20-6565

No.: _____

In The
Supreme Court of the United States
_____ Term, 2020

SIMON QUINN — Appellant

v.

STATE OF LOUISIANA — Appellee(s)

On Petition for a Writ of Certiorari to

LOUISIANA SUPREME COURT

Simon Quinn #172821
MPEY/Spruce-3
La. State Penitentiary
Angola, LA 70712

PREPARED BY:
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Angola, LA 70712

QUESTION(S) PRESENTED

1. **Reasonable jurist would debate that the State failed to meet its burden of proof of beyond a reasonable doubt that Mr. Quinn is guilty of the offense beyond a reasonable doubt.**

2. **Reasonable jurists would conclude that knowledge of the probability of a *criminal* investigation and specific intent to distort a *criminal* investigation are required elements of Obstruction of Justice. Here, the State cannot prove there was a homicide, rather than suicide. Even if the State has shown Mr. Quinn moved his friend's body, it has failed to show that Mr. Quinn acted with requisite knowledge and intent related to a homicide investigation, rather than acting to avoid police discovering an outstanding warrant. Is there sufficient evidence to support a conviction of obstruction of a homicide investigation?**

LIST OF PARTIES

[ ] All parties appear in the caption of the case on the cover page.

[X] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows.

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Parish of Terrebonne
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IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Appellant respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

[ ] For cases from **federal courts**:

The opinion of the United States Court of Appeals appears at Appendix ____ to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

[X] For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix "H" to the petition and is the Louisiana Supreme Court in Docket Number 2019-K-00647 and 2019-KO-00730.

[ ] reported at _____; or,
[X] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

The opinion of the First Circuit Court of Appeal appears at Appendix "C" to the petition and is

[X] reported at 275 So.3d 360 (La. App. 1st Cir. 3/27/19); or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

JURISDICTION

[ ] For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was _____.

[ ] No petition for rehearing was timely filed in my case.

[ ] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

[ ] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____.

The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

[X] For cases from **state courts**:

The date on which the highest state court decided my case was September 9, 2020.
A copy of that decision appears at Appendix "H".

[ ] A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

[ ] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____.

The jurisdiction of this Court is invoked under 28 U.S.C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

This conviction was obtained in violation of the Fifth, Sixth and Fourteenth Amendments to the United States Constitution. Specifically, Mr. Quinn's conviction for Obstruction of Justice (LSA-R.S. 14:130 B(1)) was affirmed even though his conviction for Second Degree Murder (LSA-R.S. 14:30.1) was overturned by the Louisiana First Circuit Court of Appeal, and the State's Writ was denied by the Louisiana Supreme Court.

NOTICE OF PRO-SE FILING

Mr. Quinn requests that this Honorable Court view these Claims in accordance with the rulings of *Haines v. Kerner*, 404 U.S. 519, 92 S.Ct. 594, 30 L.Ed.2d 652 (1972); Mr. Quinn is a layman of the law and untrained in the ways of filings and proceedings of formal pleadings in this Court.

REASONS FOR GRANTING THE PETITION

In accordance with this Court's *Rule X, § (b) and (c)*, Mr. Quinn presents for his reasons for granting this writ application that:

Review on a Writ of Certiorari is not a matter of right, but of judicial discretion. A petition for a Writ of Certiorari will be granted only for compelling reasons. The following, although neither controlling nor fully measuring the Court's discretion, indicate the character of the reasons the Court considers.

A state court of last resort (Louisiana Supreme Court) has decided an important federal question in a way that conflicts with the decision of another state court of last resort or of a United States Court of Appeals.

A state court or a United States Court of Appeals has decided an important question of federal law that has not been, but should be, settled by this Court, or has decided an important federal question in a way that conflicts with relevant decisions of this Court.

STATEMENT OF THE CASE

On September 9, 2015, Mr. Simon Quinn was indicted for the Second Degree Murder of Robbie Coulon and the Obstruction of Justice by tampering with evidence wit the specific intent of distorting the results of any criminal investigation or proceeding in which a sentence of death or life imprisonment may be imposed.[1] Mr. Quinn's trial began on July 18, 2017 and concluded on July 21, 2017, when he was convicted on both counts (R. at 53-4).

On August 16, 2017, the trial court denied Mr. Quinn's motions for Post-Verdict Judgment of Acquittal and New Trial (R. at 32). On September 14, 2017, the trial court found Mr. Quinn to be a habitual offender, with one prior felony conviction – Possession of a Schedule IV Controlled Dangerous Substance, for which Mr. Quinn had been sentenced to Probation (R. at 33).

On October 5, 2017, Mr. Quinn was sentenced to life imprisonment on the Second Degree Murder conviction (R. at 724-5). For the Obstruction of Justice conviction, Mr. Quinn was sentenced as a habitual offender to fifty (50) years, to be served consecutive of the life sentence (R. at 728). Defense counsel moved orally to reconsider the fifty-year sentence for Obstruction of Justice, arguing that it was excessive (R. at 728).

On March 27, 2019, the Louisiana First Circuit Court of Appeal reversed Mr. Quinn's conviction for Second Degree Murder and affirmed his conviction for Obstruction of Justice. Mr. Quinn then filed a Pro-Se Writ Application seeking review of the 1st Circuit's affirmation of the conviction of Obstruction of Justice and re-urging his claim of excessiveness of sentence. On January 14, 2020, the Louisiana Supreme Court Granted Mr. Quinn's request for review. On February 5, 2020, Mr. Quinn filed his Pro-Se Brief on the Merits.

