Fifth Circuit Court of Appeal
State of Louisiana

No. 26-KH-33

STATE OF LOUISIANA
VERSUS
WILLARD ANTHONY

IN RE WILLARD ANTHONY
APPLYING FOR SUPERVISORY WRIT FROM THE TWENTY-FOURTH JUDICIAL DISTRICT COURT, PARISH OF JEFFERSON, STATE OF LOUISIANA, DIRECTED TO THE HONORABLE NANCY A. MILLER, DIVISION "I", NUMBER 15-2842

March 26, 2026

Panel composed of Judges Susan M. Chehardy, Fredericka Homberg Wicker, and Jude G. Gravois

WRIT DENIED

Relator, Willard Anthony, seeks this Court's supervisory review of the trial court's December 8, 2025 ruling which denied his Application for Post-Conviction Relief ("APCR"). For the reasons that follow, we deny this writ application.

PROCEDURAL HISTORY

On December 11, 2016, a jury found relator guilty of aggravated rape in violation of La. R.S. 14:42 (counts one and two);[1] human trafficking involving commercial sexual activity in violation of La. R.S. 14:46.2 (count three); second degree battery in violation of La. R.S. 14:34.1 (count six); aggravated battery in violation of La. R.S. 14:34 (count seven); sexual battery in violation of La. R.S. 14:43.1 (count eight); and possession of a firearm by a convicted felon in violation of La. R.S. 14:95.1 (count ten). On December 14, 2016, the trial court sentenced

[1] The offense of aggravated rape was renamed first degree rape pursuant to 2015 La. Acts Nos. 184, 256 (eff. August 1, 2015), with no change in the elements of the offense or the penalty. La. R.S. 14:42. Due to the date of the two counts of aggravated rape in the instant case, April 12, 2015, the crime is referred to as aggravated rape.

relator to life imprisonment at hard labor without the benefit of probation, parole, or suspension of sentence for each count of aggravated rape (counts one and two); twenty years imprisonment at hard labor for human trafficking (count three); ten years imprisonment at hard labor for second degree battery (count six); ten years imprisonment at hard labor for aggravated battery (count seven); ten years imprisonment at hard labor without the benefit of probation, parole, or suspension of sentence for sexual battery (count eight); and twenty years imprisonment at hard labor without the benefit of probation, parole, or suspension of sentence for possession of a firearm by a convicted felon (count ten). The trial court ordered all of the sentences to run concurrently.

On February 20, 2019, this Court vacated relator's convictions and sentences on all counts and remanded the matter for a new trial. *State v. Anthony*, 17-372 (La. App. 5 Cir. 2/20/19), 266 So.3d 415. In *Anthony*, relator contended that the testimony given by the screening prosecutor, Thomas Block, "denied his right to a fair trial, to the presumption of innocence, and to confront the actual evidence against him." *Id.* at 421. This Court found that the trial court erred by allowing Mr. Block to testify beyond what was necessary to rebut the defense's implication that a State's witness was given a "deal" in exchange for her testimony. *Id*. at 429. In doing so, this Court found that the alleged errors in Mr. Block's testimony were structural errors affecting the framework of the trial that violated relator's right to a fair trial and presumption of innocence and to which harmless error standards could not be applied. *Id*. at 430.

The State applied for supervisory writs to the Louisiana Supreme Court. On review, the Supreme Court granted certiorari in part, stating: "While we presently express no opinion on whether the testimony of the screening prosecutor contained errors, we find that any such defects were not structural in nature and would instead constitute trial errors subject to a harmless error analysis." *State v. Anthony*, 19-476 (La. 6/26/19), 275 So.3d 869 (*per curiam*). The Supreme Court vacated this Court's decision and remanded the matter to this Court for a determination of whether the guilty verdicts rendered in relator's trial were surely unattributable to the alleged errors in Mr. Block's testimony, and if necessary, to address the pretermitted assignments of error. *Id*. at 869–70.

