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**ORDER DENYING WRIT APPLICATION,
SUPREME COURT OF THE
STATE OF LOUISIANA
(MAY 12, 2026)**

THE SUPREME COURT OF
THE STATE OF LOUISIANA

STATE OF LOUISIANA

vs.

ALLISON NGUYEN

No. 2025-K-01475

IN RE: Allison Nguyen - Applicant Defendant;
Applying For Writ Of Certiorari, Parish of Jefferson,
24th Judicial District Court Number(s) 24-5360,
Court of Appeal, Fifth Circuit, Number(s) 25-KP-312;

Writ application denied.

JBM

JLW

PDG

JMG

CRC

AHP

Hughes, J., would grant.

App.2a

Supreme Court of Louisiana
May 12, 2026

/s/ Katie Marjanouic

For the Court

**OPINION, FIFTH CIRCUIT COURT OF
APPEAL, STATE OF LOUISIANA
(NOVEMBER 12, 2025)**

FIFTH CIRCUIT COURT OF APPEAL
STATE OF LOUISIANA

STATE OF LOUISIANA

v.

ALLISON NGUYEN

NO. 25-KP-312

On Application for Supervisory Review
from the Twenty-Fourth Judicial District Court
Parish of Jefferson, State of Louisiana
No. 24-5360, Division “P”

Honorable Lee V. Faulkner, Jr., Judge Presiding

Before: Jude G. GRAVOIS, Marc E. JOHNSON,
and John J. MOLAISSON, JR., Judges.

JOHNSON, J.

Defendant, Allison Nguyen, seeks review of her misdemeanor conviction for domestic abuse battery rendered in the 24th Judicial District Court, Division “P”. For the following reasons, we affirm Defendant’s conviction and remand the matter with instructions.

FACTS AND PROCEDURAL HISTORY

On December 19, 2024, the Jefferson Parish District Attorney filed a bill of information charging Defendant with domestic abuse battery, in violation of La. R.S. 14:35.3. Defendant pleaded not guilty on January 17, 2025.

On March 7, 2025, defense counsel filed a “Notice of Intent to Admit Evidence Pursuant to La Code of Evidence 404 (2) and Expert Testimony.” On March 10, 2025, the State filed the “State’s Notice of Intent to Introduce Evidence Under La. C.E. Article 412.4 or in the Alternative 404(B).” Defense counsel filed a motion for jury trial on May 13, 2025. The motion was denied at a hearing on May 14, 2025. A writ on the matter was filed by defense counsel on June 10, 2025 and was denied on June 13, 2025. *State v. Nguyen*, 25-255 (La. App. 5 Cir. 6/13/25), 2025 WL 1672963.

On June 12, 2025, defense counsel filed a motion to continue. The following day, the State filed an opposition to the motion to continue. The order at the bottom of the defense’s motion is dated June 12, 2025, and it set a hearing for June 18, 2025. However, “Denied” also appears to be typed below the order.

On June 18, 2025, defense counsel orally moved for a jury trial, which was denied. A bench trial was held that day. At trial, Officer Arianna Heard with the Gretna Police Department explained that on October 20, 2024, she responded to a Planet Fitness regarding a female striking a male covered in blood.¹ Upon arriving,

¹ In the 9-1-1 call, a Planet Fitness employee requested the police and an ambulance because a man was bleeding after a woman punched him.

she encountered Randy Le, who was standing outside with a laceration on his forehead and blood on his shirt. His injury was photographed. Officer Heard testified that EMS was automatically dispatched because of the nature of the call. After she declared that the scene was safe, Mr. Le was transported by EMS for medical assistance.

Officer Heard stated she also spoke to Defendant, who did not have any injuries. Officer Heard explained that, when she arrived, Defendant was already secured in handcuffs by the first responding officer. After advising Defendant of her *Miranda*² rights, she spoke to Defendant as she sat in the back of another officer's car. Defendant agreed to speak to the officer, and their entire interaction was captured on Officer Heard's body-worn camera.

Officer Heard's body-camera footage was played during the trial. Starting at 27:57 in the video,³ Officer Heard approached Defendant in the back of a police vehicle and advised her of her rights. Defendant relayed that she was in the corner of the gym near the weights. She said it was supposed to be just her and her friend but that Mr. Le wanted to come as well. Defendant stated she entered the gym as a guest of her friend, who was a member. However, Officer Heard informed Defendant that she had a membership, and Defendant agreed but qualified that

² *Miranda v. Arizona*, 384 U.S. 436, 86 S.Ct. 1602, 16 L.Ed.2d 694 (1966).

³ The prosecutor played the video at trial starting at 27:57. She then played it again at 28:46. It is unclear if a part was skipped or if it was just paused due to an objection by the defense. The video was continued until 37:14.

“it had been a long time.” Defendant explained that Mr. Le “snuck in.”

In the body-camera video, Officer Heard asked Defendant why she hit Mr. Le. She replied that she told Mr. Le, “Let’s go home.” He wanted his air pods back. She indicated that Mr. Le was being disrespectful and “talking s**t” in Vietnamese, so she “slapped the s**t out of him” in front of everyone. Another officer asked what Mr. Le said in Vietnamese. Defendant explained that he called her a “dumb ho.” She said, “Leave me alone. Like, what the f**k? Are you serious? So I slapped the s**t out of him. But I didn’t know that my phone would actually cut his face.” The second officer asked if she had her phone in her hand when it happened. Defendant agreed and said, “[U]sually at home when we hit each other, well he hits me too at home, yeah he gives bruises to me, but when I hit him, he doesn’t get a cut mark or bruises.” Officer Heard asked Defendant what she did after she hit Mr. Le, and Defendant replied that she went back to her friend and continued working out. She reiterated that she hit him with her phone and then left.

In the video, the second officer began to ask Defendant if it was normal, but she interrupted him to say this was not the first time this happened. The officer then asked if it was normal for them to degrade or belittle each other in public or at home and if it “went one way.” She indicated that Mr. Le did the same thing, and that it was aggravating. The second officer asked her, considering this had happened before, what happened that night that made her have enough. She said she just wanted to slap him. Defendant stated Mr. Le was not invited to the gym,

and he had an attitude. She said he was “talking s**t” about her and calling her a “dumb ho” in front of others. Defendant explained that it was supposed to only be her and her friend. She acknowledged that they were in the car together and he was supposed to take a bus downtown. Defendant said she did not know Mr. Le was inside of the gym, and that is why she got mad. Officer Heard moved Defendant to a different police vehicle. The officer and Defendant talked as the vehicle moved. Defendant confirmed that she and Mr. Le were together for seven years and living together for four years.

On cross-examination, the video was played, starting at 19:19:47.⁴ Officer Heard testified that Mr. Le used the alias Andy and Randy and said his name was Andy Le. She was asked if she was aware that Andy Le was Mr. Le’s brother and that he gave his brother’s date of birth. Officer Heard answered negatively. Officer Heard stated that Mr. Le clarified that his name was Randy when he was in the back of the ambulance.

⁴ It appears that this timestamp, unlike the earlier one, referred to the time in the video itself, not the time based on the length of the video. This video timestamp corresponds to forty-four seconds into the video. Officer Heard approached a man who was bleeding from his head. He stated his name was Andy Le and provided a birthday. The man said he was there working out. He went there with his girlfriend, who hit him in the head with a phone. EMS personnel arrived and assessed his injury. While in the ambulance, the man gave an EMT his license and clarified to Officer Heard that his name was Randy. He stated he and Defendant were together three years. He described that she needed discipline but not jail. He provided that they lived together and that she was on probation. Officer Heard then left the ambulance.

Officer Heard testified that Defendant did not say that she was afraid of Mr. Le, but she said they had incidents in the past. The officer further explained that Defendant did not say that Mr. Le threatened her at Planet Fitness, or that he told Defendant, "Wait until we get home." Officer Heard also said Defendant did not say she was in imminent fear of Mr. Le or that she acted in self-defense.

Officer Heard recalled that she went into Planet Fitness to gather evidence. She obtained surveillance footage of the incident. In the video, Mr. Le sat alone on a piece of gym equipment. He appeared to have air pods in his ears. Defendant approached him from out of frame; she had several items in one hand and held out her other hand. He removed his air pods and stood up. They briefly talked. Defendant appeared to then strike Mr. Le while being slightly out of frame of the video before they both are out of frame entirely. Defendant then walked away.

Officer Heard stated she did not observe Mr. Le move aggressively toward Defendant. Officer Heard provided that the video did not have audio. She agreed that there was a moment where Defendant and Mr. Le interacted and spoke. She described that there was a very brief interaction before Defendant hit Mr. Le with a phone. Officer Heard explained that employees had already started cleaning up Mr. Le's blood but that there was a trail of blood from the bathroom to the front desk. The officer stated that, after the investigation, Defendant was arrested for domestic abuse battery.

Officer Heard acknowledged that she ran Mr. Le's criminal record and saw charges for possession of marijuana and battery of a police officer. The officer

was shown a certified copy of convictions for possession of marijuana, drug paraphernalia, battery of a police officer, and resisting arrest. She was also shown a conviction for Mr. Le for possession of marijuana within one thousand feet of a school zone, which she agreed she saw when she ran his record.⁵

Body-camera footage from another officer was admitted into evidence by defense counsel and published.⁶ Officer Heard acknowledged that Defend-

⁵ The prosecutor objected to the admission of multiple exhibits related to Mr. Le's criminal record. The judge sustained the objections, and the defense proffered them into the record.

⁶ The record does not specify what portion of the 39-minute-long video was played. In the beginning of the video, Mr. Le identified Defendant as the person that hit him and said she did it because she thought he was looking at girls. Defendant and her friend then exited the Planet Fitness. Defendant told the officer that Mr. Le was disrespecting her so she hit him. She stated, "He always hits me at home, though. That's the thing. He hits me at home. He abuses me at home. I'm tired of his s**t." The officer then placed Defendant in handcuffs. Defendant repeated that Mr. Le was being disrespectful and that she hit him because he hits her at home. She admitted that she slapped him. When the officer asked how Mr. Le was bleeding, Defendant stated she hit him with her phone. She indicated that she had done it before a few times and that he hit her. She said, "That boy's not innocent." The officer said she did not have the right to do it, and Defendant replied that she should have hit him outside. The officer clarified that she should not have hit him at all. Defendant stated he hits her too and asked if it was okay for him to hit her. The officer asked if she reports it; she stated they live together. She then acknowledged that she does not report it. She indicated that she previously reported it and that she was told they could not live together. Defendant explained that it was her mother's house and that Mr. Le was supposed to have left. As she was placed in the back of a police vehicle, the officer asked if Mr. Le was being disrespectful by looking at other girls. Defendant replied that it was not just looking at other girls but that he was also cursing

ant appeared to say, “[H]e hits me at home.” She explained that it was not said to her and that it occurred before she arrived. The officer explained that she found “one previous JP report where there was a domestic disturbance” between Defendant and Mr. Le. Defendant called the police on Mr. Le.