On February 14, 2020, the Louisiana Supreme Court appointed the Tulane Criminal Law Clinic to represent Mr. Quinn on this matter. On March 16, 2020, the Tulane Criminal Law Clinic timely filed a

1 Record (hereinafter "R." at 35.

Supplemental Brief. Oral arguments were held, with the Tulane Criminal Law Clinic arguing Mr. Quinn's Appeal before the Justices. On September 9, 2020, the Louisiana Supreme Court affirmed the 1st Circuit's ruling (reversal of the Second Degree Murder conviction and affirmation of the Obstruction of Justice conviction).

Mr. Quinn now timely files for Writs of Certiorari to this Honorable Court, and respectfully requests that this Honorable Court exercise its Supervisory Authority of Jurisdiction over the lower courts for the following reasons to wit:

STATEMENT OF THE FACTS

In the Spring of 2015, Robbie Coulon was living in Mr. Quinn's apartment (Mr. Coulon's friend)(R. At 346). Mr. Coulon had posted on Facebook that he was planning to end his life (R. at 378). On May 7, 2015, Mr. Quinn came back to his apartment from his job offshore (R. at 399). That day, Mr. Coulon and Mr. Quinn exchanged text messages, in which Mr. Coulon said, "I can't take this anymore. I'm finished. Done;" "I'll take care of myself the one way I know how," and "You have a very small window and then I'm gone" (R. at 572-3).

When Mr. Quinn and his friend Jeanie Gamble arrived at Mr. Quinn's apartment, Mr. Coulon was not there (R. at 399). Mr. Quinn and Ms. Gamble stayed at the apartment for a short time then left (R. at 400). That afternoon, Mr. Quinn and Ms. Gamble returned to Mr. Quinn's apartment (R. at 404). Ms. Gamble and Mr. Quinn walked into Mr. Quinn's bedroom. Mr. Quinn then left his room for less than five minutes, which Ms. Gamble stayed. When Mr. Quinn came back into his room, he was pale white and shaking. *Id.* He told Ms. Gamble that "I can't believe it, I can't believe it, he did it," then clarified that Mr. Coulon had killed himself (R. at 404-5).

After finding Mr. Coulon's body, Mr. Quinn did not want to call the police because he had open warrants and was afraid of being arrested on those warrants (R. at 406). Mr. Quinn was especially

concerned about losing his visitation with his children if he were arrested on the warrants (R. at 390, 405-6).

STANDARD OF REVIEW

In *State v. Ashley*, 33,880, at *3 (La. App. 2nd Cir. 10/04/00), 768 So.2d 817, 819, the Court noted that, "the accused may be entitled to an acquittal ... if a rational trier of fact viewing the evidence in accord with *Jackson v. Virginia*, 443 U.S. 307, 99 S.Ct. 2781, 61 L.Ed.2d 60 (1979), in the light most favorable to the prosecution, could not reasonably conclude that all of the elements of the offense have been proven beyond a reasonable doubt."

LAW AND ARGUMENT

ISSUE NO. 1

A. The evidence was insufficient to sustain Mr. Quinn's conviction of Obstruction of Justice.

The State failed to submit evidence sufficient to support Mr. Quinn's conviction Obstruction of Justice. LSA-R.S. 15:438; *Jackson v. Virginia*; *State v. Jones*.

In this case, there was ***NO*** corroborating evidence to substantiate Mr. Quinn's conviction of Obstruction of Justice. There was ***no*** physical evidence, no DNA evidence, and no witnesses to this crime. The State's entire case was based on flimsy allegations which the Record fails to support, either in evidence or testimony. Furthermore, there was ***no testing*** of ***any*** of the evidence which had been recovered from either of the crime scenes.

Detective Billy Dupre testified that, in the surveillance video from Home Depot, a White male subject had purchased a container, manila rope and cashews (Rec.pp. 428-9), and had placed the items in what appeared to be a red truck (Rec.p. 430). This White male subject "appeared" to be similar in stature to Mr. Quinn (Rec.p. 431), but there was no "positive" identification of Mr. Quinn as the White male subject (Rec.pp. 438, 442).

Although the State stressed the importance of the "red truck" during the trial, it was noted during the testimony of Det. Dupre that, "When you're looking for a certain truck, you seem to find a lot of that vehicle" (Rec.p. 440), and that he never counted the red trucks in the surveillance video from Home Depot (Rec.p. 440).

Through the testimony of Lt. Glynn Prestenbach, the State was able to submit the movements of a "red truck" which traveled towards Cocodrie (Rec.pp. 547, 550, 553), there was ***no testimony*** that Mr. Quinn had been driving this particular "red truck," or that there was a body (or tote) inside the bed of this "red truck." The State's case is based purely upon speculation which could not be supported by any evidence or testimony.

The State has also attempted to support their theory based upon normal, everyday items which are found in practically every household in this nation (black electrical tape (which was found on the ***second*** search) and black garbage bags). The State was also unable to support its theory that Mr. Quinn had purchased a tote at Home Depot; and failed to even attempt to present any type of theory as to how Mr. Quinn got Coulon's body down three (3) flights of stairs during daylight hours[2] in a relatively busy apartment complex.

During his testimony, Lt. Prestenbach testified that upon his arrival, he could tell that the victim in the tote had no hair on his head (Rec.p. 562). However, during the course of the trial, it was learned that when officials arrived at the scene, the head had been covered with a black plastic bag, and secured with black electrical tape (Rec.p. 526). This bag had not been removed until the Coroner's Office had arrived to secure the body. One must note that Lt. Prestenbach would not be able to determine that the victim was bald-headed until the bag had been removed.

The evidence indicates that the decedent was 5'10" tall and weighed 160 pounds (Rec.p. 467), and

2 According to the testimony, Mr. Quinn allegedly transported Robbie's body during daylight hours where the truck was allegedly seen in surveillance videos.

that Mr. Quinn's apartment was located up three flights of stairs (Rec.p. 605). The State did not present any evidence as to how the body was placed in the tote, carried down the stairs to the truck, placed in the truck, and removed from the truck. In Closing Arguments, the prosecutor stated that Mr. Quinn "eventually funneled this box down to his truck, loaded up" and headed south to get rid of the body (Rec.p. 648).

