crime does not make one a principal to the crime. However, “[i]t is sufficient encouragement that the accomplice is standing by at the scene of the crime ready to give some aid if needed, although in such a case it is necessary that the principal actually be aware of the accomplice’s intention.” *Id.*

that Augustus called Veal and arranged for him to meet Augustus at Pard Playground, and that he, Augustus, and defendant traveled together to the playground armed with guns. According to Edwards, defendant and Augustus hid behind a nearby fence until Veal arrived, ambushed him, and demanded money before the shooting occurred. Viewed in the light most favorable to the prosecution, we find the evidence was sufficient for a rational trier of fact to conclude that defendant entered into an agreement with Augustus and Edwards to commit an armed robbery and, additionally, that an overt act was taken in furtherance of that agreement.

C. Possession of a Firearm by a Convicted Felon (Counts Three and Four)

Defendant was convicted of two counts of possession of a firearm by a convicted felon in violation of La. R.S. 14:95.1. To support a conviction under La. R.S. 14:95.1, the State must prove beyond a reasonable doubt that defendant (1) had possession of a firearm; (2) a prior conviction for a crime of violence or other enumerated felony; (3) absence of the ten-year statutory period of limitation; and (4) the general intent to commit the crime. La. R.S. 14:95.1(C). With respect to the third element, the State must prove that ten years has not elapsed since the date of completion of the punishment for the prior felony conviction. *Woods*, 376 So.3d at 1156. Regarding the fourth element, “[g]eneral criminal intent is present whenever there is specific intent, and also when the circumstances indicate that the offender, in the ordinary course of human experience, must have adverted to the prescribed criminal consequences as reasonably certain to result from his act or failure to act.” La. R.S. 14:10(2).

“Possession” includes both actual and constructive possession. *State v. Stewart*, 25-50 (La. App. 5 Cir. 10/30/24), 398 So.3d 812, 821, *writ denied* 24-1445 (La. 2/19/25), 400 So.3d 931. A person is in “constructive possession” if the

firearm is subject to defendant's dominion and control, even if it is only temporary in nature and/or if control is shared. *Id.* A defendant's mere presence in an area where a firearm is found does not necessarily establish possession. *Id.* at 821. The State must also prove that the offender was aware that a firearm was in his presence and that the offender had the intent to possess the weapon. Guilty knowledge may be inferred from the circumstances and proved by direct or circumstantial evidence. The question of whether there is sufficient "possession" to convict is dependent upon the facts of each case. *Id.*

In the present case, defendant was charged with two counts of possession of a firearm by a convicted felon. As to count three, the indictment states that defendant possessed a "firearm" on or about August 5, 2021, and as to count four, the indictment states that defendant possessed "a Glock .40 caliber semi-automatic pistol" on or about August 11, 2021. As to both counts, the indictment states that defendant was previously convicted of the crime of attempted second degree murder, in violation of "14:27:30.1" on August 16, 2010, under case number 09-3885, Division "N," in the Twenty-Fourth Judicial District Court.

Regarding count three of the indictment, the State presented evidence that defendant possessed a firearm during the August 5, 2021 homicide of Veal. Edwards testified that defendant was armed with a sawed-off rifle when the three men traveled to Pard Playground and that defendant and Augustus hid behind a fence armed with their weapons prior to ambushing Veal. Edwards also testified that defendant was still armed when he searched Veal's vehicle. Aviann Taylor likewise testified that she observed three men armed with weapons equipped with green lasers when they emerged at the playground. Ballistics established that twenty-six .223/5.56 casings recovered at the scene were all fired from a single rifle. The ballistic evidence further revealed that three different types of ammunition were recovered at the scene, suggesting that multiple firearms were

used during the commission of the crime. Based on this evidence, we find the State established the “possession” element for count three.