On remand, this Court found "any error in admitting the screening prosecutor's testimony was not so prejudicial as to warrant a reversal of defendant's

convictions." *State v. Anthony*, 17-372 (La. App. 5 Cir. 12/30/20), 309 So.3d 912, 922. This Court affirmed relator's convictions and sentences on all counts except count six. *Id*. at 931. With respect to count six, this Court vacated relator's sentence and remanded for resentencing.[2] On October 12, 2021, the Louisiana Supreme Court denied relator's writ application. *State v. Anthony*, 21-176 (La. 10/12/21), 325 So.3d 1067. On November 7, 2022, the United States Supreme Court denied relator's writ of certiorari. *Anthony v. Louisiana*, 598 U.S. ---, 143 S.Ct. 29, 214 L.Ed.2d 214 (2022).

On November 7, 2023, relator, through counsel, filed an APCR with the trial court, asserting claims of ineffective assistance of counsel, prosecutorial misconduct, and "actual innocence." Additionally, relator requested an extension of time to supplement his APCR upon the fulfillment of his public records request. On January 29, 2024, the trial court granted relator a thirty-day extension to file his supplement to his APCR. On February 28, 2024 and July 28, 2025, relator filed supplemental memorandums to his APCR, raising additional claims of a double jeopardy violation, insufficient evidence, and *Brady*[3] violations. On November 3, 2025, the State filed its response, arguing that relator's claims were without merit and relator's claim of prosecutorial misconduct was procedurally barred by La. C.Cr.P. art. 930.4(A).[4]

On December 8, 2025, the trial court denied relief, finding that relator had not met his burden of proof on any of the claims. The trial court also found that relator's claim of prosecutorial misconduct was procedurally barred by La. C.Cr.P. art. 930.4(A), and that his insufficient evidence claim was procedurally barred by La. C.Cr.P. art. 930.4(A) and (C).[5] Finally, the trial court concluded that relator's "factual innocence" claim had been abandoned.

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[2] Specifically, as stated above, the trial court sentenced relator on count six, second degree battery, to ten years imprisonment at hard labor. However, at the time of the offense, La. R.S. 14:34.1 provided that "[w]hoever commits the crime of second degree battery shall be fined not more than two thousand dollars or imprisoned, with or without hard labor, for not more than eight years, or both." Thus, this Court vacated relator's sentence on count six as "illegally harsh because it is beyond the maximum allowed by law" and remanded for resentencing. *Anthony*, 309 So.3d at 929.

[3] *Brady v. Maryland*, 373 U.S. 83, 83 S.Ct. 1194, 10 L.Ed.2d 215 (1963).

[4] Before its amendment, effective August 1, 2025, La. C.Cr.P. art. 930.4(A) provided: "Unless required in the interest of justice, any claim for relief which was fully litigated in an appeal from the proceedings leading to the judgment of conviction and sentence shall not be considered."

[5] La. C.Cr.P. art. 930.4(C) provides: "If the application alleges a claim which the petitioner raised in the trial court and inexcusably failed to pursue on appeal, the court shall deny relief."

On January 22, 2026, relator, through counsel, filed his writ application with this Court, re-urging his claims of *Brady* violations, ineffective assistance of counsel, double jeopardy, insufficient evidence, and prosecutorial misconduct.

LAW AND ANALYSIS

Brady Violations

In relator's first claim, he contends that the State withheld impeachment evidence in violation of *Brady v. Maryland*, 373 U.S. 83, 83 S.Ct. 1194, 10 L.Ed.2d 215 (1963). In *Brady*, 373 U.S. at 87, 83 S.Ct. at 1196–97, the United States Supreme Court held that the State's suppression of evidence favorable to the accused after it receives a request for such evidence violates a defendant's due process rights where the evidence is material to either guilt or punishment, without regard to the good or bad faith of the prosecutors. The State's due process duty to disclose applies to both exculpatory and impeachment evidence. *United States v. Bagley*, 473 U.S. 667, 676, 105 S.Ct. 3375, 3380, 87 L.Ed.2d 481 (1985); *State v. Kemp*, 00-2228 (La. 10/15/02), 828 So.2d 540, 545.

According to relator, the State withheld its legal research regarding offenses which provide an affirmative defense when the defendant is a victim of sex trafficking.[6] Relator contends that the State's undisclosed legal research suggests that the prosecution had considered charging the victim, Nadia Lee, and Brittany Grisby with prostitution,[7] despite the screening prosecutor's testimony that he was prevented from doing so.