The convictions in this case rest solely on weak circumstantial evidence. The State knew the evidence in this case was weak as indicated by the State's offer of a plea to Mr. Quinn whereby he would plea only to Obstruction of Justice in exchange for a twenty-five year sentence without the multiple bill.

The Due Process Clause of the Fourteenth Amendment protects persons accused of a crime against conviction unless the State proves every element of the offense beyond a reasonable doubt. ***In re Winship***, 397 U.S. 358, 90 S.Ct. 1068, 25 L.Ed.2d 368 (1970).[3] ***Jackson v. Virginia***, 443 U.S. 307, 99 S. Ct. 2781, 61 L.Ed.2d 60 (1979).

In ***Jackson***, the United States Supreme Court reached the legal standard of review, *i.e.*, ". . . whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt ..." In the court's view, the factfinder's role as weigher of evidence was preserved by considering all of the evidence in the light most favorable to the prosecution: ". . . The criterion thus impinges upon 'jury' discretion only to the extent necessary to guarantee the fundamental protection of due process of law." ***Jackson***, 443 U.S. at 319, 99 S.Ct., at 2790, 61 L.Ed.2d at 573-574. This standard is applied with "explicit reference to the substantive elements of the criminal offense as defined by state law." *id. at* 324 n. 16, 99 S.Ct. at 2791 n. 16. ***Dupuy v. Cain***, 210 F.3d 582 (5th Cir. 2000).

3 This type of error has been recognized as patent error preventing conviction for the offense, La.C.Cr.P. art. 920(2), see indicative listing at ***State v. Guillot***, 200 La. 935, 9 So.2d 235, 239 (1942). Quoting: ***State v. Crosby***, 338 So.2d 584, 588 (La.1976).

The deferential standard of review, whereby reviewing courts must affirm a conviction if, after viewing the evidence and all reasonable inferences in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt, does not permit the type of fine-grained factual parsing necessary to determine that the evidence presented to the factfinder was in "equipoise," and that therefore reversal of the conviction is warranted; abrogating *United States v. Jaramillo*, 42 F.3d 920 (5th Cir. 1995), *United States v. Ortega Reyna*, 148 F.3d 540 (5th Cir. 1998), *United States v. Penaloza-Duarte*, 473 F.3d 575 (5th Cir. 2006), and, *United States v. Stewart*, 145 F.3d 273 (5th Cir. 1998). **Criminal Law Key 110k1159.2(1).**

Courts reviewing a conviction are empowered to consider whether the inferences drawn by a jury were rational, as opposed to being speculative or insupportable, and whether the evidence is sufficient to establish every element of the crime. **Criminal Law Key 110k1159.2(8).**

The *Jackson* standard, which has been repeatedly reaffirmed by the Supreme Court, may be difficult to apply to specific cases but is theoretically straightforward. In contrast, the "equipoise rule" is ambiguous. At one level, whether it applies only to cases ungirded by circumstantial evidence, as opposed to direct or circumstantial evidence, is not entirely clear. Moreover, no court opinion has explained how a court determines that evidence, even when viewed most favorably to the prosecution, is "in equipoise." Is it a matter of counting inferences or of determining qualitatively whether inferences equally support a theory of guilt or innocence?

Nevertheless, the *Jackson* standard does not permit jurors "to speculate if the evidence is such that reasonable jurors must have a reasonable doubt. *State v. Mussall*, 523 So.2d 1305, 1311 (La. 1988) (quoting **2 C. Wright, Federal Practice & Procedure**, Criminal 2d § 467 at 660-61 and n.23 (2d ed. 1982). Based on the evidence presented, the jury could only speculate that Mr. Quinn was guilty of Obstruction of Justice. *State v. Jones*, supra at *3.

While an inference drawn from circumstantial eviction must more than speculation to be reasonable, the jury has wide latitude to determine factual issues and to draw reasonable inferences from circumstantial eviction. **110K745**. Inferences from evidence. However, in this case, there could be no reasonable inferences from the circumstantial evidence.

In any event, when appellate courts are authorized to review verdicts of conviction for evidentiary "equipoise," they must do so on a cold appellate record without the benefit of the dramatic insights gained from watching the trial. The potential to usurp the jury's function in such circumstances is inescapable. ***Jackson***'s "deferential standard" of review, however, "does not permit the type of fine-grained parsing" necessary to determine that the evidence presented to the factfinder was in "equipoise." *Compare*: ***Coleman v. Johnson***, 132 S.Ct. 2060, 2064, 182 L.Ed.2d 978 (2012).

Jackson also "unambiguously instructs that a reviewing court, 'faced with a record of historical facts that supports conflicting inferences must presume - - even if it does not affirmatively appear in the record - - that the trier of fact resolved any such conflicts in favor of the prosecution, and must defer to that resolution.'" ***Cavazos v. Smith***, 132 S.Ct. 2, 6, 181 L.Ed.2d 311 (2011).

This case gives the Court the opportunity to give concrete substance to the rule of law that contradictory testimony, such as incredible, inherently improbable or impeached testimony, is insufficient to uphold a conviction.

Further, incredible, contradictory, or impeached testimony fails to establish a corpus delicti in the first instance, and also goes to the ***Winship*** standard at trial.