Count four of the indictment concerns the Glock .40 caliber firearm that was recovered from Room 121 at the Siesta Motel, where defendant was apprehended on August 11, 2021. Ballistics established that this was the same firearm used in the homicide of Veal. The firearm was found loaded under the bed’s headboard, and the room also contained a bag holding defendant’s identification, personal items, and his Samsung cell phone. Additionally, officers located a blue duffel bag containing a flashlight and a green laser attachment consistent with the type of laser that Taylor testified she observed during the shooting. Although another male, Anthony Jones, was present in the motel room and his DNA was detected on the firearm, Sergeant Keller testified that there was no evidence that Jones was involved in the homicide. Text messages exchanged between defendant and co-defendant, Elijah Augustus, further linked defendant to the firearm, including messages on August 6, 2021, wherein defendant stated that “he need a .40” and directed Augustus to bring the .40 caliber firearm to the motel. Edwards testified that after the shooting, he observed Augustus give the .40 caliber firearm to defendant. We find this evidence sufficient to establish that defendant exercised dominion and control over the Glock .40 caliber firearm and had knowledge of its presence in the motel room, and constructively possessed the firearm for purposes of La. R.S. 14:95.1.

As to both counts three and four, we also find the State proved that defendant had a prior conviction for an enumerated felony. Ms. Quintanilla testified that defendant’s fingerprints taken in court matched the fingerprints contained in the certified conviction packet associated with case number 09-3885, which reflected that defendant pled guilty on August 16, 2010, to attempted second degree murder, an enumerated felony under La. R.S. 14:95.1, and was sentenced to

fifteen years at hard labor without benefit of parole, probation, or suspension of sentence. Based on this evidence, we find the State carried its burden of proving the prior-conviction element for both counts three and four.

With respect to the element of possession of a firearm by a convicted felon that requires the absence of the ten-year statutory period of limitation, the State must prove that ten years has not elapsed since the date of completion of the punishment for the prior felony conviction. *See State v. Ford*, 24-197 (La. App. 5 Cir. 2/26/25), 406 So.3d 652, 671, *writ denied*, 25-356 (La. 5/20/25), 409 So.3d 216.³² Evidence of the initial sentence imposed is not sufficient to establish the date of completion of punishment for purposes of the ten-year cleansing period. *State v. Knight*, 99-138 (La. App. 5 Cir. 6/30/99), 738 So.2d 1179, 1181.

In the instant case, defendant's prior conviction occurred on August 16, 2010, more than ten years before the illegal firearm possession alleged in 2021. Thus, the State bore the burden of proving that more than ten years had not elapsed since the date defendant completed his sentence or supervision for his 2010 conviction.

At trial, Sergeant Keller testified that during defendant's interview, he learned that defendant was a convicted felon when defendant stated that he had "done time before." Defendant's recorded statement was played for the jury. During his interview, defendant made several remarks referencing his prior incarceration. Early in the interview, defendant stated, "This is a whole new life," and Keller asked him, "Since you've been released from prison?" Defendant responded that it was a "whole new life" and that "it was a good life" before he "went." Defendant said that it was "just a mistake" when he was younger. He repeated that he learned from "that," and this was a "whole new life for [him]."

³² At the time of the instant offense, La. R.S. 14:95.1(C) provided that the prohibition on firearm possession does not apply to a person "who has not been convicted of any felony for a period of ten years from the date of completion of sentence, probation, parole, [or] suspension of sentence[.]"

Later in the interview, defendant told Keller, “I know this isn’t going to mean anything to you because you haven’t been through what I’ve been through, but I did twelve and two.” Defendant also told Keller that he had “been through this before” at seventeen, and it is not a game. He also mentioned that he “knew the game.” Keller commented that defendant was going to let everyone speak for him and asked, “Did that work for you last time?” Defendant responded, “What last time” and Keller told him, “You did twelve years.” Defendant replied, “What twelve years have to do with right now?” Keller commented, “You’ve been through this before,” and defendant answered, “I was a juvenile, I was a child, I’m a grown thirty years old.” Keller responded that defendant “went to a double jail” and was not a juvenile. Defendant stated he had been charged as an adult, and when asked his age when “he did it,” defendant answered that he was seventeen.