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[6] Specifically, the State's legal research included copies of the following criminal statutes for when the affirmative defense is applicable: trafficking of children for sexual purposes in violation of La. R.S. 14:46.3; human trafficking in violation of La. R.S. 14:46.2; prostitution in violation of La. R.S. 14:82; prostitution by massage in violation of La. R.S. 14:83.3; crime against nature by solicitation in violation of La. R.S. 14:89.2; massage; sexual conduct prohibited in violation of La. R.S. 14:83.4; and crime against nature in violation of La. R.S. 14:89. Additionally, the State's file contained copies of the following statutes: (1) La. C.E. art. 412.3 concerning statements made by victims of trafficking during investigations; (2) La. C.Cr.P. art. 851 providing grounds for a new trial, including when "[t]he defendant is a victim of human trafficking or trafficking of children for sexual purposes;" and (3) La. C.Cr.P. art. 855.1 providing the requirements for a new trial motion when the conviction is based on acts committed as a victim of trafficking. Finally, the State's file contained a copy of *State In Int. of M.J.*, 14-622 (La. App. 4 Cir. 2/4/15), 160 So.3d 1040, 1053, *writ denied*, 15-487 (La. 1/15/16), 184 So.3d 704, a case in which the Fourth Circuit found that "the juvenile court did not err by finding that the State had no burden to prove that M.J. was not a victim of sex trafficking in order to prove a delinquent act in violation of La. R.S. 14:82 [prostitution by solicitation]."

[7] Ms. Lee testified at relator's trial. Ms. Grisby did not testify at relator's trial because the State was unable to secure her presence. As a result, the State dismissed one count of human trafficking (count four) during trial.

La. C.Cr.P. art. 723 provides the law regarding state reports and other matters not subject to disclosure as follows:

> A. Except as specifically provided in this Chapter, this Chapter does not authorize the discovery or inspection of reports, memoranda, notes, or other internal state documents made by the district attorney or by agents of the state in connection with the investigation or prosecution of the case; or of any document, notes, or other items which contain the mental impressions of any attorney for the state or any investigator working on behalf of such attorney.
> B. Notwithstanding any provision to the contrary contained herein, the state shall provide the defendant with any evidence constitutionally required to be disclosed pursuant to *Brady v. Maryland*, 373 U.S. 83 (1963) and its progeny.

Relator makes no showing that the State's legal research existing in a public legal database, standing alone, triggers prosecutorial disclosure duties, particularly when there appears to be no deliberate concealment of the State's reliance on the statutes regarding affirmative defenses and prostitution. Specifically, at trial, Mr. Block, the screening prosecutor, testified about the legislature's role in creating an affirmative defense to sex trafficking and prostitution, as well as the applicable statutes found in the Louisiana Code of Criminal Procedure and the Louisiana Code of Evidence. Mr. Block further stated that he relied upon those statutes in deciding not to charge Ms. Lee and Ms. Grisby with prostitution, stating: "I made the determination based upon the jurisprudence and based upon the facts." Mr. Block's testimony shows that those affirmative defenses, codified in the statutes relator now complains were undisclosed, provided the basis for the State's decision not to file charges against any of the women. As such, we find that relator failed to meet his burden of proof under La. C.Cr.P. art. 930.2 regarding this *Brady* claim.

Relator also argues that the State failed to disclose its "tacit agreement" to not prosecute Ms. Lee. *Brady* also requires the disclosure of evidence concerning a promise of leniency or immunity to a material witness in exchange for her testimony at trial. *Giglio v. United States*, 405 U.S. 150, 92 S.Ct. 763, 31 L.Ed.2d 104 (1972). *See also State ex rel. Guise v. State*, 00-2185 (La. 10/15/02), 828 So.2d 557, 558.

In the instant case, Mr. Block testified that Ms. Lee was not given a deal or any favorable treatment in exchange for her testimony, stating: "I told her in no uncertain terms the charges were being refused against her because of the affirmative defense and that there was no deal, that I was not offering her anything in exchange for her participation or testimony." Additionally, Ms. Lee testified that the

prosecution made no promises in exchange for her testimony. Ms. Lee also testified that she did not expect any assistance from the prosecution with her Florida charges after her testimony in relator's case. Consequently, relator makes no showing of any agreement, tacit or otherwise, between the witness and the State. *See* La. C.Cr.P. art. 930.2.