Melinda Nguyen, Defendant’s mother, stated she lived at 7424 Jessup Drive with Defendant, Defendant’s father, and Defendant’s brother. She stated that at the time of the incident, Mr. Le, Defendant’s ex-boyfriend, was also living there. She agreed that she was trying to get him out of the house. She described that Defendant and Mr. Le dated off and on for seven years and that she did not know if they were dating on the day of the incident. Ms. Nguyen stated she saw bruising on Defendant’s face, and that Defendant and Mr. Le fought each other. Ms. Nguyen stated Mr. Le did not hit Defendant in front of her; she never saw Defendant abuse Mr. Le. She stated Defendant was afraid of Mr. Le. She stated that Defendant and Mr. Le were no longer together at the time of trial. Ms. Nguyen testified that she received a text message from Mr. Le three or four weeks before trial asking if Defendant was there. Ms. Nguyen did not respond to the message.

Defendant, who was 28 years old at the time of trial, testified that she lived at 7424 Jessup Drive with her parents and brother. She recalled that she and a friend went to Planet Fitness. Mr. Le was her boyfriend at the time. She acknowledged that in the video previously played, Mr. Le lied when he said he

her in front of everybody. She indicated that she and Mr. Le were not dating but that they were living together.

was Andy Le. She explained that her friend was a member of Planet Fitness. Mr. Le was not a member and snuck in. He was not supposed to go with Defendant. Defendant agreed that video showed her approach Mr. Le. She indicated that she asked him about air pods and that he gave them to her. Defendant testified that Mr. Le then said to her, "You're a dumb ho. Watch when we get home." She stated she took his statement to mean that he was going to hit her because he had done so previously. Defendant acknowledged that Mr. Le was her boyfriend in October 2024. She agreed that she and Mr. Le were in the car together when they went to Planet Fitness.

She stated she was telling the truth when she said in the video that Mr. Le hits her. Defendant recalled that he previously hit her many times. Defendant indicated that at one point, she and Mr. Le lived in Houston. While there, he hit her because he did not want to take her to work. She recalled that she took the key, Mr. Le became angry, and he grabbed her hair and hit her. She said he hit her another time in Houston.

Defendant stated she has known Mr. Le since middle school, and they dated for four years. She testified that he had choked her a few times. When asked if she ever lost consciousness, Defendant stated that the first time she passed out, Mr. Le was scared. Defendant testified that she put up with it because Mr. Le had a car, and she did not. Defendant was asked if she remembered another fight "when he was going to, he was harassing [her] and going to put [her] on social media and said, 'Look at this whore.'" She indicated that she remembered the incident, and that

he dragged her out of a car, scraping her leg. Defendant was asked if she ever tried to press charges against Mr. Le. She replied, “Um, I did at one point. But I didn’t get a chance to do it.”

Defendant identified a text message from Mr. Le sent several weeks prior. She stated he said “not,” explaining that this is another term for “ho.”⁷ Defendant acknowledged that she pleaded guilty to aggravated battery on October 10, 2023, and was sentenced to “three years at hard labor suspended, three years active probation” for an offense on July 4, 2022. She agreed that the current charge was not the first time she was arrested for domestic abuse against Mr. Le.

Defendant was asked why she did not tell the police about Mr. Le calling her a “ho” or threatening her. She replied, “At that time, I couldn’t really like say everything that I needed to say to the cop, because everything happened like so fast.” She said she could have informed the officers about a threat of harm by Mr. Le but did not tell them. Defendant acknowledged that the Planet Fitness video showed her hit Mr. Le.

At the conclusion of the presentation of evidence, the trial judge found Defendant guilty of domestic abuse battery.

On June 23, 2025, defense counsel filed a “Motion for New Trial and Incorporated Memorandum.” The trial court denied the motion on June 25, 2025. The trial court then sentenced Defendant to six months in parish prison. Defense filed a motion for a writ of

⁷ This text message was identified as an exhibit at trial, but it was not offered to be admitted into evidence.

review on the same day. On July 17, 2025, Defendant timely filed the instant writ application.

ASSIGNMENTS OF ERROR

In her writ application, Defendant alleges that the trial court erred when: 1) it required a hostile demonstration or an overt act to apply the justification of self-defense; 2) failed to acquit Defendant or grant a new trial under the uncalled witness rule; 3) failed to allow evidence under La. C.E. art. 404(B) relative to the alleged victim; 4) sentenced Defendant to the maximum six-month sentence; and 5) failed to grant a jury trial.

LAW AND ANALYSIS

Self-Defense

Defendant alleges that the trial court erred when it required a hostile demonstration or an overt act occur for the justification of self-defense to be applicable to this matter. Defendant contends that there was un rebutted evidence of abuse by the victim against her. She asserts that the prosecutor argued and the court accepted the “hostile demonstration rule” and was unfamiliar with “La. R.S. [sic] 404 (B) (2).”

The State argues that Defendant misunderstands La. C.E. art. 404(B)(2). The State explains that, despite Defendant’s claim, defense counsel was allowed to admit evidence under La. C.E. art. 404(B)(2) that the victim allegedly abused her in the past. It maintains that the Article governs the admissibility of evidence and is not a substantive theory of self-defense. The State contends that it did not argue that there was not an overt act or hostile demonstration;

but rather, it said the video did not show someone in imminent danger of receiving a battery.

On March 7, 2025, defense counsel filed a “Notice of Intent to Admit Evidence Pursuant to La [sic] Code of Evidence 404 (2) and Expert Testimony.” In part, he explained that “[D]efendant pleads self-defense but is not required to show an overt act on the part of the victim because there is a history of assaultive behavior by the victim and will show specific instances of domestic abuse.”

On June 23, 2025, Defendant filed a “Motion for New Trial and Incorporated Memorandum.” In part, she stated the State argued that the defense must show an overt act or a hostile demonstration by the victim at the time of the offense. She argued that the trial court agreed with the State and improperly ruled that self-defense requires a hostile demonstration or overt act by the victim at the time of the offense, citing to La. C.E. art. 404(B)(2). She stated a new trial was required as a result of that ruling.

At a hearing on June 25, 2025, defense counsel argued that an overt act or hostile demonstration was not necessary for a domestic case. He stated, “A woman can live with a man for a long period of time and get beaten up every day and one day wake up in the morning, look over at him while he’s fast asleep and slit his throat and claim self-defense under the law as it is now.” He pointed out that Defendant said Mr. Le hit her at home. Counsel argued that the court would not consider self-defense and ruled against Defendant because there was no overt act by the victim at the time of the offense. He asserted that the victim told Defendant to wait until they got home. Counsel stated there was a history of assaultive

behavior. He contended that self-defense could be raised when there is a history of assaultive behavior within a domestic situation.

The trial judge explained that he did not recall sustaining an objection relative to that position and allowed defense counsel to present that position. The judge explained, "So because of my ruling as to her guilt does not mean that I did not consider what you put before the Court, Counsel." The judge stated that counsel presented pictures and was allowed to present that defense. Counsel replied that during trial, the prosecutor argued that there was not a hostile demonstration or overt act. The judge responded that he listened to all of the arguments, and defense counsel's assertion that the court did not allow him to present that position was false. Defense counsel stated, "Well, then if we did present that position, I don't see how you could have possibly found her guilty, unless you just discounted anything she had to say. And there was nothing, no rebuttal." The judge agreed.

The trial judge explained:

I discounted what she said, Counsel, because I heard what she said relative to, "He beats me at home." And I also heard her say that, "He was disrespectful. And I wanted to slap the s**t out of him." She never said anything about being in any danger or anything, Counsel. Let's present the whole picture here, okay? Let's not cherrypick what's good for us and what's not good for us we ignore. So don't try to put the Court in the position . . . —where the Court has, basically, ignored evidence, which I didn't.

The trial judge stated that he heard the defense, weighed it, and ruled. Counsel asserted that Defendant did not have to be in any immediate danger to use self-defense if she is an abused person. The judge said he heard it, and the prosecutor said she does not have to. The judge repeated his assertion that he heard the defense, weighed it, and ruled. The prosecutor contended that the State “never argued there was an overt act that needed to be necessary because it is a domestic relationship.” She asserted the State argued that Defendant was not in imminent harm of receiving a battery at the time she attacked the victim. The prosecutor further averred that, even if the court believed that the victim verbally threatened Defendant, it was clear that the threat was not immediate and that Defendant’s actions were unreasonable. The court denied the motion for new trial.

La. C.E. art. 404(B)(2) states:

In the absence of evidence of a hostile demonstration or an overt act on the part of the victim at the time of the offense charged, evidence of the victim’s prior threats against the accused or the accused’s state of mind as to the victim’s dangerous character is not admissible; provided that when the accused pleads self-defense and there is a history of assaultive behavior between the victim and the accused and the accused lived in a familial or intimate relationship such as, but not limited to, the husband-wife, parent-child, or concubinage relationship, it shall not be necessary to first show a hostile demonstration or overt act on the part of the victim in order to introduce evidence of

the dangerous character of the victim, including specific instances of conduct and domestic violence; and further provided that an expert's opinion as to the effects of the prior assaultive acts on the accused's state of mind is admissible.

(Emphasis added).

Here, there was evidence presented of prior abuse by the victim towards Defendant. Defendant and her mother testified about the abuse. The transcript reflects that the judge said he considered the evidence presented. We find that Defendant's contention that the judge was not familiar with La. C.E. art. 404(B)(2) or that the judge required a hostile demonstration or overt act to determine Defendant acted in self-defense was misplaced. As pointed out by the State, La. C.E. art. 404(B)(2) relates to the admissibility of evidence. The judge allowed the introduction of evidence of the victim's dangerous character into evidence, considered the claim of self-defense, and rejected it. We find that this assignment of error lacks merit.

Motion for New Trial

Defendant alleges that the trial court erred when it failed to acquit Defendant or grant a new trial under the uncalled witness rule. She asserts that the State had control of the victim and quotes the prosecutor as having said on June 13, 2025, that it had a cooperative witness who was not out-of-state and was incarcerated. Defendant explains that the State did not notify the court or the defense that it did not have the witness, and that the State failed to call him. Defendant states that she argued at trial that his lack of presence inhibited her ability to introduce

impeachment evidence into the record. She concludes that the case should be reversed.

The State explains that it is unclear whether the uncalled witness rule applies to Louisiana criminal cases and contends that this is not the case to make that determination. It points out that the issue was not raised prior to the verdict and was, therefore, not preserved for review. It also asserts that in its opposition to the motion to continue, the State said the victim was not located out of state and was not incarcerated. The State contends that it was prohibited by La. R.S. 15:257.1(B) from obtaining a material witness warrant for the victim because this is a domestic abuse battery case. It asserts the victim was not in the State's control. The State argues that, even if the uncalled witness rule applied, the presumption was rebuttable, and enough evidence was presented to prove the case.

In her rebuttal, Defendant argues again that the State said it had the witness, but that was not an accurate statement. She asserts that the State needed "him to rebut Mr. [sic] Nguyen testimony." She contends that the State's brief is purposefully ambiguous about the victim's availability because he would not have helped the State's case.