"The rule as to circumstantial evidence is 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. LSA-R.S. 15:438. However, this statutory rule is not a purely separate test from the ***Jackson*** standard to be applied instead of a sufficiency of the evidence test whenever the state relies on circumstantial

evidence to prove an element of the crime. *State v. Wright*, 445 So.2d 1198 (La. 1984); *State v. Eason*, 460 So.2d 1139 (La. App. 2nd Cir. 1984), *writ denied* 463 So.2d 1317 (La. 1985). Although the circumstantial evidence rule may not establish a stricter standard of review than the more general reasonable juror's reasonable doubt formula, it emphasizes the need for careful observance of the usual standard and provides a helpful methodology for its implementation in cases which hinge on the evaluation of circumstantial evidence. *State v. Chism*, 436 So.2d 464 (La. 1983)); *State v. Sutton*, 436 So.2d 471 (La. 1983). Ultimately, all evidence, both direct and circumstantial, must be sufficient under *Jackson* to satisfy a rational juror that the defendant is guilty beyond a reasonable doubt. *State v. Wright*, supra; *State v. Eason*, supra." *State v. Copes*, 566 So.2d 652, 654 (La. App. 2nd Cir. 1990).

When, as here, the conviction rests upon circumstantial evidence, that evidence must exclude every reasonable hypothesis except guilt. LSA-R.S. 15:438. When, as here, the conviction rests upon circumstantial evidence, that evidence must exclude every reasonable hypothesis except guilt. Whether circumstantial evidence excludes every reasonable hypothesis of innocence presents the following question of law:

> **In all cases where an essential element of the crime is not proven by direct evidence, LSA-R.S. 15:438 applies.** As an evidentiary rule, it restrains the factfinder [in the first instance, as well as the reviewer on appeal, to accept as proven all that the evidence tends to prove and then to convict only if every reasonable hypothesis of innocence is excluded. **Whether circumstantial evidence excludes every reasonable hypothesis of innocence presents a question of law.** *State v. Hammontree*, 363 So.2d 1364, at 1373 (La. 1978); *Smith v. Schwander*, 345 So.2d 1173, at 1175 (La. 1977); *State v. Smith*, 339 So.2d 829, at 833 (La. 1976). **In applying LSA-R.S. 15:438, all the facts that the evidence variously tends to prove on both sides are to be considered, disregarding any choice by the factfinder favorable to the prosecution.** The reviewer as a matter of law can affirm the conviction only if the reasonable hypothesis is one favorable to the State and there is no extant reasonable hypothesis of innocence.[4]

State v. Shapiro, pp. 19-20, 431 So.2d 372 (La. 1982)[emphasis added].

> "The standard of review for the sufficiency of the evidence to uphold a conviction is whether or not, viewing the evidence in the light most favorable to the prosecution, a rational trier of fact

4 *State v. Shapiro*, pp. 19-20, 431 So.2d 372 (La. 1982)[emphasis added].

could conclude that the State proved the essential elements of the crime beyond a reasonable doubt."

The rule regarding circumstantial evidence is set forth in LSA-R.S. 15:438 as follows:

"... assuming every fact to be proved that the evidence tends to prove, in order to convict, it must exclude every reasonable hypothesis of innocence."

Ultimately, all the evidence in the record, viewed in a light favorable to the State, must satisfy the reviewing court that a rational trier of fact could have found the defendant guilty of the crime for which he was convicted, beyond a reasonable doubt. *State v. Perow*, 616 So.2d 1336 (La. App. 3rd Cir. 1993).

When reviewing a conviction based upon circumstantial evidence, which requires the reviewing court to determine whether a reasonable trier of fact could have concluded beyond a reasonable doubt that every reasonable hypothesis of innocence had been excluded, the reviewing court does not determine whether another possible hypothesis has been suggested by defendant which could explain the events in an exculpatory fashion; rather, the reviewing court evaluates the evidence in the light most favorable to the prosecution and determines whether the alternative hypothesis is sufficiently reasonable that a rational factfinder could not have found proof of guilt beyond a reasonable doubt. *State v. Jones*, 2016-K-1502, 2108 WL 618433 (La. 1/30/18); *Jackson v. Virginia*, Sixth and Fourteenth Amendments to the United States Constitution; **110k1159.6** Circumstantial evidence.

In cases of circumstantial evidence, the *Jackson* standard means that when a jury "reasonable rejects the hypothesis of innocence presented by the [defense], that hypothesis falls, and the defendant is guilty unless there is another hypothesis which raises a reasonable doubt." *State v. Captville*, 448 So.2d 676, 680 (La. 1984).

The Louisiana Supreme Court has repeatedly cautioned that the Due Process standards of *Jackson v. Virginia*, 443 U.S. 307, 99 S.Ct. 2781, 61 L.Ed.2d 60 (1979), "does not permit a reviewing court to substitute its own appreciation of the evidence for that of the fact finder or to second guess the credibility determinations of the fact finder necessary to render an honest verdict." *State v. Calloway*, 1

So.3d 417, 422 (La. 1/21/09).

Nevertheless, the *Jackson* standard does not permit jurors "to speculate if the evidence is such that reasonable jurors must have a reasonable doubt. *State v. Mussall*, 523 So.2d 1305, 1311 (La. 1988) (quoting **2 C. Wright, Federal Practice & Procedure**, Criminal 2d § 467 at 660-61 and n.23 (2d ed. 1982)). Based on the evidence presented, the jury could only speculate that Mr. Quinn was guilty of Obstruction of Justice. *State v. Jones*, supra at *3.

It must be noted that in the First Circuit's Ruling concerning the Issue concerning the Obstruction of Justice, the Court ***heavily relied*** upon circumstantial evidence in determining that the State met its burden of proof in obtaining this conviction.

WHEREFORE, for the reasons stated above, and for the reasons argued in the original pleadings in the state courts, Mr. Quinn respectfully requests that this Honorable Court, after a thorough review of the merits of this Issue, invoke its Supervisory Authority of Jurisdiction over the lower courts of this state, and determine that Mr. Quinn's conviction was obtained with insufficient evidence; and grant the necessary relief in this matter.