Ineffective Assistance of Counsel

Relator asserts that counsel rendered ineffective assistance by failing to investigate and call witnesses who would have rebutted the victim's claim of sexual assault and corroborated her willingness to be a part of the "prostitution lifestyle."

Under the Sixth Amendment to the United States Constitution and Article I, § 13 of the Louisiana Constitution, a defendant is entitled to effective assistance of counsel. *State v. Casimer*, 12-678 (La. App. 5 Cir. 3/13/13), 113 So.3d 1129, 1141. To prove ineffective assistance of counsel, a defendant must satisfy the two-prong test set forth in *Strickland v. Washington*, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984). *Casimer*, 113 So.3d at 1141. Under the *Strickland* test, the defendant must show: (1) that counsel's performance was deficient, that is, that the performance fell below an objective standard of reasonableness under prevailing professional norms; and (2) that the deficient performance prejudiced the defense. *Id*. An error is considered prejudicial if it was so serious as to deprive the defendant of a fair trial or "a trial whose result is reliable." *Id*. To prove prejudice, the defendant must demonstrate that, but for counsel's unprofessional conduct, the outcome of the trial would have been different. *Id*. (citing *Strickland v. Washington*).

Relator first faults counsel for failing to call Dr. Matthew Carlisle, the emergency room doctor who initially evaluated the victim for "trauma clearance." According to Dr. Carlisle's notes in the victim's medical records, the doctor stated that the victim "reports she was beaten by her pimp last night after trying to leave the hotel where she was staying. Says she lost consciousness but denies sexual assault." Thus, relator argues that counsel should have called Dr. Carlisle to rebut the victim's claim that she was raped by relator.

The victim's medical records included in the instant writ application reveal that the victim was seen by multiple doctors when she was admitted for examination on April 13, 2015, and discharged on April 14, 2015. It appears that no other doctors (or hospital staff) reported that the victim denied that she was sexually assaulted.

At trial, the State called Shamica Clark-Solivan, a registered nurse. Ms. Clark-Solivan testified that she examined the victim in this case who had reported she had been raped. The victim also told her that she had been vaginally penetrated with both a penis and a gun. On cross-examination, counsel asked the nurse about the "tremendous inconsistencies" in the victim's medical records, particularly the victim's denial of sexual assault on April 13, 2015. Ms. Clark-Solivan confirmed that Doctor Carlisle's notes reported the victim's denial of sexual assault, but stated "[t]hat's not what she reported to me." The nurse then acknowledged, pursuant to counsel's questioning, that the victim's statement to the doctor was inconsistent with what the victim told her. In addition, counsel cross-examined the victim about Dr. Carlisle's notes in which he recorded her denial of sexual assault. The victim testified that she did not remember telling the doctor that no sexual assault occurred and denied ever making that statement.

The decision to call or not to call a particular witness is a matter of trial strategy and not, *per se*, evidence of ineffective assistance of counsel. *State v. Allen*, 06-778 (La. App. 5 Cir. 4/24/07), 955 So.2d 742, 751, *writ denied sub nom. State ex rel. Allen v. State*, 08-2432 (La. 1/30/09), 999 So.2d 754. Trial counsel chose to question the nurse and victim about Dr. Carlisle's notes indicating that the victim denied sexual assault, rather than call the doctor. We find that counsel's decision was strategic rather than an unprofessional error, as the cross-examination of the nurse and the victim made the jury aware of the doctor's note regarding the victim's denial of sexual assault.

Next, relator maintains that counsel failed to call Catrice Hunter, who, along with her six-month-old daughter, traveled with relator and the group of women from Florida to New Orleans. According to relator, Ms. Hunter would have corroborated relator's version of the events, *i.e.*, that the victim willingly left Florida with the group and that the women all participated in the beating of the victim. Relator also maintains that the female clerk at the clothing store where the women purchased clothes could have provided testimony that the victim was a "willing participant in the lifestyle they were leading and was more than happy to stay with the group." However, given that relator did not submit any supporting documentation, such as affidavits from the two women, we find their potential testimony as described by relator is speculative.