Keller confirmed that, after learning that defendant was a convicted felon, he “obtain[ed] or discover[ed] paperwork reflecting [defendant’s] release from parole on that particular conviction.” Keller testified that he recognized State’s Exhibit 122 as a “certification letter from the Department of Public Safety stating that, as of January 19, 2023, [defendant] can be released from parole.” The first page of Exhibit 122 is entitled, “State of Louisiana Department of Public Safety & Corrections, Baton Rouge, Louisiana – Diminution of Sentence,” and states that “Trenton Tatum, B/M, 06/24/1991, DOC No. 00554303, an offender in the Allen Correctional Center, is eligible to be released by diminution of sentence in accordance with R.S. 15:571.5, and it is ordered that the offender shall be released in the same manner as if on parole on January 19, 2023.”³³ It also provides,

³³ La. R.S. 15:571.5 provides, in pertinent part:

- A. When a prisoner committed to the Department of Public Safety and Corrections is released because of diminution of sentence pursuant to this Part, he shall be released as if released on parole.
- B. (1) Before any prisoner is released on parole upon diminution of sentence, he shall be issued a certificate of parole that enumerates the conditions of parole ...

“Docket Number JEF 093885.” The first page further states, “The above-named subject was released on January 19, 2023,” and is signed by the Warden Keith Cooley.

The second page is captioned, “Louisiana Department of Public Safety and Corrections – Allen Correctional Center.” It appears in the form of a memorandum addressed to the Office of Adult Services, Department of Public Safety and Corrections, from Warden Keith Cooley, dated January 23, 2023, regarding projected release eligibility dates. It contains a from-date and to-date of January 19, 2023, again listing “Tatum, Trenton DOC #00554303.” At the bottom of page two, it states: “All the above release dates are certified correct according to Department Regulation No. B-04-001 and the laws of this state.” It is signed by Warden Keith Cooley and dated January 17, 2023.³⁴

The certified conviction packet associated with case number 09-3885, introduced through Ms. Quintanilla, reflects that defendant pled guilty to attempted second degree murder on August 16, 2010, received a fifteen-year sentence at hard labor without benefit of parole, probation, or suspension of sentence. The minute

(3) The person released because of diminution of sentence pursuant to this Part shall be supervised in the same manner and to the same extent as if he were released on parole. The supervision shall be for the remainder of the original full term of sentence. If a person released because of diminution of sentence pursuant to this Part violates a condition imposed by the parole committee, the committee shall proceed in the same manner as it would to revoke parole to determine if the release upon diminution of sentence should be revoked.

[Emphasis added.]

³⁴ As to defendant’s argument that the district court erred in admitting this memorandum (State’s Exhibit 122) into evidence—in order to establish the absence of the ten-year statutory limitation period as to his prior conviction—on the basis that the document was inadmissible hearsay, we disagree. At trial, the district court reviewed the document, found it consistent with defendant’s conviction and sentencing, and overruled defense counsel’s hearsay objection. Even assuming the document is hearsay—an oral or written statement, other than one made by the declarant while testifying at the present trial, offered in evidence to prove the truth of the matter asserted (La. C.E. 801(C)—public records and reports are excluded from the hearsay rule by the public records exception. La. C.E. art. 803(B)(8). A review of the document shows that it originated from the Department of Public Safety and Corrections and concerned defendant’s diminution-of-sentence release and projected release dates. The information therein relates to release procedures described in La. R.S. 15:571.5, which assigns responsibilities to the Department of Corrections in connection with diminution-of-sentence supervision. Based on its format, language, and the inclusion of the warden’s signature, we find the document reflects matters recorded by Department of Corrections personnel in the regular course of performing their statutory duties. As such, the document falls within the scope of the public records exception to the hearsay rule and was properly admitted, even though it was offered for the truth of the matters asserted therein.

entry included with the exhibit indicated that defendant was nineteen years old at the time of sentencing, and the bill of information set forth that the offense occurred on or about September 5, 2008.

We find this evidence is sufficient to establish that defendant, while released from custody some time prior to August of 2021, remained on parole status until January 19, 2023, as a result of an early release from custody due to his eligibility for a diminution of sentence pursuant to La. R.S. 15:571.5(B)(3). Keller testified that he obtained or discovered paperwork reflecting defendant's release from parole on that particular conviction," and that State's Exhibit 122 showed that as of January 19, 2023, defendant "can be released from parole." Additionally, the reference to "Docket Number JEF 093885" corresponds to the certified conviction packet associated with case number 09-3885, introduced into evidence through Ms. Quintanilla, which reflects that defendant pled guilty to attempted second degree murder on August 16, 2010, and received a fifteen-year sentence at hard labor without benefit of parole, probation, or suspension of sentence.