B. Because the State was unable to rule out Suicide, it could not prove the necessary specific intent and knowledge elements of Obstruction. Without proof of *all four elements* there was insufficient evidence to convict.

The crime of Obstruction of Justice is any of the following when committed with the knowledge that such act has, reasonably may, or will affect an actual or potential present, past, or future criminal criminal proceeding.

Specific 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" LSA-R.S. 14:10(1).

The nature of Obstruction of Justice by tampering with evidence is that it is connected to another

criminal investigation or proceeding. There are four essential elements of obstruction by tampering with evidence: (i) the movement of an object, (ii) at the location of an incident the defendant knows or has good reason to believe will be subject to criminal investigation, (iii) with the specific intent, the active desire, to distort the results of a criminal investigation or proceeding, and (iv) with the knowledge that such act reasonably may affect an actual or potential criminal proceeding. Three of these four elements of Obstruction of Justice by tampering with evidence link to an investigation or proceeding into another related crime.

In analyzing the Obstruction of Justice charge against Mr. Quinn, the State, the Louisiana First Circuit Court of Appeal, and the Louisiana Supreme Court neglect all but the first of these four elements. The First Circuit stated, "we find that any rational juror could have concluded that the defendant disposed of Coulon's body. Accordingly, we find that the State proved beyond a reasonable doubt that the defendant was guilty of Obstruction of Justice by tampering with evidence."[5] Similarly, the State argues that the Obstruction of Justice charge was proved beyond a reasonable doubt because "the state present[ed] more than enough evidence to show that Simon Quinn moved the body." The State and the courts only address the first of the four elements. The law requires more.

To prove Mr. Quinn guilty of Obstruction of Justice by tampering with evidence, the State had to prove that Mr. Quinn: (i) removed Mr. Coulon's body, (ii) from a location that Mr. Quinn new or had good reason to know would be subject to a criminal investigation, (iii) with the *specific intent* of distorting the results of that criminal investigation or a proceeding that arose from it, (iv) with the knowledge that removing the body reasonably may affect that criminal investigation or proceeding.

The State also failed to rule out the alternate hypothesis for the Obstruction charge that was introduced in the trial testimony – that Mr. Quinn was covering up an open warrant against him, not a

5 ***State v. Quinn***, 275 So.3d 360, 371 (La. App. 1st Cir. 2019).

murder. By the end of trial, it was still an open possibility that Mr. Coulon's death was a suicide. Even if the State did have sufficient evidence to show that Mr. Quinn removed the body from the scene, it did not rule out the very reasonable hypothesis that he did so because he knew that reporting the suicide death would lead to the police interacting with him and possibly running his name through their system.

Under *Jackson*, the State must show that any rational trier of fact could have found *all* of the essential elements of the crime beyond a reasonable doubt (443 U.S. 307, 318 (1979). Moving the body to avoid interaction with the police is not sufficient to prove Mr. Quinn knew there would be a criminal investigation in his apartment, and that he specifically intended to distort that criminal investigation, and that he knew that removing the body would distort that criminal investigation.

Having failed to prove there was crime it is axiomatic that the State has failed to prove that Mr. Quinn had the requisite knowledge or intent to obstruct a criminal investigation.

C. The State's burden was to prove that Mr. Quinn was guilty of Obstruction of Justice by tampering with evidence in a *Murder* investigation, not just obstructing any type of criminal investigation.

Mr. Quinn's conviction for Obstruction of Justice relies on the criminal proceeding obstructed. Mr. Quinn was indicted for "obstruct[ing] justice by tampering with evidence with the specific intent of distorting the results of any criminal investigation or proceeding *in which a sentence of death or life imprisonment may be imposed*" (R. at 35: *emphasis added*). To prove him guilty beyond a reasonable doubt, the State had to prove Mr. Quinn acted with knowledge of a criminal proceeding in which a life or death sentence may be imposed and specifically intended to distort the results of such a proceeding.

As stated above, there are four essential elements of Obstruction of Justice by tampering with evidence: (i) the movement of an object, (ii) at the location of an incident the defendant knows or has good reason to believe will be subject to criminal investigation, (iii) with the specific intent to distort

the results of a criminal investigation or proceeding, and (iv) with the knowledge that such act reasonably may affect an actual or potential criminal proceeding. The second half of the statute lays out the possible penalties:

> (1) When the obstruction involves a criminal proceeding in which a sentence of death or life imprisonment may be imposed, the offender shall be fined not more than one hundred thousand dollars, imprisoned for not more than forty years at hard labor, or both.
>
> (2) When the obstruction of justice involves a criminal proceeding in which a sentence of imprisonment necessarily at hard labor for any period less than a life sentence may be imposed, the offender may be fined not more than fifty thousand dollars, or imprisoned for not more than twenty years at hard labor, or both.
>
> (3) When the obstruction of justice involves any other criminal proceeding, the offender shall be fined not more than ten thousand dollars, imprisoned for not more than five years, with or without hard labor, or both.

There are two ways to read the plain language of this statute. One interpretation is that Obstruction must always be linked to the criminal proceeding obstructed, so we must read the elements set out in the first part of the statute alongside the grades of offense set out in the penalty provisions. Under this interpretation, to convict someone of Obstruction of Justice involving a criminal proceeding in which a sentence of death or life imprisonment may be imposed, the State is required to prove beyond a reasonable doubt that the defendant (i) altered or removed an object, (ii) at the location of an incident the defendant knows or has good reason to believe will be subject to investigation for a crime for which death or life may be imposed, (iii) with the specific intent to distort the results of an investigation or proceeding into a crime for which death or life may be imposed, and (iv) with the knowledge that such act reasonably may affect the proceeding in which death or life may be imposed.