On June 12, 2025, defense counsel filed a motion to continue, wherein he asked that the matter be continued without date because the defense's writ to this Court would probably have to be filed with the Louisiana Supreme Court. He asserted that it was in everyone's best interest for this Court to have time to rule.

On June 13, 2025, the State filed an opposition to the motion to continue. In pertinent part, the State asserted that it had a “cooperative victim in this matter who is not located out of state and is also not incarcerated.” It further provided, “Part of the basis for Defense’s writ seems to be that we should not prosecute cases where the victim is uncooperative; however, at this time and to the State’s knowledge, there is a cooperative victim in this case.” The State said the victim and several witnesses were coordinated for trial on June 18, 2025, and that the trial should proceed as planned. The court ultimately denied the motion. The matter proceeded to trial on June 18, 2025, and the court found Defendant guilty of domestic abuse battery.

On June 23, 2025, Defendant filed a “Motion for New Trial and Incorporated Memorandum.” In part, she asserted that the State failed to produce the victim, who would have provided exculpatory evidence regarding his abuse of Defendant and of his threat toward her at the time of the offense. Defendant argued that the State purposefully failed to produce the victim. She said that the State asserted the witness was cooperative, he was not out-of-state, and he was incarcerated. Defendant explained that two days before trial, the State requested a subpoena for the victim. She argued that the State had a duty to disclose to the defense and the court if the witness was not cooperating, and the State misled the defense and the court. Defendant explained that, if the State was purposefully being misleading, and the information was exculpatory, then the State had a duty to produce it. She referenced the “uncalled witness rule.” Defendant asked for a new trial.

On June 25, 2025, defense counsel stated that he filed a motion to continue several days before trial, and the State filed a “scathing objection.” He explained that the State said it had the victim, that he was cooperating, and that the trial should not be continued. Counsel asserted that the State did not present the victim, and posited that he was not cooperating or that he would give exculpatory evidence. He explained that the State filed a subpoena for the victim two days before trial. Defense counsel said that the State called him a liar. He opined that the State had an obligation to notify him and the court that the victim was no longer cooperating.

Defense counsel then explained the uncalled witness rule. He provided, “If you have a witness under your control, and that was this witness, and you don’t call him, there’s a presumption that that witness would not help you.” Counsel said the witness had three outstanding warrants and that the State could have sent the police to pick him up. He reiterated that by not appearing, there is a presumption that his testimony would not help the State’s case.

The prosecutor questioned the existence of the uncalled witness rule. She explained that, at the time the State filed its opposition to the continuance, it believed the victim was cooperative and that there were documented phone calls. The prosecutor stated that three days after filing the opposition, the victim failed to appear at an agreed-upon meeting. She summarized that the victim was contacted, and he stated that he went to Texas and forgot about the trial. She explained that the victim said he would try to make arrangements. The prosecutor asserted that it was not accurate that the State did not try to get the

victim there and referenced the subpoena. She stated the victim was contacted multiple times, but his phone eventually no longer accepted calls. She said they tried calling him from different phone numbers but none went through. The prosecutor asserted that the State did not know why he became uncooperative. She contended that, when the victim did not appear, the State proceeded with the evidence it had.

Defense counsel read aloud from the State's prior response and asserted that the victim was not cooperative if he left the state. He argued that the State had a duty to provide notice that the victim was not present, once it became aware that he would not appear. He averred that it was obvious the victim would not appear for the trial. Counsel stated the victim was in another state and in jail but that the State disagreed. He argued that the State never had the victim. The trial court denied the motion for new trial.

La. C.Cr.P. art. 841(A) provides, in pertinent part: "An irregularity or error cannot be availed of after verdict unless it was objected to at the time of occurrence." To seek appellate review of an alleged trial court error, a party must make a contemporaneous objection at trial and must state the grounds for the objection. *State v. Nix*, 22-446 (La. App. 5 Cir. 10/31/23), 374 So.3d 212, 216, *writ denied*, 23-1540 (La. 4/23/24), 383 So.3d 604; *State v. Williams*, 20-46 (La. App. 5 Cir. 12/30/20), 308 So.3d 791, 838. The purpose of the requirement of a contemporaneous objection is to put the trial judge on notice of an alleged irregularity, so that he or she may cure a legitimate problem and prevent the defendant from gambling for a favorable verdict and then resorting to

appeal on errors that might easily have been corrected by an objection. *State v. Patin*, 13-618 (La. App. 5 Cir. 9/24/14), 150 So.3d 435, 441. A contemporaneous objection allows opposing counsel to reply or to correct the problem, and may also prevent the error entirely. *Id.* at 441-42.

Here, because Defendant failed to raise her uncalled witness rule objection prior to the rendition of the verdict by the trial judge, we find that she is precluded from raising the issue on appeal. (See, *State v. Chester*, 19-363 (La. App. 5 Cir. 2/3/21), 314 So.3d 914, 975, *writ denied*, 21-350 (La. 6/8/21), 317 So.3d 321, holding, “we find that Defendant raising his claim in his motion for new trial does not suffice as a contemporaneous objection under La. C.Cr.P. art. 841.”)

La. C.E. art. 404(B) Evidence

Defendant explains that she attempted to introduce the victim’s criminal history of violence and drugs into evidence under La. C.E. art. 404(B), but the judge prompted the State to object. She says that the defense was not permitted to introduce the convictions, which would have proven the victim’s intent and motive to beat her when they got home. She argues that, if the State had produced the witness, the convictions would have been admissible for impeachment purposes.

The State asserts that Defendant mischaracterized how its objection occurred. It argues that the defense sought to introduce the evidence at issue under “reverse 404(B).” The State points out that Defendant did not provide notice of the reverse 404(B) evidence, and as such, it was inadmissible. It argues

that regardless of the untimeliness and lack of notice, the victim's prior offenses might have been relevant if they were for domestic violence; however, they were actually for marijuana crimes and battering/resisting a police officer. The State contends that defense counsel's response to its objection demonstrates that the evidence was forbidden propensity evidence.

In response, Defendant reiterated that the court should have allowed the evidence under La. C.E. art. 404(B) to show the victim's intent. At trial, while cross-examining Officer Heard, defense counsel showed her Defense Exhibit 1, which he characterized as a certified copy of convictions for possession of marijuana, drug paraphernalia, battery of a police officer, and resisting arrest. He then showed her Defense Exhibit 2, which he described as a conviction in case number 16-1116 for possession of marijuana within one thousand feet of a school zone. When counsel offered the exhibits into evidence, the judge asked if there was an objection to the exhibits. The prosecutor objected based on the relevance of the victim's prior convictions. When asked for the relevancy of the evidence, defense counsel replied, "It's a violent offense. He's a violent person. He's a weed smoker which means he was probably loaded that night." The judge sustained the objection as to both exhibits.

Defense counsel then offered into evidence Defense Exhibit 3, characterized as a certified copy relating to possession of marijuana in a school zone associated with case number 16-1116. The prosecutor objected based on relevance, and the court sustained the objection. Counsel stated, "I'm going to show and we're going to proffer these, Judge. And D 4, we're going to show you an objection, another objection to third

offense marijuana, a felony. I offer, file and introduce D 4.” The judge said there was no testimony. Defense counsel stated it was self-authenticating and asked Officer Heard if Defense Exhibit 4 was a conviction. She answered affirmatively. Counsel then indicated that it was a certified copy and offered it into evidence. The prosecutor again objected based on relevance, and the judge sustained the objection.

Defense counsel proffered Defense Exhibit 5. He asked Officer Heard if Mr. Le was convicted of another third offense possession of marijuana. She agreed. Counsel asked if it was a conviction. Officer Heard pointed out that it appeared to be a duplicate and that Defense Exhibits 2 and 3 also appeared to be the same. Counsel said, “Let’s go with D 4. How about 18-411, another possession of marijuana, third offense.” The judge asked what exhibit he was on; counsel replied Defense Exhibit 6. The judge asked what was Exhibit 5. Counsel replied that Defense Exhibit 5 was a conviction for case number 17-2049. The judge explained that he thought Defense Exhibit 5 was a duplicate. Officer Heard clarified that Defense Exhibit 5 was a duplicate of 4 and that Defense Exhibit 3 was a duplicate of Defense Exhibit 2. Defense counsel stated, “1 is 16-116. I mean 2 is 16-116. And 1 is 15-4766, a conviction. D 3 is one — no. That’s right. Never mind. D 3 will be 17-2049, a conviction, possession of marijuana, third offense, a felony.” The judge asked what counsel was handing the officer. He replied Defense Exhibit 3. The judge then indicated that it was case number 17-2449. Counsel stated it was a certified copy and offered Defense Exhibit 3 into evidence. The prosecutor again objected based on relevance. *Id.* at 46.

The judge stated he wanted to get the record straight. He explained, “D 1 is 15-4766; D 2 is 16-1166 [sic]; D 3 is 17-2049. The Court previously sustained the objections by the State.” Defense counsel noted his objection and proffers. He then showed Officer Heard Defense Exhibit 4, associated with 18-4811, which the officer agreed was a conviction. Counsel offered it into evidence, the prosecutor objected, and the judge sustained the objection. Counsel proffered it into the record. He then stated Defense Exhibit 5 was 17-2049 and directed the officer to look at it. The judge then asked what Defense Exhibit 3 was. Counsel replied that it was 17-2049. Officer Heard answered affirmatively when she was asked if she was the investigating officer. Defense counsel asked her if she looked at his record, and she replied that she looked at both of their records. Counsel stated he wanted to show her “18-2998” and asked if it was a conviction. The prosecutor asked what exhibit it was. Counsel stated it was Defense Exhibit 5. Counsel asked Officer Heard if she was aware of the conviction in 18-2998. She stated she was aware of the charge but not the conviction.⁸

In her writ application, Defendant included several exhibits related to Mr. Le’s prior convictions. A minute entry for case number 15-4766 dated November 30, 2015, shows that on that day, Randy Le pleaded guilty

⁸ The minute entry for trial and the list of evidence provided by the trial court in response to this Court’s order to supplement reflects that only four exhibits were proffered into evidence: Defense Exhibit 1 (certified copy of minute entry for 15-4766), Defense Exhibit 2 (certified copy of minute entry for 16-1116), Defense Exhibit 3 (certified copy of minute entry for 17-2049), and Defense Exhibit 4 (certified copy of minute entry for 18-4811).

to possession of marijuana weighing less than fourteen grams, in violation of La. R.S. 40:966(C); possession of drug paraphernalia, in violation of La. R.S. 40:1023; battery of a police officer, in violation of La. R.S. 14:34.2; and resisting an officer, in violation of La. R.S. 14:108. This minute entry was proffered at trial as Defense Exhibit 1.

A minute entry for case number 16-1116 dated June 20, 2018, reflects that Randy Le had his probation revoked related to a guilty plea entered on October 31, 2016, for possession of marijuana within 1000 feet of a school or church, in violation of La. R.S. 40:981.3. This minute entry was proffered at trial as Defense Exhibit 2.