Therefore, we find that relator has not overcome the presumption that, under the circumstances, counsel's decisions "might be considered sound trial strategy." *Strickland*, 466 U.S. at 689, 104 S.Ct. at 2065 (quoting *Michel v. Louisiana*, 350 U.S. 91, 101, 76 S.Ct. 158, 164, 100 L.Ed.2d 83 (1955)). As such, relator has not demonstrated that the claimed errors rendered his trial "fundamentally unfair." *Strickland*, 466 U.S. at 700, 104 S.Ct. at 2071.

Double Jeopardy

Relator also argues that his convictions for aggravated rape and sexual battery violate double jeopardy principles.

The Fifth Amendment to the United States Constitution, as well as Article I, § 15 of the Louisiana Constitution, prohibit placing a person twice in jeopardy of life or limb for the same offense. *See also* La. C.Cr.P. art. 591. Double jeopardy provisions are intended to protect an accused not only from a second prosecution for the same criminal act, but also from multiple punishments for the same act. *State v. Lefeure*, 00-1142 (La. App. 5 Cir. 1/30/01), 778 So.2d 744, 750, *writ denied*, 01-1440 (La. 9/21/01), 797 So.2d 669. However, it is well-settled that an accused who commits separate and distinct offenses during the same criminal episode or transaction may be prosecuted and convicted for each offense without violating the prohibition against double jeopardy. *State v. Stevens*, 18-344 (La. App. 5 Cir. 12/5/18), 260 So.3d 776, 783.

The protections against double jeopardy mandated by the federal constitution, as re-stated in this State's constitution, fall within the analytical framework set forth in *Blockburger v. United States*, 284 U.S. 299, 52 S.Ct. 180, 76 L.Ed. 306 (1932). *See State v. Frank*, 16-1160 (La. 10/18/17), 234 So.3d 27. Under *Blockburger*, the question is whether the same act or transaction constitutes a violation of two distinct statutory provisions. To determine whether there are two offenses or only one, the pertinent question is whether each provision requires proof of an additional fact, which the other does not. *State v. Knowles*, 392 So.2d 651, 654 (La. 1980); *State v. Bridgewater*, 98-658 (La. App. 5 Cir. 12/16/98), 726 So.2d 987, 991. "[A] defendant can be convicted of two offenses arising out of the same criminal incident if each crime contains an element not found in the other." *State v. Hampton*, 17-383 (La. App. 3 Cir. 11/15/17), 259 So.3d 1125, 1132 (quoting *Frank*, 234 So.3d at 30).

La. R.S. 14:42 defines aggravated rape, in pertinent part, as follows:

> A. Aggravated rape is a rape committed upon a person sixty-five years of age or older or where the anal, oral, or vaginal sexual intercourse is deemed to be without lawful consent of the victim because it is committed under any one or more of the following circumstances:
> (1) When the victim resists the act to the utmost, but whose resistance is overcome by force.
> (2) When the victim is prevented from resisting the act by threats of great and immediate bodily harm, accompanied by apparent power of execution.
> (3) When the victim is prevented from resisting the act because the offender is armed with a dangerous weapon.
>
> * * *

La. R.S. 14:43.1 defines sexual battery, in pertinent part, as the intentional touching of the genitals of a person using any instrumentality or body part of the offender, without the consent of the victim. In comparing the elements of the two offenses in *State v. Duet*, 95-2446 (La. App. 1 Cir. 11/8/96), 684 So.2d 64, 67, the First Circuit explained:

> [T]he elements of a sexual battery are always included in the elements of a rape; *i.e.*, every time a rape is committed, a sexual battery has also been committed. However, the converse is not true; a sexual battery can be committed without the offense falling within the definition of rape.

In the instant case, we find that the same elements were not necessary for a conviction of both crimes because the crime of sexual battery rested on the victim's testimony that relator placed his gun inside her vagina, whereas the two counts of aggravated rape rested on the victim's testimony that relator "'had sex with me'" even though she did not want to have sex with him. *Anthony*, 309 So.3d at 923. The victim also testified that relator "'forced himself' on her" and that he was armed with a gun at the time of the rape. *Id*. Additionally, the other aggravated rape count rested on relator's role as a principal when relator directed his co-defendant to commit oral sexual intercourse by forcing his penis inside the victim's mouth and urinating in it. *Id*. *See also State v. Burt*, 02-258 (La. App. 4 Cir. 10/9/02), 828 So.2d 717, *writ denied*, 02-2915 (La. 4/4/03), 840 So.2d 1214. Accordingly, we find there was no double jeopardy violation here.