Finally, defendant's recorded statement references prior incarceration (*i.e.*, "This is a whole new life," "it was a good life before I went," "I did twelve and two"). Although defendant's statement does not refer to the offense for which he served time, other evidence in the record places his time served from the date of the underlying offense for attempted second degree murder, confirmed by the verified conviction packet, to sometime between August 16, 2010, the date of his sentencing, and August 2021.

Considering the foregoing, and based on our review of the record, we find that a rational trier of fact could have found the evidence sufficient under the *Jackson* standard to support defendant's convictions on counts one, two, three and four. We find that the district court did not err by denying his motion for new trial

and motion for post-verdict judgment of acquittal regarding the sufficiency of the evidence as to all counts.

Motion for Mistrial Based on the Admission of Photographs Taken During the Victim's Autopsy

In his next assignment of error, defendant avers the district erred in failing to grant his motion for mistrial based on its admission of a series of “gruesome” photographs taken during the autopsy, whose probative value he claims was far outweighed by their prejudicial effect on the jury. We disagree.

During Dr. Troxclair's testimony, she confirmed that she met with prosecutors prior to trial and pared down the autopsy photographs to seventeen. At trial, the State offered to admit the full set of autopsy photographs (a total of 132) for record purposes only. At that time, defense counsel did not object, nor did counsel for co-defendant, and the court admitted the exhibit. Dr. Troxclair then identified the seventeen photographs selected to depict Veal's injuries. Defense counsel stated that he objected to the photographs being published to the jury, but not to their admission into evidence.

At a bench conference, defense counsel argued that publishing fifteen to twenty photographs served no purpose because the jury had already viewed surveillance footage and heard detailed testimony establishing that Veal sustained nine gunshot wounds. The State responded that, although 132 photographs existed, it intended to publish only a limited number of close-ups depicting the wounds, none of which were gratuitously graphic, to show the “moral force” of the case. The district court overruled defense counsel's objection, finding the selected photographs accurate and not unduly prejudicial.

When the images were shown, a family member of the victim apparently fainted in front of the jury. The jury was immediately removed from the courtroom, and emergency assistance was requested. Defense counsel

immediately moved for a mistrial. He reiterated that he had objected before publication and argued that the photographs lacked probative value because the jury had already heard that Veal sustained nine gunshot wounds, they served only to inflame the jury, and their introduction caused a highly prejudicial scene that compromised defendant's right to a fair trial. He claimed the incident tainted the jury.

The district court denied defendant's motion for mistrial and gave the following curative instruction to the jury upon its return to the courtroom:

Ladies and gentlemen, I'm sorry that ya'll had to observe what did occur. Apparently, for the record, someone was leaving the courtroom and did not make it out of the courtroom before falling down in the aisle. That is not evidence in this case. That is not something for you to consider in rendering your verdict in this matter. As you will be instructed, that as jurors, you are not to be influenced by sympathy, passion, prejudice, or public opinion. You are expected to reach a verdict based solely on the evidence and the law. And in so far as that is concerned, I will instruct you to disregard anything that you just saw as it relates to your verdict in this case.

After trial, in his motion for new trial and for post-verdict judgment of acquittal, defendant argued that a new trial was warranted because the district court erroneously denied his motion for mistrial after a family member of the victim suffered a medical emergency during the State's publication of the autopsy photographs. He claimed the emotional reaction occurred in full view of the jury and injected improper sympathy into the proceedings, which could not be cured by the court's admonition. He averred the emotional display prevented the jury from neutrally evaluating the evidence, particularly given his argument that the State failed to positively link him to the firearm, the crime scene, or the victim.

On appeal, defendant maintains the district court erred in failing to grant his motion for mistrial, or at a minimum, claims he is entitled to a new trial. We note that defendant's motion for new trial and post-verdict judgment of acquittal filed

below focused solely on the emotional effect the fainting of the victim's family member had upon the jury during publication of the photographs. On appeal, however, defendant challenges only the admissibility of the photographs as the basis of his motion for mistrial, and the authority he cites in support concerns solely that issue. Although defendant references the fainting incident in his brief on appeal, he does not develop any argument that the incident itself warranted either a mistrial or a new trial. Accordingly, because the theory defendant advances on appeal differs from the basis of his motion for new trial and post-verdict judgment of acquittal raised in the district court, we find the denial of the motion for new trial on that basis is not before us.³⁵ Consequently, we address only the admissibility of the photographs as challenged below.