A minute entry for case number 17-2049 dated July 9, 2018, showed that Randy Le pleaded guilty that day to possession of marijuana third offense, in violation of La. R.S. 40:966(C). This minute entry was proffered at trial as Defense Exhibit 3.

In a minute entry for case number 18-4811 dated September 13, 2018, Randy Le pleaded guilty to possession of marijuana third offense, in violation of La. R.S. 40:966(C). This was proffered at trial as Defense Exhibit 4.

A separate minute entry also dated July 9, 2018, but in case number 18-2998 showed that Randy Le pleaded guilty that day to possession of marijuana third offense, in violation of La. R.S. 40:966(C). It appears this exhibit was intended to be Defense Exhibit 5, but it was not offered to be admitted into evidence at trial.

Exhibits and attachments not properly and officially offered and admitted into evidence cannot be

considered, even if it is physically filed into the trial court record. *State v. Leggett*, 18-647, (La. App. 5 Cir. 3/18/19), 2019 WL 1246911; *State v. Whitley*, 14-737 (La. App. 5 Cir. 3/25/15), 169 So.3d 658, 660 n.1 (citing *Denoux v. Vessel Mgmt. Services, Inc.*, 07-2143 (La. 5/21/08), 983 So.2d 84, 88). Documents attached to memoranda do not constitute evidence and cannot be considered as such on appeal. *Denoux*, 983 So.2d at 88.⁹ Thus, we find that Exhibits J and K attached to the instant writ application will not be considered.

In a minute entry for case number 19-624 dated September 6, 2022, Randy Le had his probation revoked for guilty pleas (entered on February 24, 2021) to prostitution, in violation of La. R.S. 14:82, and possession of marijuana, in violation of La. R.S. 40:966(C). Based on the case number, this minute entry was not proffered into evidence at trial.

To understand the admissibility of “reverse 404(B)” evidence used against a victim, it is helpful to first consider Article 404(B) evidence as used against a defendant. 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 he has committed other such crimes in the past. La. C.E. art. 404(B)(1); *State v. Perez-Espinosa*, 23-353 (La. App. 5 Cir. 5/22/24), 389 So.3d 284, 292, *writs denied*, 24-431 (La. 10/15/24), 394 So.3d 812, and 24-811 (La. 10/15/24), 394 So.3d 818, and 24-464 (La.

⁹ Although this is a writ application on a “misdemeanor appeal,” this Court has cited the aforementioned jurisprudence in a prior writ application regarding misdemeanor convictions. *See State v. Winstead*, 16-217 (La. App. 5 Cir. 5/26/16), 193 So.3d 565, 574.

10/15/24), 394 So.3d 823. The prosecution is not allowed to suggest to the jury that because the defendant has a “propensity” to do certain criminal things, the defendant is guilty in the case before the jury. *See* Art. 404. Character evidence generally not admissible in civil or criminal trial to prove conduct; exceptions; other criminal acts, La. Prac. Evidence Art. 404 (2024 ed.). This is the so called “propensity bar.” The propensity bar in Article 404 prohibits any evidence that is introduced to portray the defendant in a negative light. Additionally, the propensity bar should prevent any party in a criminal case from introducing character to prove conduct. *See id.* Evidence of other crimes, wrongs, or acts committed by the defendant is generally inadmissible because of the “substantial risk of grave prejudice to the defendant.” *Perez-Espinosa*, 389 So.3d at 292.

However, while the State may not admit evidence of other crimes to prove the defendant is a person of bad character, evidence of prior crimes may be admitted if the State establishes an independent relevance aside from proving the defendant’s criminal character. *Id.* Evidence of other crimes, wrongs, or acts is allowed to prove motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake or accident, or when it relates to conduct, formerly referred to as *res gestae*, that constitutes an integral part of the act or transaction that is the subject of the present proceeding. La. C.E. art. 404(B)(1); *Perez-Espinosa*, 389 So.3d at 292.

This Court has previously determined that a defendant may utilize La. C.E. art. 404(B) in the same manner that the State may seek to introduce evidence under the article, sometimes referred to as “reverse

404(B)” evidence. *State v. Terrio*, 18-421 (La. App. 5 Cir. 8/7/18), 2018 WL 3748409. *See also State v. Beal*, 15-806 (La. App. 5 Cir. 4/11/16) (unpublished writ disposition). “In contrast to ordinary ‘other crimes’ evidence, which is used to incriminate criminal defendants, ‘reverse 404(b)’ evidence is utilized to exonerate defendants.” *United States v. Dabit*, No. CR 19-143-JWD-RLB, 2023 WL 334782 (M.D. La. Jan. 20, 2023).

“All relevant evidence is admissible, except as otherwise provided by the Constitution of the United States, the Constitution of Louisiana, this Code of Evidence, or other legislation. Evidence which is not relevant is not admissible.” La. C.E. art. 402. Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, or waste of time. La. C.E. art. 403. A district court’s ruling on the admissibility of evidence will not be reversed absent an abuse of discretion. *State v. Expose*, 24-498 (La. App. 5 Cir. 5/21/25), 2025 WL 1452955.

In her brief, Defendant asserts that the proffered minute entries would have shown that Mr. Le was a violent drug user with outstanding warrants. She asserts that they would have “proven his intents, among other motivations to beat her again when they got home.” Defendant vaguely references La. C.E. art. 404(B) but does not cite to specific case law. She does not explain how guilty pleas from 2015 and 2018 relating to possession of marijuana, possession of drug paraphernalia, and battery of a police officer form a motivation for Mr. Le to hurt or threaten to hurt Defendant in 2024. On the showing made, we find that the trial judge did not err in finding that the victim’s

prior convictions were not relevant and in excluding them from trial.

Excessive Sentence

Defendant argues that the court erred in imposing a maximum sentence because she only has one prior arrest that resulted in a deferred sentence and that she has a perfect probationary record. She references La. C.Cr.P. art. 894.1(26) and La. C.Cr.P. art. 894.1(C). She contends that the trial court failed to consider that the victim's conduct included or facilitated its commission and that the victim provoked her by physically abusing her.

The State avers that the sentence was not excessive. It explains that the judge was aware of Defendant's additional background, as set out in the State's notice of intent to introduce evidence under La. C.E. art. 412.2. Specifically, the State informed the judge *via* its notice that Defendant previously attacked her aunt, "accidentally" struck a child that her aunt was holding, grabbed a knife, and struck her aunt in the face with the knife multiple times. The State opines that the sentence in this matter was justified.

In her rebuttal, Defendant reiterated that she had one prior conviction. Here, she asserts for the first time that the trial court did not specify any grounds under La. C.Cr.P. art. 894.1 and states the sentence was not particularized.

La. C.Cr.P. art. 881.1(B) provides that a motion for reconsideration of sentence "shall be oral at the time of sentence or shall be in writing thereafter and shall set forth the specific grounds on which the motion is based." La. C.Cr.P. art. 881.1(E) provides that "failure to make or file a motion to reconsider

sentence or to include a specific ground upon which a motion to reconsider sentence may be based, including a claim of excessiveness, shall preclude the state or the defendant from raising an objection to the sentence or from urging any ground not raised in the motion on appeal or review.”

This Court has held that the failure to file a motion to reconsider sentence, or to state the specific grounds upon which the motion is based, limits a defendant to a bare review of the sentence for constitutional excessiveness. *State v. Manuel*, 20 172 (La. App. 5 Cir. 6/2/21), 325 So.3d 513, 568, *writ denied*, 21-926 (La. 10/12/21), 325 So.3d 1071. This Court has held that when the specific grounds for objection to the sentences, including alleged non-compliance with La. C.Cr.P. art. 894.1, are not specifically raised in the trial court, then these issues are not included in the bare review for constitutional excessiveness, and the defendant is precluded from raising these issues on appeal. *State v. Robertson*, 23-525 (La. App. 5 Cir. 10/23/24), 398 So.3d 767, 775.¹⁰

Here, Defendant has not included or stated that a motion to reconsider sentence was filed. Further, the transcript from the sentencing hearing does not show that Defendant objected to the sentence at the time it was imposed. Accordingly, we find that Defendant is limited to a review for constitutional excessiveness.

The Eighth Amendment to the United States Constitution prohibits cruel and unusual punishment.

¹⁰ La. C.Cr.P. art. 894.1(A) states in part, “When a defendant has been convicted of a felony or misdemeanor, the court should impose a sentence of imprisonment if any of the following occurs . . . [.]”

Article I, § 20 of the Louisiana Constitution also prohibits cruel and unusual punishment but further explicitly prohibits excessive punishment. *State v. Ford*, 24-197 (La. App. 5 Cir. 2/26/25), 406 So.3d 652, 680, *writ denied*, 25-356 (La. 5/20/25), 409 So.3d 216. A sentence is considered excessive, even when it is within the applicable statutory range “if it makes no measurable contribution to acceptable goals of punishment and is nothing more than the purposeless imposition of pain and suffering and is grossly out of proportion to the severity of the crime.” *Id.* A sentence is grossly disproportionate if, when the crime and punishment are considered in light of the harm done to society, it shocks the sense of justice. *State v. Beckendorf*, 24-242 (La. App. 5 Cir. 2/26/25), 406 So.3d 729, 733, *writ denied*, 25-379 (La. 5/20/25), 409 So.3d 222.

A trial judge is in the best position to consider the aggravating and mitigating circumstances of a particular case and, therefore, is given broad discretion when imposing a sentence. *Ford*, 406 So.3d at 680. “The issue on appeal is whether the trial court abused its discretion, not whether another sentence might have been more appropriate.” *State v. Hidalgo*, 20-89 (La. App. 5 Cir. 3/18/20), 293 So.3d 780, 789.¹¹ The review of sentences under La. Const. art. 1, § 20 does not provide an appellate court with a vehicle for substituting its judgment for that of a trial judge as to what punishment is most appropriate in a given case. *Ford*, 406 So.3d at 680. Generally, courts reserve maximum sentences for cases involving the most

¹¹ In *Hidalgo*, this Court referenced an appeal; however, it is noted that the matter was a writ for a misdemeanor conviction.

serious violations of the offense charged and the worst type of offender. *Beckendorf*, 406 So.3d at 734.

The appellate court shall not set aside a sentence for excessiveness if the record supports the sentence imposed. La. C.Cr.P. art. 881.4(D); *State v. Reed*, 24 59 (La. App. 5 Cir. 12/30/24), 409 So.3d 980, 1007. In reviewing a sentence for excessiveness, the reviewing court shall consider the crime and the punishment in light of the harm to society and gauge whether the penalty is so disproportionate as to shock the court's sense of justice, while recognizing the trial court's wide discretion. *Id.* In reviewing a trial court's sentencing discretion, three factors are considered: 1) the nature of the crime; 2) the nature and background of the offender; and 3) the sentence imposed for similar crimes by the same court and other courts. However, there is no requirement that specific matters be given any particular weight at sentencing. *Id.*

Here, Defendant was convicted of domestic abuse battery, in violation of La. R.S. 14:35.3. Pursuant to R.S. 14:35.3(C), "On a first conviction, notwithstanding any other provision of law to the contrary, the offender shall be fined not less than three hundred dollars nor more than one thousand dollars and shall be imprisoned for not less than thirty days nor more than six months." The statute further specifies that at least 48 hours of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

On June 25, 2025, the judge sentenced Defendant to six months in parish prison. The judge stated that he considered the sentencing guidelines in accordance with Article 894.1. He also acknowledged Defendant's

criminal history and that she was on probation for the crime of aggravated battery.