The other interpretation of the Obstruction statute is to read the substantive and penalty provisions completely separately. Under this interpretation, the State is required to prove beyond a reasonable doubt only that the defendant (i) altered or removed an object, (ii) at the location of an incident the defendant knows or has good reason to believe will be subject to investigation for any reason at all, (iii)

with the specific intent to distort the results of some kind of investigation or proceeding, and (iv) with the knowledge that such act may affect some kind of criminal proceeding. Only at sentencing does it become relevant what specific criminal proceeding was obstructed. This second possibility permits unfair and absurd outcomes, as demonstrated in the following example:

Consider the situation where person A arrives at the home of her friend, person B. B tells A that the police are about to come search his house and asks A to do him a favor and hide a bag of pills. A, wanting to protect her friend from being charged with drug possession, takes the pills from B and hides them in her closet. Clearly, A has intentionally removed an object from a location she knows will be subject to investigation with the knowledge that her removing that object may affect a criminal investigation against B and the specific intent to distort the investigation into B. However, it turns out that the pills are not recreational street drugs, as A had believed, but Cyanide pills, and the police are coming to B's house to investigate a murder by poisoning.

Under the first reading of the Obstruction statute, in which the statute is read as a whole, A could not be convicted of obstructing justice by tampering with evidence involving a criminal proceeding in which a sentence of death or life imprisonment may be imposed, as she only specifically intended to distort a simple drug possession investigation, not a murder investigation. However, under the second reading, in which the substantive and penalty pieces of the statute are construed separately, A could be convicted of Obstruction of Justice by tampering with evidence and sentenced up to forty years because she simply intended to distort the results of an investigation and the proceeding involved turned out to be for murder. Even though A only knew that there may be and specifically intended to distort a simple drug possession proceeding, the second interpretation of the statute would permit her to be convicted of and sentenced for obstructing a murder investigation.

*i) The rules of statutory interpretation support the idea that the State had to prove Mr. Quinn was guilty of knowingly and intentionally obstructing a **murder** investigation or proceeding.*

This case raises what appears to be the novel issue of how to properly interpret the Obstruction of Justice statute. Although the question is new, the canons of construction that provide the answer have deep roots. The rules of statutory interpretation require the first, holistic reading of the Obstruction statute:

> It is a well-established tenet of statutory construction that criminal statutes are subject to strict construction under the rule of lenity ... Thus, criminal statutes are given a narrow interpretation and any ambiguity in the substantive provisions of a statute as written is resolved in favor of the accused and against the State ...[6]

The rule of lenity applies to penalty provisions as well as substantive.[7] Here, there are two possible readings of the Obstruction statute. One would allow the absurd result that A receives a forty-year sentence because she acted with knowledge and specific intent to obstruct a drug proceeding but the proceeding turned out to be about murder. The other would allow A to be convicted and sentenced for only the crime she had knowledge and specific intention to commit. This ambiguity must be resolved in favor of the accused and against the State. The rule of lenity requires that for a conviction of obstructing justice by tampering with evidence involving a proceeding in which death or life may be imposed, the State prove beyond a reasonable doubt that the defendant (i) altered or removed an object, (ii) at the location of an incident the defendant knows or has good reason to believe will be subject to investigation as a crime for which death or life may be imposed, (iii) with specific intent to distort the results of an investigation or proceeding into a crime for which death or life may be imposed, and (iv) with the knowledge that such act reasonably may affect a proceeding in which death or life may be imposed.

Under the vagueness doctrine, a law must "give a person of reasonable intelligence adequate

6 ***State v. Carr***, 761 So.2d 1271, 1274 (La. 2000)(citations omitted).
7 ***State v. Campbell***, 877 So.2d 112, 118 (La. 2004).

notice" of the prohibited conduct and how it is punishable.[8] The key to this doctrine, as recognized by the United States Supreme Court, "is the requirement that a legislature establish minimal guidelines to govern law enforcement" LSA-R.S. 14:130.1(B)(1)-(3). Adoption of the second reading of the Obstruction statute, in which the questions of whether there was obstruction and what was obstructed are asked separately, would allow situations like A's, in which it is impossible for a person to be on notice of the extent of punishment he or she is risking with certain behavior. This interpretation would allow the unfettered discretion of law enforcement to charge and convict people of Obstruction of Justice. As the sentencing provision mandates only that the obstruction "involve[] a criminal proceeding" of a particular grade, A's situation could become even more bizarre and unjust if that provision were read to be completely separate from the elements of the crime. LSA-R.S. 14:3. It is hard to imagine that the results enabled by the broader interpretation of the Obstruction statute are what its drafters intended.

ii) The State failed to prove Mr. Quinn had knowledge or specifically intended to distort a murder investigation or proceeding.

Under *Jackson v. Virginia* and the proper interpretation of the Obstruction statute, we must ask whether any rational juror could have found beyond a reasonable doubt that (i) Mr. Quinn moved Mr. Coulon's body, (ii) at the location of an incident Mr. Quinn knew or had good reason to know would be subject to investigation into a murder, (iii) with specific intent to distort the results of a murder investigation or proceeding, and (iv) with the knowledge that such act reasonably may affect a murder proceeding. The State failed to meet its burden on these essential elements, as it failed to exclude the reasonable alternate hypothesis that Mr. Quinn had no reason to know that Mr. Coulon's suicide would lead to a murder proceeding and intended only to avoid contact with authorities who may discover Mr. Quinn's outstanding, unrelated warrants.

8 *State v. Marchiafava*, 706 So.2d 429, 432 (La. 1998).