In response, the State maintains the district court did not abuse its discretion in denying the motion for mistrial. It points out that seventeen autopsy photographs were shown: one of the clothed victim as received, fourteen documenting the entrance and exit wounds, and two showing projectiles and fragments recovered from Veal's body during the autopsy. It argues the photographs were relevant, clinical in nature, and not gruesome. The State further argues that defendant did not adequately brief his claim regarding the denial of the mistrial and that nothing in the record shows the incident prejudiced defendant to the degree required to warrant a severe remedy.

Upon motion of a defendant, a mistrial shall be ordered, and in a jury case, the jury dismissed, when prejudicial conduct in or outside the courtroom makes it impossible for the defendant to obtain a fair trial, or when authorized by La.

C.Cr.P. arts. 770 or 771. La. C.Cr.P. art. 775. Mistrial is a drastic remedy, which should be used only upon a clear showing of prejudice by the defendant; a mere

³⁵ We note, however, that we find nothing in the transcript that definitely establishes whether the person that allegedly fainted did so as a result of the autopsy photographs being shown, or due to a misstep while attempting to leave the courtroom, as the district court later explained to the jury.

possibility is not sufficient. *State v. Lane*, 20-137 (La. App. 5 Cir. 12/23/20), 309 So.3d 886, 907, *writ denied*, 21-100 (La. 4/27/21), 314 So.3d 836. “Whether a mistrial should be granted is within the sound discretion of the trial court and the denial of a motion for mistrial will not be disturbed absent an abuse of that discretion.” *State v. Mejia*, 23-161 (La. App. 5 Cir. 11/29/23), 377 So.3d 860, 878, *writ denied*, 23-1722 (La. 5/29/24), 385 So.3d 705. The standard to judge whether a mistrial should have been granted is whether the defendant suffers such substantial prejudice that he has been deprived of any reasonable expectation of a fair trial. *Id.*

“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. Sheppard*, 24-209 (La. App. 5 Cir. 4/30/25), 414 So.3d 22, 36. Even when the cause of death is not at issue, the State is entitled to the moral force of its evidence, and postmortem 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. *Id.* 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.* The cumulative nature of photographic evidence does not render it inadmissible if it corroborates the testimony of witnesses on essential matters. *Id.* at 37. The admission of gruesome photographs is not reversible error unless it is clear that their probative value is substantially outweighed by their prejudicial effect. *Id.* 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.* See also *State v. Holliday*, 17-1921 (La. 1/29/20), 340 So.3d 648,

704, *cert. denied*, -- U.S. --, 141 S.Ct. 1271, 209 L.Ed.2d 10 (2021); *State v. Ramirez*, 09-350 (La. App. 5 Cir. 12/29/09), 30 So.3d 833, 851.

Upon review, we find no error in the district court's admission of the seventeen autopsy photographs. The photographs were limited close-ups depicting the victim's external gunshot wounds and the projectiles recovered, none of which appear to be graphic, bloody, or unduly disturbing. Dr. Troxclair identified each photograph and explained the location and nature of the injuries, noting that the cause of death was nine gunshot wounds. The State represented that it had selected only a small subset of images from the 132 photographs admitted for the record and that the photographs simply illustrated for the jury the injuries sustained by the victim, without being gratuitous. The record shows that the district court reviewed the photographs and overruled defense counsel's objection, finding that they accurately depicted the injuries sustained and were not unduly prejudicial. Further, we find the use of seventeen photographs out of 132 is consistent with illustrating the victim's nine separate wounds, such that multiple photographs would reasonably be expected to depict the different injuries. Moreover, considering the evidence against defendant, we find it is unlikely the jury based its guilty verdict on the alleged inflammatory nature of the photographs.

For these reasons, we find the district court did not abuse its discretion in denying the motion for mistrial. This assignment of error is without merit.