Considering the nature of the crime, we acknowledge that the video of the incident showed that the victim was keeping to himself when Defendant approached him and hit him in the head with her cell phone. After Defendant hit him, she walked away, apparently unconcerned for his well-being. The victim suffered from a laceration to his head, requiring medical attention. Defendant told officers at the scene that the victim was “talking s**t” about her and that she wanted to slap him. Evidence at trial established that Defendant and Mr. Le dated off and on for years and lived together with Defendant’s family. Defendant described that they both hit each other at home. However, she did not testify that the victim threatened her or that she feared him.

We next consider the nature and background of Defendant. Defendant’s background was not extensively addressed at trial or at sentencing. We find that Defendant has a history of engaging in violence not only with the victim here but also with another family member. Additionally, in the incident involving Defendant’s aunt, Defendant used a dangerous weapon and showed a disregard for the safety of a child in her aunt’s arms. At the time of the charged offense, Defendant was on probation for that aggravated battery. We find that committing this offense while on probation for another offense demonstrates a general disregard for the sentence previously imposed. Based on the foregoing, we find that the trial court did not err in imposing the sentence. We conclude that the sentence is not excessive and that this assignment of error lacks merit.

Jury Trial

Defendant asserts that the trial court erred in failing to grant her a jury trial because domestic violence is a serious offense. She contends that because a domestic violence conviction limits a person's gun rights, she was entitled to a jury trial.

The State argues that because this Court already denied a writ application on this issue, this Court should decline to revisit this issue under the law of the case doctrine. It provides that, alternatively, Defendant was not entitled to a jury trial. The State explains that Defendant makes a constitutional challenge to La. C.Cr.P. art. 779, but she did not particularize this argument; instead, she filed a boilerplate motion before trial. It also points out that Defendant did not serve the attorney general as required for such a challenge. As such, the State contends that the claim is not properly before this Court. It further asserts that, even if it is properly before this Court, it lacks merit.

In Defendant's rebuttal, she restated that domestic violence is a serious offense and that this Court characterized it as such in its prior writ disposition. She explains that such a conviction cannot be expunged and impacts her gun rights.

In defense counsel's motion for a jury trial, which was filed on May 13, 2025, he stated that Defendant was charged with La. R.S. 14:35.3. He alleged that the victim would not appear and was in another state. He said that Defendant was on felony probation, and a potential conviction was "so grievous" that she should be afforded a jury trial.

At the motion hearing held on May 14, 2025,¹² defense counsel argued that “in Duncan¹³ and in some of the refining cases of Duncan they talk about serious -- it has to be serious to get a jury trial.” He argued that, once a person was convicted of domestic violence, under federal law, one could not own a gun or have the conviction expunged. He compared the limitation of jury trials for certain misdemeanors to the *Ramos*¹⁴ court’s ruling. He explained that, at the time that “they” went to a “ten-two” verdict, was around the same time that “the African-Americans” were going to start getting on juries. He explained that the motivation for the rule of judge or misdemeanor trials excluding a jury was for the same reason and stated, “And they have, basically, an all-white judiciary deciding your decision.” He asserted that certain precedents needed to be overruled.

Defense counsel explained that he requested a jury trial for Defendant because constitutionally, one could not get a fair trial before the court. He asserted that the victim was not there and was in Houston. He stated that the victim was texting Defendant’s mother to try to contact her. He alleged that video evidence did not have audio and it was not known what occurred before the incident. Defense counsel averred

¹² According to Uniform Rule – Courts of Appeal, Rule 2-1.14, “Any record lodged in this court may, with leave of court, be used, without necessity of duplication, in any other case on appeal or on writ.”

¹³ *Duncan v. Louisiana*, 391 U.S. 145, 88 S.Ct. 1444, 20 L.Ed.2d 491 (1968).

¹⁴ *Ramos v. Louisiana*, 590 U.S. 83, 140 S.Ct. 1390, 206 L.Ed.2d 583 (2020).

that the State would not try the case if it was before a jury and alleged that the State thought it could “sneak it past the judge.” He argued that the State would be embarrassed if it had to try the case before a jury.

The State responded that Defendant was charged with one count of misdemeanor domestic abuse battery. It stated that *Ramos* did not apply and argued that *Duncan*, which said that a defendant is not entitled to a jury trial for a misdemeanor charge, was applicable. It asked for Defendant’s motion to be denied. Defense counsel responded that *Duncan* “set it at six months,” and he believed it was ultimately reversed. He stated, “And he got his jury trial because it was down in Plaquemines Parish.” He also informed the court that the instant charge had “broader implications” because Defendant was on probation. The trial court denied the motion, and defense counsel noted an objection and stated his intent to file a writ.

On May 28, 2025, defense counsel filed a “Notice of Intent to File Writ of Certiorari” and “Motion to Set Return Date.” The trial court set a return date of June 12, 2025. He filed a writ application on June 10, 2025.

On June 13, 2025, this Court denied the writ. This Court explained that, although Defendant was charged with a serious offense, because it is not punishable by more than six months imprisonment, she is not entitled to a trial by jury. This Court stated that “the provisions of La. C.Cr.P. are mandatory.” This Court found that the district court’s decision was correct and denied the writ. *Nguyen*, 25-255, 2025 WL 1672963.

Defense counsel raised the issue again prior to trial on June 18, 2025. He orally moved for a jury trial,

and the judge asked if it was the same issue that was already before this Court. Counsel acknowledged that it was but that he wanted to make a record for it in the event that the issue is appealed. The judge replied that this Court had already ruled on it and that he did not need to “re-rule on a motion.” Counsel verified that the court’s “ruling is going to be the same,” and the judge answered affirmatively. Defense counsel objected.

On June 23, 2025, Defendant filed a “Motion for New Trial and Incorporated Memorandum.” In part, she asserted that the trial court erred in failing to grant a jury trial. She stated she was entitled to a jury trial because domestic violence is a serious offense that takes away a person’s second amendment rights and has other serious repercussions. Defendant acknowledged that this Court denied her pretrial writ on the matter but pointed out that this Court labeled it a “serious offense.” She stated a six-person jury would have found her not guilty. Defendant requested a new trial.

On June 25, 2025, the defense orally argued the motion for new trial. In relevant part, defense counsel stated that the court should have granted the motion for a jury trial and that a jury would have quickly found Defendant not guilty. Counsel explained that a domestic violence conviction stays on a person’s record for life and impedes a person’s second amendment rights. He asserted that the constitution “doesn’t say six months” and that it provides a right to a jury trial.

The judge stated there was already a ruling from a higher court but that defense counsel could make his record. The judge noted that he already denied it. The prosecutor similarly explained that the matter was

already ruled on by this Court. She stated that while counsel might not like the law, it is what it is. The judge then denied the motion for new trial.

“Under the doctrine of the ‘law of the case,’ an appellate court will generally decline to consider its own rulings of law on a subsequent appeal in the same case.”¹⁵ *State v. Perilloux*, 21-448 (La. App. 5 Cir. 12/20/23), 378 So.3d 280, 308, *writ denied*, 24-104 (La. 9/4/24), 391 So.3d 1055. One reason for imposition of the doctrine is the avoidance of indefinite re-litigation of the same issue, but it will not be applied in cases of palpable former error. *State v. Sly*, 23-60 (La. App. 5 Cir. 11/2/23), 376 So.3d 1047, 1079, *writ denied*, 23-1588 (La. 4/23/24), 383 So.3d 608. The law of the case doctrine is discretionary. Reconsideration of a prior ruling is warranted when, in light of a subsequent trial record, it is apparent that the determination was patently erroneous and produced unjust results. *Perilloux*, 378 So.3d at 308.

We find that, by this assignment of error, Defendant seeks to have this Court reconsider its prior ruling finding that she was not entitled to a jury trial. However, Defendant’s writ application does not allege new facts or additional jurisprudence. Therefore, we find that Defendant has not shown that, in light of a subsequent trial record, reconsideration is warranted or that this Court’s prior determination was patently erroneous or produced unjust results. As such, we find that this assignment of error lacks merit.

¹⁵ The instant matter is not a subsequent appeal; rather, it is a writ for a misdemeanor conviction.

Errors Patent Discussion

Generally, an errors patent review is not conducted on misdemeanor convictions. Nevertheless, this Court has on occasion considered a “misdemeanor appeal” as an application for supervisory review of the case and has conducted an errors patent review. *See State v. Jones*, 12-640 (La. App. 5 Cir. 10/30/13), 128 So.3d 436, 443 n.4.¹⁶

A review for errors patent according to La. C.Cr.P. art. 920;¹⁷ *State v. Oliveaux*, 312 So.2d 337 (La. 1975); and *State v. Weiland*, 556 So.2d 175 (La. App. 5th Cir. 1990), was conducted on the record presented before us.

La. R.S. 14:35.3(C) states that at least 48 hours of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence. The sentencing transcript does not indicate that the trial court restricted benefits for any period of time.

Generally, when a trial court does not mention the restriction of benefits, such conditions are deemed to exist by operation of law under La. R.S. 15:301.1. *State v. Cepriano*, 21-262 (La. App. 5 Cir. 3/30/22), 339 So.3d 32, 47; *State v. Williams*, 00-1725 (La. 11/28/01), 800 So.2d 790, 801. However, in this case, the trial court’s failure to impose the statutory restrictions is not cured by La. R.S. 15:301.1 because the portion of the sentence to be served without benefits is left to the

¹⁶ *See also State v. Dufrene*, 20-290 (La. App. 5 Cir. 12/9/20), 307 So.3d 1182.

¹⁷ La. C.Cr.P. art. 920(2) states that an errors patent is “[a]n error that is discoverable by an inspection of the pleadings and proceedings and without inspection of the evidence.”

discretion of the trial court. *See State v. Smith*, 23-399 (La. App. 5 Cir. 12/27/23), 380 So.3d 109, 117.¹⁸

Accordingly, we remand the case for resentencing with instructions to the district court to impose Defendant's sentence in accordance with the provisions of La. R.S. 14:35.3(C), as it relates to the restriction of benefits. *See State in Interest of J.R.*, 22-339 (La. App. 5 Cir. 11/30/22), 354 So.3d 172, 179-80 (where J.R. admitted to the allegations of battery of a dating partner, in violation of La R.S. 14:34.9. This Court found that the juvenile court failed to order that at least 48 hours of the disposition be served without the benefit of parole, probation, or suspension of sentence as set forth in the statute. Because the language of the sentencing provision gave the trial judge discretion in determining the exact length of time that benefits are to be restricted, this Court remanded this matter and instructed the juvenile court to impose at least 48 hours of the disposition without the benefit of parole, probation, or suspension of sentence.).