As the State failed to prove that Mr. Coulon was murdered, it failed to prove that Mr. Quinn had reason to believe there would be a murder investigation or a murder proceeding. Reviewing the record, we find Ms. Gamble's testimony that Mr. Quinn told her of his belief that Mr. Coulon killed himself (R. at 405). The record also contains testimony from Ms. Gamble and Ms. Quinn that after finding Mr. Coulon's body, Mr. Quinn's driving motivation was to avoid coming in contact with the police and being arrested on old warrants (R. at 390, 405-6). Ms. Gamble testified that Mr. Quinn was especially worried about being arrested on is open warrants because he had just regained the privilege of spending time with his children and did not want anything to interfere with his ability to see them (R. at 405-6). This evidence established a reasonably hypothesis that after Mr. Coulon's death, Mr. Quinn's mind was not occupied by the intention to cover up a murder, but the intention to stay away from the police.

Even if this Court finds that there was sufficient evidence to prove that Mr. Quinn moved the Mr. Coulon's body, this Court must find that there was insufficient evidence to prove Mr. Quinn guilty of Obstruction of Justice. As the United States Supreme Court said in ***Jackson***, "[t]he constitutional necessity of proof beyond a reasonable doubt is not confined to those defendants who are morally blameless." ***Jackson v. Virginia***, 443 U.S. 307, 323 (1979).

Moving Mr. Coulon's body may very well satisfy the elements of a different offense, such as Unlawful Disposal of Remains (LSA-R.S. 8:652). But, to uphold Mr. Quinn's conviction for Obstruction of Justice by tampering with evidence, this Court would have to find that the State proved beyond a reasonable doubt that Mr. Quinn knew his actions may affect a murder proceeding and specifically intended to distort the results of a murder investigation or proceeding. The State has failed to meet this burden; therefore, this irrational conviction must be overturned.

D. The Courts has recognized that the crime of Obstruction of Justice by tampering with evidence is necessarily connected to another crime. If the conviction for the underlying conviction is vacated, as Mr. Quinn's murder conviction has been, the conviction for Obstruction must also fall.

In *State v. Celestine*, 671 So.2d 896, 898 (La. 1996), the Louisiana Supreme Court vacated a defendant's for Distribution of Cocaine and entered a judgment of Simple Possession. The defendant had also been convicted of Obstruction of Justice by tampering with evidence. *Id.*, at 898. The Louisiana Supreme Court held that the defendant was indeed guilty of Obstruction but remanded to the district court for resentencing. *Id.* Mr. Celestine had been sentenced for Obstruction of Justice involving the Distribution of Cocaine and needed to be sentenced instead for Obstruction of Justice involving the Simple Possession of Cocaine. *Id.* The Louisiana Supreme Court recognized that Mr. Celestine's conviction for Obstruction of Justice by tampering with evidence was inextricably linked to his conviction for the crime he was obstructing: when the drug charge changed from Distribution to Simple Possession, the Obstruction by tampering charge changed as well.

As in *Celestine*, Mr. Quinn's conviction for Obstruction of Justice was tied to his conviction for Second Degree Murder. The State, in failing to prove that Mr. Coulon was murdered, also failed to prove the essential elements of Obstruction of Justice by tampering that required knowledge of an impeding criminal investigation or proceeding. As the change from the Distribution of Cocaine to Simple Possession of Cocaine altered Mr. Celestine's conviction for Obstruction of Justice, the change from guilty to not guilty of Second Degree Murder changes Mr. Quinn's Obstruction conviction.

Unlike in *Celestine*, in this case, the State failed not only present sufficient evidence to sustain Mr. Quinn's murder conviction, but also failed to prove Mr. Quinn guilty of a lesser included offense. Manslaughter and Negligent Homicide, the lesser included offenses for Second Degree Murder, would each also require the State to prove beyond a reasonable doubt that Mr. Coulon did not commit Suicide. The murder conviction has been removed, and there is no lesser included offense to replace it, so the

Obstruction conviction has no other crime with which to connect. Without the murder to lean on, the Obstruction of Justice must fall.

SUMMARY

According to *Jackson v. Virginia*, 443 U.S. 307, 99 S. Ct. 2781, 61 L.Ed.2d 60 (1979) and *In re Winship*, 397 U.S. 358, 90 S.Ct. 1068, 25 L.Ed.2d 368 (1970),[9] Mr. Quinn's conviction for Obstruction of Justice must be reversed.

Recently, in *State v. Jones*, 2016-K-1502, 2108 WL 618433 (La. 1/30/18), this Court found that, "When reviewing a conviction based upon circumstantial evidence, which requires the reviewing court to determine whether a reasonable trier of fact could have concluded beyond a reasonable doubt that every reasonable hypothesis of innocence had been excluded, the reviewing court does not determine whether another possible hypothesis has been suggested by defendant which could explain the events in an exculpatory fashion; rather, the reviewing court evaluates the evidence in the light most favorable to the prosecution and determines whether the alternative hypothesis is sufficiently reasonable that a rational factfinder could not have found proof of guilt beyond a reasonable doubt." **110k1159.6** Circumstantial evidence.

Nevertheless, the *Jackson* standard does not permit jurors "to speculate if the evidence is such that reasonable jurors must have a reasonable doubt. *State v. Mussall*, 523 So.2d 1305, 1311 (La. 1988) (quoting **2 C. Wright, Federal Practice & Procedure**, Criminal 2d § 467 at 660-61 and n.23 (2d ed. 1982). Based on the evidence presented, the jury could only speculate that Mr. Quinn was guilty of Obstruction of Justice. *State v. Jones*, supra at *3.