Other Crimes Evidence

Defendant argues the district court erred in allowing the State to introduce "other crimes" evidence outside the scope of the indictment. Specifically, he contends the State introduced an April 2021 video allegedly depicting him with a firearm, effectively implying an uncharged violation of La. R.S. 14:95.1, based on his prior attempted second degree murder conviction. He maintains the State gave no advance notice of its intent to use this evidence, there was no pretrial

admissibility ruling, and the district court never weighed its probative value against unfair prejudice. He further asserts the error was not harmless. Because the State allegedly presented no independent evidence placing him at the scene, defendant argues the video improperly suggested both a prior conspiracy with co-defendant, Augustus, and a separate weapons offense. Defendant avers the State's lack of notice deprived him of a fair opportunity to prepare or adjust his defense, and that admission of the video constituted reversible error.

In response, the State maintains the district court acted within its discretion in denying defendant's mid-trial motion to exclude the text messages and the April video. Specifically, the State argues this evidence constituted *res gestae* and, therefore, required no pretrial notice. Further, the State argues that, even assuming the evidence was not *res gestae* or was otherwise improperly admitted, any error was harmless.

Prior to trial, defense counsel filed omnibus motions, including a motion for discovery and for exculpatory evidence, and specifically requested notice of any other crimes or acts the State intended to introduce under La. C.E. art. 404(B). The State later responded that it was providing open-file discovery.

At the commencement of trial, the State noted that the cell phone extractions had long been tendered in discovery. During opening statements, the prosecutor told the jury that defendant's phone, which was recovered from his motel room days after the murder, contained a video of defendant holding a .40 caliber handgun that was later determined to ballistically match the murder weapon. Defense counsel also referenced the same video in his opening statement, stating: "He has a video of him and a gun in April . . . He's charged with having a gun in August and there's just no evidence." Following the opening statement by counsel for co-defendant, Augustus, a bench conference was held, during which the prosecutor stated he had already walked defendant's counsel through the extraction

and had previously sent screenshots of the specific items he intended to introduce so counsel would be cognizant of the evidence the State planned to rely upon.

On the fourth day of trial, defense counsel argued the State failed to provide the requisite notice under La. C.E. art. 404(B) for the April 2021 video, which predated the homicide and fell outside the indictment. He argued that no *Prieur*³⁶ notice or other notice pursuant to Article 404 had been provided. The State responded that the video was *res gestae* or integral-act evidence showing defendant's connection to the murder weapon and, as such, required no notice. The district court overruled defense counsel's objection to the State's introduction of the April 2021 video into evidence.

The State introduced the extraction of the Samsung phone linked to defendant. Detective Ducote testified that two videos dated April 10, 2021, were found on the device, and the videos were played for the jury without objection. On cross-examination, he agreed the videos did not depict the homicide date nor establish who possessed the gun in August 2021. Sergeant Keller testified, without objection, that another video on the phone showed defendant holding the .40 caliber firearm later recovered at the Siesta Motel. In the first video, a firearm is seen in a baby's car seat with a hand touching the weapon, while a voice states, "The baby, the baby, you see her." The second video reveals what appears to be a Glock 35 with a visible serial number and the magazine in an individual's hand.

Following trial, on February 4, 2025, defendant filed a motion for new trial and for post-verdict judgment of acquittal, arguing, in part, that the court should not have permitted the State to introduce character evidence or evidence of prior bad acts without providing the required pretrial notice. The following day, defense counsel submitted on the motion, and the trial court denied the motion.

³⁶ See *State v. Prieur*, 277 So.2d 126 (La. 1973).

In Louisiana, the fundamental rule 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 similar crimes in the past. *State v. Fuxan*, 24-302 (La. App. 5 Cir. 5/14/25), 415 So.3d 387, 412. 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. *Id.* (citing *State v. Frickey*, 22-261 (La. App. 5 Cir. 3/1/23), 360 So.3d 19, 49, writ denied, 23-468 (La. 11/8/23), 373 So.3d 59). 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*, which 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).