Insufficient Evidence

Next, relator contends that the State presented insufficient evidence to support his conviction as a principal to aggravated rape because no penetration occurred.

While relator concedes that his co-defendant urinated in the victim's mouth, he contends that the victim's testimony was "non-verbal" as to whether penetration occurred.

As an initial matter, the trial court found that relator's insufficient evidence claim was procedurally barred because he failed to raise the claim on appeal, citing La. C.Cr.P. art. 930.4(C). The trial court further found that the claim was barred under La. C.Cr.P. art. 930.4(A), pointing out that in this Court's "extensive review of the facts of the crimes committed by the petitioner, the Fifth Circuit specifically noted that there was sufficient evidence to conviction [sic] on aggravated rape, human trafficking, aggravated battery, and sexual battery." Specifically, this Court found the State presented sufficient evidence of those counts in its harmless error analysis of relator's claim regarding the screening prosecutor's testimony. *Anthony*, 309 So.3d at 921–24.

In any event, the trial transcript indicates that when the prosecutor asked the victim if relator's co-defendant put his penis in her mouth, she responded, "Uh-huh," which was recorded as "Affirmative" in the transcript. She further testified that relator's co-defendant urinated in her mouth and made her swallow the urine. Ms. Lee also testified that she witnessed relator's co-defendant urinate in the victim's mouth. As such, we find, as this Court found on appeal, that there was sufficient evidence to support the aggravated rape conviction based on the victim's testimony that relator's co-defendant "put his penis in her mouth, and made her swallow the urine." *Anthony*, 309 So.3d at 918.

Thus, we find relator's insufficient evidence claim to be without merit.

Prosecutorial Misconduct

In his final claim, relator maintains that the State committed prosecutorial misconduct when Mr. Block gave his own opinions and used "his role as an Assistant District Attorney to bolster his own testimony."

However, relator's claim of prosecutorial misconduct was raised on appeal, and this Court concluded:

> Even if errors occurred in admitting the testimony of Mr. Block, any error would be harmless considering the volume and strength of evidence introduced at trial in support of defendant's convictions. Accordingly, we find the guilty verdicts for aggravated rape, human

> trafficking, aggravated battery, and sexual battery were surely unattributable to any alleged error in admitting Mr. Block's testimony, and that the defendant was not so prejudiced by the testimony as to warrant a reversal of these convictions.

Anthony, 309 So.3d at 924.

Consequently, we find that because relator's claim of prosecutorial misconduct was fully litigated on appeal, and relator has not made a showing that the interest of justice requires this Court to reconsider it now, his claim is precluded from post-conviction review under La. C.Cr.P. art. 930.4(A).

CONCLUSION AND DECREE

For the foregoing reasons, we find no error in the ruling of the trial court. Accordingly, this writ application is denied.

Gretna, Louisiana, this 26th day of March, 2026.

JGG
SMC
FHW

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NOTICE OF DISPOSITION CERTIFICATE OF DELIVERY

I CERTIFY THAT A COPY OF THE DISPOSITION IN THE FOREGOING MATTER HAS BEEN TRANSMITTED IN ACCORDANCE WITH **UNIFORM RULES - COURT OF APPEAL, RULE 4-6** THIS DAY **03/26/2026** TO THE TRIAL JUDGE, THE TRIAL COURT CLERK OF COURT, AND AT LEAST ONE OF THE COUNSEL OF RECORD FOR EACH PARTY, AND TO EACH PARTY NOT REPRESENTED BY COUNSEL, AS LISTED BELOW:

Curtis B. Pursell

CURTIS B. PURSELL
CLERK OF COURT

26-KH-33

E-NOTIFIED

24th Judicial District Court (Clerk)
Honorable Nancy A. Miller (DISTRICT JUDGE)
Kathryn J. Burke (Relator)
Thomas J. Butler (Respondent)
Jennifer C. Cameron (Relator)

MAILED

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