Additionally, the transcript does not show that Defendant was advised pursuant to La. C.Cr.P. art. 930.8. If a trial court fails to advise, or provides an

¹⁸ In *Smith*, 380 So.3d at 117, this Court applied La. R.S. 15:301.1 to a "misdemeanor appeal" wherein the sentence required that at least 48 hours of the sentence be imposed without the benefit of parole, probation, or suspension of sentence. The court sentenced the defendant to serve six months in the parish prison with all but 48 hours suspended and further placed the defendant on active probation with certain conditions. However, the sentencing transcript reflected that the trial court did not specify the period of time during which the defendant's sentence was imposed without the benefit of parole. As such, this Court remanded the matter and instructed the trial court to impose at least 48 hours of the sentence without the benefit of parole.

incomplete advisal, pursuant to La. C.Cr.P. art. 930.8, the appellate court may correct this error by informing the defendant of the applicable prescriptive period for post-conviction relief by means of its opinion. *State v. Little*, 24-82 (La. App. 5 Cir. 10/30/24), 398 So.3d 846, 858. Accordingly, we advise Defendant by way of its opinion, that no application for post-conviction relief, including applications which seek an out-of-time appeal, shall be considered if it is filed more than two years after the judgment of conviction and sentence has become final under the provisions of La. C.Cr.P. arts. 914 or 922. *See Smith*, 380 So.3d at 117.

DECREE

For the foregoing reasons, we affirm Defendant's conviction. We remand the matter to the district court for imposition of Defendant's sentence in accordance with the provisions of La. R.S. 14:35.3(C), as it relates to the restriction of benefits.

CONVICTION AFFIRMED;
REMANDED WITH INSTRUCTIONS

**ORDER DENYING APPLICATION FOR
SUPERVISORY WRITS, FIFTH CIRCUIT
COURT OF APPEAL, STATE OF LOUISIANA
(JUNE 13, 2025)**

FIFTH CIRCUIT COURT OF APPEAL
STATE OF LOUISIANA

STATE OF LOUISIANA

v.

ALLISON NGUYEN

No. 25-K-255

APPLYING FOR SUPERVISORY WRIT FROM THE TWENTY-
FOURTH JUDICIAL DISTRICT COURT,
PARISH OF JEFFERSON, STATE OF LOUISIANA,
DIRECTED TO THE HONORABLE LEE V. FAULKNER, JR.,
DIVISION "P", NUMBER 24 -53 60

Before: Fredericka HOMBERG WICKER, John J.
MOLAISON, Jr., and Timothy S. MARCEL, Judges.

WRIT DENIED

This matter comes before us on an Application for Supervisory Writs filed herein by Relator, Allison Nguyen, who seeks supervisory review of the trial court's May 14, 2025 ruling denying her Motion for Jury Trial in this misdemeanor criminal case. Trial is

scheduled to begin on June 18, 2025. For the reasons discussed herein, this writ is denied.

Relator is charged with a violation of La. R.S. 14:35.3, Domestic Abuse Battery, first offense. This offense is a misdemeanor punishable on a first offense as provided in La. R.S. 14:35.3(C), which provides:

C. On a first conviction, notwithstanding any other provision of law to the contrary, the offender shall be fined not less than three hundred dollars nor more than one thousand dollars and shall be imprisoned for not less than thirty days nor more than six months. At least forty-eight hours of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence. Imposition or execution of the remainder of the sentence shall not be suspended unless either of the following occurs:

- (1) The offender is placed on probation with a minimum condition that he serve four days in jail and complete a court-monitored domestic abuse intervention program, and the offender shall not own or possess a firearm throughout the entirety of the sentence.
- (2) The offender is placed on probation with a minimum condition that he perform eight, eight-hour days of court-approved community service activities and complete a court-monitored domestic abuse intervention program, and the offender shall not own or possess a firearm throughout the entirety of the sentence.

Article 1, § 17 of the Louisiana Constitution guarantees criminal defendants the right to trial by

jury. With respect to misdemeanor charges, such as Section 14:35.3(C), Article 1, § 17, states that “[a] case in which the punishment may be confinement at hard labor or confinement without hard labor for more than six months shall be tried before a jury of six persons, all of whom must concur to render a verdict.” This provision aligns with the United States Constitution’s Sixth Amendment, which reserves the right to a jury trial for “serious” offenses, defined as those subject to imprisonment for more than six months *State v. Acevedo*, 18-683 (La. App. 5 Cir. 6/30/20), 307 So. 3d 322; *Duncan v. State of La.*, 391 U.S. 145 (1968). The statutory right to a trial by jury in misdemeanor cases is set forth in La. C.Cr.P. art. 779, which provides:

- A. A defendant charged with a misdemeanor in which the punishment, as set forth in the statute defining the offense, may be a fine in excess of one thousand dollars or imprisonment for more than six months shall be tried by a jury of six jurors, all of whom must concur to render a verdict.
- B. The defendant charged with any other misdemeanor shall be tried by the court without a jury.

(Emphasis added).

Therefore, although the offense with which Relator is charged is a serious offense, it is not punishable by more than six months imprisonment, she is not entitled to a trial by jury. The provisions of La. C.Cr.P. are mandatory. The district court’s decision was correct. Accordingly, Relator’s Application for Supervisory Writs is denied.

Gretna, Louisiana, this 13th day of June, 2025.

App.46a

FHW

JJM

TSM

**MINUTE ORDER DENYING MOTION
FOR JURY TRIAL, 24TH JUDICIAL DISTRICT
COURT, PARISH OF JEFFERSON –
STATE OF LOUISIANA
(MAY 14, 2025)**

24TH JUDICIAL DISTRICT COURT
PARISH OF JEFFERSON – STATE OF LOUISIANA

STATE OF LOUISIANA

v.

ALLISON NGUYEN

DOB:	01/15/1997
Judge:	LEE V. FAULKNER
ADA:	Piper Didier
Case Number:	24-5360
Division:	P
Complaint:	J6163124
Date:	05/14/2025
Court Reporter:	Brian Salzer

The Defendant, ALLISON NGUYEN, appeared before the bar of the Court this day for a motion hearing.

The Defendant was represented by BRUCE NETTERVILLE.

Motions taken up:

Motion for Jury Trial (11:54 AM - 12:00 PM)

Motion for Jury Trial - DENIED. Defense's objection noted for the record.

Defense requests 30 days to seek a writ. The Court gives the Defense a file by date of June 13, 2025.

The Trial date currently set of June 18, 2025 is to maintained.

Oral notice was given to the Defendant.

/s/ Griffen G. Gaudet
Deputy Clerk

**LOUISIANA UNIFORM
ABUSE PREVENTION ORDER
(OCTOBER 23, 2024)**

Case/Docket #: 22411195
Arrest/Booking #: 22411195
Item #: J6163124
Court: 24th Judicial District Court
Div. CC
City/Parish: Jefferson Parish
State: Louisiana

Order of Protection

☒ Bail Restrictions/Conditions of Release

PROTECTED PERSON: RANDY LE

PROTECTED PERSON IDENTIFIERS

Date of Birth: 06/10/1997

Race: A

Sex: M

State of Louisiana

v.

DEFENDANT'S NAME AND ADDRESS

ALLISON NGUYEN
7424 JESSUP DRV
MARRERO LA 70072

DEFENDANT IDENTIFIERS

SEX: F

RACE: A
DOB: 01/15/1997
HT: 5'02
WT: 120
EYES: BRO
HAIR: BLN

THE COURT HEREBY FINDS:

That it has jurisdiction over the parties and subject matter, and the defendant has been or will be provided with reasonable notice and opportunity to be heard. Additional findings of this court are as set forth on the following pages.

THE COURT HEREBY ORDERS:

That the above-named defendant be restrained from committing further acts of abuse or threats of abuse, stalking or sexual assault. Additional terms of this order are as set forth on the following pages.

EXPIRATION: This order shall be effective through 11:59 PM on

Until final disposition including Refusal,
Dismissal, Acquittal. or Sentencing

ENFORCEMENT:

This order shall be enforced, even without registration, by the courts of any state, the District of Columbia, any U.S. Territory, and may be enforced by Tribal Lands (18 U.S.C. Section 2265).

WARNINGS TO DEFENDANT:

Crossing state, territorial, or tribal boundaries to violate this order may result in federal imprisonment (18 U.S.C. Section 2262).

Federal law provides penalties for possessing, transporting, shipping, or receiving any firearm or ammunition (18 U.S.C. Section 922(g)(8)). See further notice on pages 5.6 of this Order.

ONLY THE COURT CAN CHANGE THIS ORDER.

Criminal Order of Protection

of Counts: 1

Criminal Charge (Code #): 14:35.3

State of Louisiana

v.

DEFENDANT'S NAME: ALLISON NGUYEN

A

☒ BAIL RESTRICTIONS

[. . .]

The protected person(s) is related to the defendant as:
(*check all that apply*)

C

☒ 2. current or former intimate cohabitant

D

☒ 1. current or former dating partner

[. . .]

**ONLY ORDERS INITIALED BY A JUDGE
SHALL APPLY**

F

☒ THE COURT FINDS THAT THE DEFENDANT REPRESENTS A CREDIBLE THREAT OR DANGER TO THE PHYSICAL SAFETY OF THE PROTECTED PERSON(S), HAS

BEEN CHARGED WITH A CRIME AGAINST A FAMILY MEMBER, HOUSEHOLD MEMBER OR DATING PARTNER AND/OR HAS BEEN CHARGED WITH THE CRIME OF BATTERY OF A DATING PARTNER (R.S. 14:34.9), OR OF DOMESTIC ABUSE BATTERY (R.S. 14:35.3), OR OF STALKING (14:40.2), OR OF CYBERSTALKING (R.S. 14:40.3), OR OF VIOLATION OF PROTECTIVE ORDERS (R.S. 14:79), OR OF UNLAWFUL COMMUNICATION (R.S. 14:285), OR OF A SEXUAL ASSAULT (as defined in R.S. 46:2184), OR R.S. 46:1846 APPLIES. THUS, THE DEFENDANT IS PROHIBITED FROM POSSESSING A FIREARM PURSUANT TO LA. C.C.R.P. ARTICLE 313, AND/OR 320(H) AND THE COURT ISSUES THE FOLLOWING ORDERS:

☒ AFTER A HEARING

THE DEFENDANT IS HEREBY ORDERED TO TRANSFER ANY AND ALL FIREARMS OWNED OR POSSESSED; ANY CONCEALED HANDGUN PERMIT IS HEREBY SUSPENDED PURSUANT TO LA. C.C.R.P. ARTICLE 1001 ET SEQ. See timeframes and details on page 6 of this Order.

[. . .]

H

ONLY ORDERS INITIALED BY A JUDGE SHALL APPLY

PS ☒ 1. YOU ARE ORDERED NOT TO abuse, harass, assault, stalk, follow, track, monitor, or threaten the protected person, RANDYLE

This prohibition includes the use, attempted use, or threatened use of physical force that would reasonably be expected to cause bodily injury.