Res gestae events constituting other crimes are deemed admissible because they are so nearly connected to the charged offense that the State could not accurately present its case without reference to them. *Fuxan*, 415 So.3d at 412. The *res gestae* doctrine is designed to allow the story of the crime to be told in its entirety by proving its immediate context of happenings in time and place. *Id.* at 413. Close connexity in time and location is required between the charged and uncharged conduct to ensure that “the purpose served by admission of other crimes evidence is not to depict the defendant as a bad man, but rather, to complete the story of the crime on trial by proving its immediate context of happenings near in time and place.” *Id.* The test of whether *res gestae* evidence is admissible is not simply whether the State might somehow structure its case to avoid any mention of the uncharged act or conduct, but whether doing so would deprive its case of narrative momentum and cohesiveness, with power not only to support

conclusions, but to sustain the willingness of jurors to draw the inferences, whatever they may be, necessary to reach an honest verdict. *Id.*

Even when the other crimes evidence is offered for a purpose allowed under La. C.E. art. 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. *Frickey*, 360 So.3d at 50. In order for other crimes evidence to be admitted under Article 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. *Fuxan*, 415 So.3d at 413. 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.* (citing *State v. Breaux*, 22-581 (La. App. 5 Cir. 5/10/23), 366 So.3d 727, 736).

Additionally, the probative value of the extraneous evidence must outweigh its prejudicial effect. La. C.E. art. 403; *State v. Shorter*, 23-128 (La. App. 5 Cir. 11/29/23), 377 So.3d 421, 436, *writ denied*, 23-1669 (La. 5/29/24), 385 So.3d 704. The fact that the other acts or crimes occurred well before the offense for which the defendant is on trial is not sufficient, in and of itself, to require the exclusion of the evidence. *Fuxan*, 415 So.3d at 413. Remoteness in time, in most cases, is only one factor to be considered when determining whether the probative value of the evidence outweighs its prejudicial effect. Generally, a lapse in time will go to the weight of the evidence, rather than to its admissibility. *Id.*

The defendant bears the burden to show that he was prejudiced by the admission of the other crimes evidence. *Id.* (citing *State v. Miller*, 10-718 (La. App. 5 Cir. 12/28/11), 83 So.3d 178, 187, *writ denied*, 12-282 (La. 5/18/12), 89 So.3d 1191, *cert. denied*, 568 U.S. 1157, 133 S.Ct. 1238, 185 L.Ed.2d 177 (2013)). 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.

The State must provide the defendant with notice and move for a hearing before trial if it intends to offer other crimes evidence. However, the State is not required to provide the defendant with notice before introducing *res gestae* evidence. *Fuxan*, 415 So.3d at 413; *Frickey*, 360 So.3d at 49. *See also* La. C.Cr.P. art. 720.³⁷

Here, the record does not show that the State provided formal notice of other crimes evidence or identified the exception it intended to rely upon. The record indicates the video was produced through open file discovery and viewed by defense counsel prior to trial. At trial, the State argued the video was admissible as *res gestae* and demonstrated defendant's connection to the weapon later recovered and ballistically matched to the homicide. On this basis, the district court overruled defense counsel's objection to the admission of the evidence. Based on our review, we find the video had independent relevance to issues of identity or linkage to the murder weapon and was sufficiently related to the charged offense to permit the State to present a coherent narrative of the crime. *See Fuxan*, 415 So.3d at 413. We find no abuse of the district court's discretion in admitting the evidence.

Moreover, even if the video does not qualify as *res gestae*, but rather constitutes other crimes evidence requiring notice, we find the admission of the evidence was harmless error. The erroneous admission of other crimes evidence is subject to a harmless error analysis. *State v. Loggins*, 23-519 (La. App. 5 Cir. 10/30/24), 397 So.3d 1265, 1287. In determining harmless error, it is "not whether, in a trial that occurred without the error, a guilty verdict would surely have been rendered, but whether the guilty verdict actually rendered in the trial

³⁷ Louisiana Code of Criminal Procedure article 720, entitled "Evidence of other crimes," states, in part: "Upon written motion of defendant, the court shall order the district attorney to inform the defendant of the state's intent to offer evidence of the commission of any other crime admissible under the authority of Code of Evidence 404 and 412.2."

was surely unattributable to the error.” An error is harmless beyond a reasonable doubt if it is unimportant in relation to the whole. *Id.* Here, we find that even if the district court erred in admitting the video, any error was harmless because the verdicts actually rendered were surely unattributable to its admission.