During these proceedings, the Louisiana First Circuit Court of Appeal relied upon circumstantial evidence in order to affirm Mr. Quinn's conviction of Obstruction of Justice. The evidence presented

9 This type of error has been recognized as patent error preventing conviction for the offense, La.C.Cr.P. art. 920(2), see indicative listing at *State v. Guillot*, 200 La. 935, 9 So.2d 235, 239 (1942). Quoting: *State v. Crosby*, 338 So.2d 584, 588 (La. 1976).

was: "A ***white male*** went to Home Depot and bought a plastic tote." Although the Court admitted that the man's face was not clearly visible in the Home Depot surveillance video, the man in the video was of the same build and statute (***no positive identification***). The "white male was driving a red truck (which was ***similar*** to the truck that Mr. Quinn drove)," although the detective testified that there were a lot of red trucks in that area."

The Court also noted that, "The defendant's hat with logos ***matching*** the hat in the video footage was located in a friend's vehicle." There are no notations that this is the ***same*** hat that was seen in the footage; only that it was ***similar*** to the one seen in the video; and that the man was wearing a gray shirt with a Nike logo and a company symbol on the other side which was ***similar to*** a shirt located at Mr. Quinn's residence (or which ***appeared to match*** the shirt worn by the man in the Home Depot video).[10]

During testimony, Detective Dupre could not definitely tell the jury that the person in the video was Mr. Quinn (Rec.p. 438); and that he couldn't be 100% sure saying that was Mr. Quinn in the video (Rec.p. 442); that, "When you're looking for a certain truck, you seem to find a lot of the vehicle," and really couldn't inform the jury of the approximate number of red trucks in the area (Rec.p. 440)

Most importantly, the State has failed to submit evidence that Mr. Quinn was the person who had purchased this tote; nor has the State proven that the tote which was purchased from the Home Depot is the same tote which the body had been found in. Moreover, the evidence presented fails to prove that Mr. Quinn was the person driving a red pickup truck which the State speculates to have transported Mr. Coulon's body.[11]

Mr. Quinn reiterates the fact that there was no evidence supporting that Mr. Quinn had placed the body in a tote, carried it down three flights of steps in a busy apartment complex (without being spotted

10 It must be noted that Woods Group Production Services employees over 35,000 employees worldwide; with a large base of its operations located in Houma, Louisiana.

11 There is no actual evidence that Mr. Coulon's body was in the tote which was supposedly in the bed of the truck caught on surveillance video. It must also be noted that the tote was ***never*** seen, nor does any of the videotaped evidence show a tote in the back of the red pickup truck. Speculation on the State's part.

by anyone, including the management), and placed the tote in the back of a pickup truck (without being seen). The State also failed to prove that Mr. Quinn had driven around with a body in a tote in the back of a pickup truck.

In fact, Lt. Glynn Prestenbach testified that the truck in the videos submitted for evidence "'*looked like the truck*' Jeanne Gamble told me she let Mr. Quinn borrow" (Rec.p. 550). Lt. Prestenbach also testified that he "had no knowledge of who was driving the truck" when discussing the pickup truck in the videos submitted to the jury (Rec.p. 578).

The Court had also relied on the fact that the search of Mr. Quinn's residence yielded bed sheets that *appeared similar*[12] to the one found with Coulon's body, black electrical tape (which is found in about *every* home in America),[13] and a bundle of black garbage bags (which can also be found in about *every* home in America).[14] So, in other words, every person who has electric tape and black garbage bags in their home, have similar curtains or bedsheets, and work for any company which provides work clothes could have been convicted in this matter.

Although the Court relied upon information from Mr. Quinn's cell phone reveals that his cell phone had been in Cocodrie, slightly north of where Coulon's body had been found, this Court must consider the fact that cell phone towers have a "wide" azimuths in an area such as Cocodrie. There is no evidence from the cell phone which stipulates that Mr. Quinn was even on the Cocodrie side of the bayou at the time of the signal being registered on the tower. This Court must also remember that the State has failed to establish beyond a reasonable doubt that Mr. Quinn's truck was actually the truck in the surveillance videos.

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12 Was this part of a missing set? The State failed to determine whether or not the sheet was part of the same set located at Mr. Quinn's residence.

13 There was no testing conducted to determine if the tape found with the body came from the same roll as the one found in Mr. Quinn's residence.

14 There was no testing conducted to determine if the bag found with the body came from the same roll as the one found in Mr. Quinn's residence.

The State's entire case relies upon circumstantial evidence and unsubstantiated speculation. The State has failed to prove any evidence that Mr. Quinn had physically removed, or was responsible for the removal of Mr. Coulon's body from his residence after his demise.

WHEREFORE, for the aforementioned reasons, the arguments in Mr. Quinn's pleadings during Appeal, Mr. Quinn respectfully requests this Honorable Court to invoke its Supervisory Authority of Jurisdiction over the lower court; and after a thorough review of the merits of such Grant the relief deemed necessary by this Court.

CONCLUSION

The hypothesis that Mr. Quinn found his roommate dead by suicide, and moved his body to avoid interaction with police and discovery of open warrants is equally, if not more, consistent with the facts than the hypothesis offered by the State. Discovering his friend's suicide, Mr. Quinn knew no crime had been committed. So he had no reason to think a crime would be investigated. He had no reason to specifically intended to impede a murder investigation, because he did not have any reason to know that the body or his apartment would be the location of a murder investigation. Without the specific intent or reason to know about a homicide investigation, the State simply cannot have met all the requisite elements required to prove beyond a reasonable doubt that Mr. Quinn is guilty of Obstruction of Justice by tampering a murder investigation. There is insufficient evidence to support this conviction under *Jackson v. Virginia*.

For the reasons stated above and in the previous filings in the State of Louisiana Courts, Mr. Quinn's Writ of Certiorari should be granted, and this matter be remanded to the district court for a dismissal; or in the alternative, a new trial. Mr. Quinn has shown that this conviction is contrary to clearly established federal law as established by the United States Constitution and the United States Supreme Court; and that reasonable jurists would debate the validity of the conviction.

Respectfully submitted,

Simon Quinn

Date: November 16, 2020