PS ☒ 2. YOU ARE ORDERED NOT TO contact the protected person personally, through a third party, or via public posting, by any means, including written, telephone, or electronic (text, email, messaging, or social media) communication.

PS ☒ 3. YOU ARE ORDERED NOT TO go within 200 FT (*distance*) of the protected person.

PS ☒ 4. YOU ARE ORDERED NOT TO abuse, harass, assault, stalk, follow, track, monitor, or threaten the child(ren) of the protected person.

PS ☒ 5. YOU ARE ORDERED NOT TO contact the protected person's immediate family* personally, through a third party, or via public posting, by any means, including written, telephone, or electronic (text, email, messaging, or social media) communication (**immediate family* = *spouse, mother, father, aunt, uncle, sibling, or child of the protected*

person whether related by blood, marriage, or adoption)

PS ☒ 6. YOU ARE ORDERED NOT TO go within one hundred (.100) yards of the residence or household of the protected person.

PS ☒ 7. YOU ARE ORDERED NOT TO go to the protected person's school, or the protected person's place of employment.

**FULL FAITH AND CREDIT
pursuant to 18 U.S.C. § 2265**

This Order meets all requirements of the Violence Against Women Act (VAWA) 18 U.S.C. Section 2265. This court has jurisdiction over the parties and the subject matter under the laws of the State of Louisiana; the defendant was given reasonable notice and an opportunity to be heard sufficient to protect the defendant's right to due process before this order was issued; or if the order was issued ex parte, the court ordered that the defendant be given reasonable notice and an opportunity to be heard within the time required by the laws of the State of Louisiana, and in any event, within a reasonable time after the order was issued, sufficient to protect the defendant's due process rights.

THIS ORDER SHALL BE PRESUMED VALID AND ENFORCEABLE IN ALL 50 STATES, THE DISTRICT OF COLUMBIA, TRIBAL LANDS, U.S. TERRITORIES, AND COMMONWEALTHS.

Date of Order: 10/23/2024

Until final disposition including Refusal, Dismissal, Acquittal, or Sentencing

/s/ Paul H. Schneider

Signature of Judge

Paul H. Schneider

Print or Stamp Judge's Name

NOTICE TO DEFENDANT – VIOLATION OF ORDER

VIOLATION OF THIS ORDER MAY RESULT IN FORFEITURE OF BOND, REVOCATION OF PROBATION OR PAROLE, IMPRISONMENT AND A FINE. A PERSON WHO VIOLATES THIS ORDER MAY BE IMMEDIATELY ARRESTED, JAILED, AND PROSECUTED PURSUANT TO LA. R.S. 14:79 AND/OR 14:95.10, MAY BE FINED UP TO \$5,000.00 AND IMPRISONED WITH OR WITHOUT HARD LABOR FOR UP TO FIVE YEARS. A PERSON WHO VIOLATES THIS ORDER MAY BE FURTHER PUNISHED UNDER OTHER CRIMINAL LAWS OF THE STATE OF LOUISIANA.

NOTICE TO DEFENDANT – FIREARM POSSESSION

AS A RESULT OF THIS ORDER, IT MAY BE UNLAWFUL FOR YOU TO POSSESS, RECEIVE, SHIP, TRANSPORT OR PURCHASE A FIREARM, INCLUDING A RIFLE, PISTOL, OR REVOLVER, OR AMMUNITION, FOR THE DURATION OF THIS

ORDER OR LONGER, PURSUANT TO STATE
AND/OR FEDERAL LAW.

*If you have any questions whether these laws
make it illegal for you to possess or purchase
a firearm or ammunition, consult an
attorney.*

Federal law: 18 U.S.C. 922 (q)(8) prohibits a
defendant from purchasing, possessing, shipping,
transporting, or receiving firearms or ammunition*
for the duration of this order if the following
conditions apply:

- Victim/protected person(s)' relationship to
defendant is checked in Box C on page 2 of
this order

AND

- Notice and opportunity for a hearing
provided (Box G or Box H on page 3 of this
order)

AND

- EITHER Judicial finding of credible threat
(Box G or Box H on page 3 of this order)

OR Certain behaviors are prohibited (item 1
on page 3 of this order is initialed)

Federal law: 18 U.S.C. 922 (q)(9) prohibits a
defendant from purchasing, possessing, shipping,
transporting, or receiving firearms or ammunition* if
the following conditions apply:

* 18 U.S.C. 921: the term "firearm" means (A) any weapon
(including a starter gun) which will or is designed to or may
readily be converted to expel a projectile by the action of an

App.58a

- Defendant has been CONVICTED of a misdemeanor crime of domestic violence**

AND

- Victim/protected person(s)' relationship to defendant is checked in Box C on page 2 of this order or Number 1 or Number 4 in Box D on page 2 of this order.

Louisiana law: C.Cr.P. Art. 320(H) prohibits the possession of a firearm* for the duration of this order when issued as a bail restriction.

Louisiana law: R.S. 14:95.10 prohibits possession of a firearm* or carrying of a concealed weapon by a

explosive; (B) the frame or receiver of any such weapon; (C) any firearm muffler or firearm silencer; or (D) any destructive device. Such term does not include an antique firearm. The term "ammunition" means ammunition or cartridge cases, primers, bullets, or propellant powder designed for use in any firearm.

*** 18 U.S.C. 921: the term "misdemeanor crime of domestic violence" means an offense that is a misdemeanor under Federal, State, or Tribal law; and has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, by a person similarly situated to a spouse, parent, or guardian of the victim, or by a person who has a current or recent former dating relationship with the victim. In Louisiana, a "misdemeanor crime of domestic violence" may include R.S. 14:35 (simple battery), R.S. 35.3 (domestic abuse battery), R.S. 14:36 (assault), R.S. 14:37 (aggravated assault), R.S. 14:38 (simple assault), R.S. 14:103(A)(1) (disturbing the peace by fistic encounter) and R.S. 14:103(A)(4) (disturbing the peace by engaging in any act in a violent or tumultuous manner by any three or more persons).*

defendant CONVICTED of domestic abuse battery (R.S. 14:35.3), battery of a dating partner if the battery involves strangulation or burning, and second and subsequent convictions of battery of a dating partner (R.S. 14:34.9) —

IF

- Defendant was represented by counsel In the case or knowingly and intelligently waived the right to counsel in the case (item in Box 8 on page 2 is checked)

AND

- Defendant, if entitled to a trial by jury in the case , was tried by a jury or knowingly and intelligently waived the right to be tried by a jury, by guilty plea or otherwise (item in Box B on page 2 is checked).

Louisiana law: R.S. 46:2136.3 prohibits the possession of a firearm* for the duration of this order if both of the following occur:

- The order includes a finding that the person subject to the order represents a credible threat to the physical safety of the protected person(s) (Box C or D on page 3 of this order) and the protected person(s) is a family or household member or dating partner

AND

- The order informs the person subject to the order that the person is prohibited from possessing a firearm pursuant to the provisions of 18 U.S.C. 922(g) (8) and R.S. 46:2136.3.

Louisiana Law: R.S. 46:1846 prohibits the possession of a firearm* for the duration of this order if:

- The defendant has been charged by bill of information/indictment with any felony sex offense as defined in R.S. 46:1844(W) committed against any person or any offense that is a felony committed upon a family member, household member or dating partner.

OR

- The defendant has been sentenced or found not guilty by reason of insanity for any felony sex offense as defined in R.S. 46:1844(W) committed upon any person, or any offense that is a felony committed upon a family member, household member, or dating partner.

AND

- The defendant is prohibited from communicating with a person listed above.

Louisiana law: R.S. 14:40.2 (F)(5) (crime of stalking) prohibits the possession of a firearm*for the duration of this order.

Louisiana Law: R.S. 15:574.4.2 prohibits the possession of a firearm* for the duration of this order

* Under these statutes, "firearm" means any pistol, revolver, rifle, shotgun, machine gun, submachine gun, black powder weapon, or assault rifle which is designed to fire or is capable of firing fixed cartridge ammunition or from which a shot or projectile is discharged by an explosive.

if: the defendant is being paroled and was convicted of (remove language) any felony sex offense as defined in R.S. 46:1844(W) committed upon any person, (remove language) or any offense, that is a felony, committed upon a family member, household member, or dating partner, as those terms are defined by R.S. 46:2132.

NOTICE TO DEFENDANT – FIREARM TRANSFER
AND SUSPENSION OF CONCEALED HANDGUN PERMIT

AS A RESULT OF THIS ORDER, YOU MAY BE
REQUIRED TO TRANSFER ANY AND ALL FIREARMS
OWNED OR POSSESSED BY YOU AND SURRENDER
YOUR CONCEALED HANDGUN PERMIT

Louisiana law: C.Cr.P. Art. 1001 et seq. requires the transfer of all firearms owned or possessed and the suspension of a concealed handgun permit:

- When a person is convicted of domestic abuse battery (R.S. 14:35.3), second or subsequent conviction of battery of a dating partner (R.S. 14:34.9), battery of a dating partner that involves strangulation (R.S. 14:34.9(K)), battery of a dating partner when the offense involves burning (R.S. 14:34.9), domestic abuse aggravated assault (R.S. 14:37.7), aggravated assault upon a dating partner (R.S. 14:34.9.1), or any felony crime of violence enumerated or defined in R.S. 14:2(B) for which a person would be prohibited from possessing a firearm pursuant to R.S. 14:95.1 and either has as an element of the crime that the victim was or the victim has been determined to be a family member, household member, or

dating. partner; possession of a firearm or carrying a concealed weapon by a person convicted of domestic abuse battery and certain offenses of battery of a dating partner (R.S. 14:95.10).

OR

- When a person is subject to a Uniform Abuse Prevention Order issued pursuant to C.Cr.P. Articles 30, 320, or 871.1.

OR

- When a person is subject to a Uniform Abuse Prevention Order that includes terms prohibiting possession of a firearm or carrying a concealed weapon.

Firearms transfer shall occur within 48 hours, exclusive of legal holidays. If firearms are sold or transferred prior to issuance of transfer order, you must provide a proof of transfer form signed by the receiver and a witness, within 10 days.

I have read and fully understand all conditions of this order.

/s/ Allison Nguyen

Signature of Defendant

DATE: 10/23/24

NOTICE TO LAW ENFORCEMENT

Pursuant to La. R.S. 14:79 – the crime of violation of protective orders – you shall use every reasonable

means to enforce this order. La. Code of Criminal Procedure Article 211 provides that when you have reasonable grounds to believe a person committed the offense of domestic abuse battery, battery of a dating partner, violation of protective orders, stalking, or any other offense involving the use or threatened use of force or a deadly weapon upon the defendant's family member, household member, or dating partner, the officer shall make a CUSTODIAL arrest.

Defendant provided with a copy of this order on:
10/23/2024 (Date)

By: /s/ Tonjaie Elmore
Signature

Tonjaie Elmore
Print Name
Agency: JPSO

Faxed or electronically transmitted to the Louisiana
Protective Order Registry

DATE: 10/23/24

CLERK: {Illegible}

**SENTENCING MINUTES,
24TH JUDICIAL DISTRICT COURT, PARISH
OF JEFFERSON – STATE OF LOUISIANA
(JUNE 25, 2025)**

24TH JUDICIAL DISTRICT COURT
PARISH OF JEFFERSON – STATE OF LOUISIANA

STATE OF LOUISIANA

v.