At trial, Edwards testified that he, Augustus, and defendant went to Pard Playground to rob Veal, and that a .40 caliber firearm was used to shoot Veal. When defendant was later arrested, he was found in a motel room with a .40 caliber firearm hidden under the headboard, and that firearm was ballistically matched to evidence recovered from the scene of the shooting. The room also contained defendant’s identification card and laser attachments consistent with those described by Aviann Taylor seen at the scene. Additionally, communications recovered from defendant’s phone connected him with Edwards and Augustus around the time of the offense. Edwards also identified and narrated the surveillance footage of the shooting, which corroborated his account of events. Based on this evidence, and the fact that the same weapon recovered from defendant’s motel room was seen in the April 2021 video found on defendant’s phone, we conclude the jury’s verdict was surely unattributable to any possible error in its admission. Accordingly, this assignment of error is without merit.

ERRORS PATENT

The record was reviewed for errors patent according to La. C.Cr.P. art. 920; *State v. Oliveaux*, 312 So.2d 337 (La. 1975); and *State v. Weiland*, 556 So.2d 175 (La. App. 5 Cir. 1990).

First, we note the district court did not impose the mandatory fine required by La. R.S. 14:95.1(B) on counts three and four, a fine of not less than one thousand dollars nor more than five thousand dollars. An appellate court has the authority to correct an illegally lenient sentence at any time, even if the issue of an illegal sentence was not raised by the defendant or the State. La. C.Cr.P. art. 882;

State v. Campbell, 08-1226 (La. App. 5 Cir. 5/26/09), 15 So.3d 1076, 1081, *writ denied*, 09-1385 (La. 2/12/10), 27 So.3d 842. However, this authority is permissive rather than mandatory. *State v. Horton*, 09-250 (La. App. 5 Cir. 10/27/09), 28 So.3d 370, 376. In light of defendant's life sentence, we decline to exercise our authority to remand the matter for imposition of the mandatory fine as it would appear to constitute an exercise in futility. *See State v. Lopez*, 398 So.3d at 185.

Additionally, at sentencing, the district court imposed a \$750 crime lab fee. La. C.Cr.P. art. 875.1 requires the district court to conduct a hearing to determine whether payment of any fine, cost, restitution, or monetary obligation would cause substantial financial hardship to defendant or his dependents. According to the record, there is no indication the district court conducted such a hearing, and there is no waiver of the judicial determination of financial hardship. Accordingly, due to the requirements of La. C.Cr.P. art. 875.1, we vacate the portion of defendant's sentence that imposed the fee. However, as previously noted, in light of defendant's life sentence, we decline to remand this matter for a financial feasibility hearing, which also appears would constitute an exercise in futility. *See State v. Lopez*, 398 So.3d at 185.

DECREE

For the reasons stated herein, we affirm defendant's convictions for second degree murder and conspiracy to commit armed robbery. We also affirm defendant's convictions for both counts of possession of a firearm by a convicted felon. We decline to remand this matter for the imposition of any mandatory fines under La. R.S. 14:95.1(B), but we vacate the portion of defendant's sentence that imposed a crime lab fee.

All of defendant's sentences for the remaining aforementioned counts are affirmed.

**CONVICTIONS AFFIRMED; SENTENCE
VACATED, IN PART; SENTENCES OTHERWISE
AFFIRMED.**

SUSAN M. CHEHARDY
CHIEF JUDGE

FREDERICKA H. WICKER
JUDE G. GRAVOIS
MARC E. JOHNSON
STEPHEN J. WINDHORST
JOHN J. MOLAISSON, JR.
SCOTT U. SCHLEGEL
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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 **FEBRUARY 25, 2026** TO THE TRIAL JUDGE, CLERK OF COURT, COUNSEL OF RECORD AND ALL PARTIES NOT REPRESENTED BY COUNSEL, AS LISTED BELOW:

CURTIS B. PURSELL
CLERK OF COURT

25-KA-295

E-NOTIFIED

24TH JUDICIAL DISTRICT COURT (CLERK)

HONORABLE MICHAEL P. MENTZ (DISTRICT JUDGE)

HONORABLE PAUL D. CONNICK, JR.
(APPELLEE)

KEVIN V. BOSHEA (APPELLANT)

JULIET L. CLARK (APPELLEE)

THOMAS J. BUTLER (APPELLEE)

MAILED

NO ATTORNEYS WERE MAILED