ALLISON NGUYEN

DOB:	01/15/1997
Judge:	LEE V. FAULKNER
ADA:	Lindsay L. Truhe
Case Number:	24-5360
Division:	P
Complaint:	J6163124
Date:	06/25/2025
Court Reporter:	Brian Salzer

The Defendant, ALLISON NGUYEN, appeared before the bar of the Court this day for sentencing. The Defendant was represented by BRUCE NETTER-VILLE.

On July 18, 2025, the Defendant was found GUILTY by a Judge on count 1) 14:35.3 M IV Domestic Abuse Battery.

Motion for New Trial (9:17 AM - 9:30 AM)

Motion denied by the Court. Defense's objection noted.

The Court ruled on the Motion to Suppress Statement that was simultaneously taken up during the trial. There were no questions asked pertaining to the Motion to Suppress Statement therefore the Court denies the motion. Defense's objection noted.

The Court sentenced the Defendant to imprisonment in the Parish Prison for a term of 6 months. Defendant is given credit for time served pursuant to C.Cr.P. 880 from date of initial arrest until today for each day defendant actually served. The Defendant is committed to Jefferson Parish Prison for execution of said sentence.

A Form 18 was filed to dissolve the stay away order under the ATN as a bail restriction.

The Defendant reported her birthdate as January 15, 1997 and age as 28 years.

The Court informed the Defendant she has thirty (30) days from today's date to appeal this conviction, and two (2) years after judgement of conviction and sentence has become final to seek post-conviction relief.

The Defense then filed a Motion for Writ of Review and Motion for bond pending writ of review.

The Court will e-sign the order of the Defense's Motion for Writ of Review.

Motion for bond pending writ of review (10:55 AM - 10:56 AM)

As to R.S. 14:35.3, the Court set a Post Conviction Bond (Cash or Commercial), in the amount of \$50,000.00.

Defense's objection to the excessiveness of the bond was noted.

If the Defendant is to make bond, the Defendant is to be placed on GRETNAL HIP.

The Defendant was remanded to Jefferson Parish Prison.

/s/ Griffen G. Gaudet
Deputy Clerk

Now, therefore, you, the said Sheriff, are hereby commanded to carry out in full every part of the aforesaid sentence. And for so doing this shall be your sufficient warrant and authority.

Witness, the Honorable LEE V. FAULKNER, Judge presiding in the 24th Judicial District Court, Division P, Parish of Jefferson, at the hall of sitting of the same, in the City of Gretna, this 25 day of June in the year 2025.

/s/ Lee V. Faulkner
Judge

**TRIAL MINUTES,
24TH JUDICIAL DISTRICT COURT, PARISH
OF JEFFERSON – STATE OF LOUISIANA
(JUNE 18, 2025)**

24TH JUDICIAL DISTRICT COURT
PARISH OF JEFFERSON – STATE OF LOUISIANA

STATE OF LOUISIANA

v.

ALLISON NGUYEN

DOB:	01/15/1997
Judge:	LEE V. FAULKNER
ADA:	Mallory Grefer, Sarah Helmstetter
Case Number:	24-5360
Division:	P
Complaint:	J6163124
Date:	06/18/2025
Court Reporter:	Brian Salzer

The Defendant, ALLISON NGUYEN, appeared before the bar of the Court this day, June 18, 2025 at 02:12 PM , for the Court to take up the judge trial of matter 24-5360, entitled State of Louisiana (vs) ALLISON NGUYEN, for the charge:

COUNT: 1 Domestic Abuse Battery (14:35.3)

Present were:

ALLISON NGUYEN - Defendant

BRUCE NETTERVILLE - Counsel for the defendant

Sarah Helmstetter -
Assistant District Attorney
for the State of Louisiana
Mallory Grefer -
Assistant District Attorney
for the State of Louisiana

At the hour of 2:12 PM, the Trial begins.

At the hour of 2:12 PM, Defense orally re-iterated its motion for jury trial. Motion DENIED by the Court. Defense's objection noted for the record. The Court had previously denied this motion and the 5th Circuit Court of Appeals has denied the defense's writ application.

At the hour of 2:12 PM, the State gave opening statements.

At the hour of 2:13 PM, the Defense gave opening statements.

State's exhibit 1 - Verbatim CD-R containing 911 call (Admitted over defense objection)

State's exhibit 2 - City of Gretna Police Department Records Certification of 911 call (Admitted over defense objection)

State's exhibit 3 - Detailed History for Police Event #G242940045 (Admitted over defense objection)

State Witness 1: Ofc. Arianna Heard (2:22 PM - 3:10 PM)

State's exhibit 4 - Color copy of photo

State's exhibit 5 - Color copy of photo

Positive identification of the Defendant was made by the witness.

State's exhibit 6 - Verbatim DVD-R containing Ofc. Arianna Heard body camera footage

State's exhibit 7 - Verbatim DVD-R containing Planet Fitness video camera footage

Defense's proffered exhibit 1 - Certified copy of minute entry (15-4766)

State's objection to the admission of the exhibit was sustained. Defense objection noted.

Defense's proffered exhibit 2 - Certified copy of minute entry (16-1116)

State's objection to the admission of the exhibit was sustained. Defense objection noted.

Defense's proffered exhibit 3 - Certified copy of minute entry (17-2049)

State's objection to the admission of the exhibit was sustained. Defense objection noted.

Defense's proffered exhibit 4 - Certified copy of minute entry (18-4811)

State's objection to the admission of the exhibit was sustained. Defense objection noted.

Defense's exhibit 6 - PNY USB containing Ofc. Arianna Heard body camera footage

At the hour of 3: 10 PM , the State rests.

At the hour of 3: 10 PM , the Defense moved for a directed verdict. Motion DENIED by the Court. Defense objection noted.

Defense Witness 1: Melinda Nguyen (3:1 2 PM-3:21 PM)

Defense's exhibit 7 - Color copy of photo

Defense's exhibit 8 - Color copy of photo

Defense Witness 2: Defendant - Allison Nguyen
(3:21 PM - 3:36 PM)

At the hour of 3:37 PM, the Defense rests.

The State did not give closing arguments.

At the hour of 3:37 PM, the Defense gives closing arguments.

At the hour of 3:43 PM, the State gives rebuttal closing arguments.

At approximately the hour of 3:44 PM, the Judge returned with a verdict - GUILTY AS CHARGED.

Oral notice was given to the Defendant.

Sentencing is set for June 25, 2025 at 09:00 AM.

The Defendant was not remanded and ordered released on her original bond.

/s/ Griffen G. Gaudet
Deputy Clerk

**ARRAIGNMENT MINUTES
PLEA OF NOT GUILTY
(JANUARY 17, 2025)**

24TH JUDICIAL DISTRICT COURT
PARISH OF JEFFERSON – STATE OF LOUISIANA

STATE OF LOUISIANA

v.

ALLISON NGUYEN

DOB:	01/15/1997
Commissioner:	Paul H. Schneider
ADA:	Edward C. Milner
Case Number:	24-5360
Division:	P
Complaint:	J6163124
Date:	01/17/2025
Court Reporter:	Snannon S. Chase

The Defendant, ALLISON NGUYEN, appeared before the bar of the Court this day for arraignment.

The Defendant was represented by KEVIN PHILLIPS for the arraignment only.

Reading of the Bill of Information was waived.

A plea of NOT GUILTY was entered, which plea was ordered recorded.

The court granted 30 days after receipt of initial discovery for the defendant's counsel of record to file responsive pleadings.

Pre-Trial Conference set for Wednesday, January 22, 2025 09:00 AM.

The Defendant asserted his/her 5th and 6th Amendment Rights.

The Court ordered a PDO appointed attorney.

Oral notice was given to the Defendant.

Written notice was given to the Defendant.

/s/ Leshawna W. Johnson
Deputy Clerk

**PROOF OF TRANSFER/
DECLARATION OF NON-POSSESSION
(OCTOBER 23, 2024)**

24th JDC Court

☒ Criminal

Parish/City of Jefferson

Division: CC

Docket: 22411195

DEFENDANT (PRINT NAME): ALLISON NGUYEN

DATE OF BIRTH: 01/15/1997

RACE: A

SEX: ☒ F

This form is:

☒ Declaration of non-possession

**DECLARATION OF NON-POSSESSION
(Completed in Court)**

✓ ☒ I have been court ordered to transfer any firearm(s) that I possess. I hereby declare, under penalty of law, that I do not possess any firearm(s).

[. . .]

**CONCEALED HANDGUN PERMIT
(Completed in Court)**

✓ ☒ I do not have a concealed handgun permit.

*****IMPORTANT NOTICE*****

Pursuant to LA C.Cr. P, Art. 1001, the defendant shall within 10 days file this Proof of Transfer/Declaration of Non-Possession with the Clerk of Court of the parish or city in which the order was issued. Failure to do so is punishable by contempt of court, and/or violation of applicable State and/or Federal laws, If the court believes probable cause exists to search for additional firearms, it may grant a court order for a search to be conducted.

/s/ Allison Nguyen
Signature of Transferor

IMPORTANT INSTRUCTIONS TO DEFENDANT

Pursuant to a court order, you must transfer all firearm(s) in your possession and the transfer of firearms must be supervised by the Jefferson Parish Sheriff's Office (JPSO). If you do not possess firearms or transferred all firearms in your possession prior to the issuance of the order to transfer, you must complete a Declaration of Non-Possession of Firearm(s).

FOLLOW THESE INSTRUCTIONS TO TRANSFER FIREARMS:

DO NOT BRING FIREARMS INTO SHERIFF'S OFFICE BUILDINGS

1. Immediately contact JPSO by dialing 911 to initiate the "*Proof of Transfer*" process. Inform the call taker that the court has ordered you to transfer your firearm(s) and that you are requesting a deputy to oversee the transfer. You must disclose the following:

- a. Full name and date of birth
- b. The method of transfer you wish to utilize
- c. The number and brief description of guns to be transferred
- d. Your contact information, so that you may be reached by the responding deputy
- e. The location in which you request the transfer to take place

2. When you contact the JPSO to schedule your transfer you must be prepared to choose from the following transfer options:

App.76a

- a. Allow the Sheriff's Office to oversee a third party transfer of firearms.
- b. Allow the Sheriff's Office to oversee the legal sale of the transferred firearms to a third party through a licensed firearms dealer.
- c. Sheriff's Office may store the transferred firearms for a fee that must be paid prior to the firearms being returned.
 - i. Fee of \$200 for 1-10 guns
 - ii. Fee of \$100 for each group of 10 guns beyond the first 10 guns

Based on the method of transfer chosen, the call taker or responding deputy will provide you with additional information.

A fee will be assessed by the JPSO to store any firearms, oversee the legal sale of the transferred firearms, or to transfer firearms to a contracted storage facility. Transferred firearms may be held until all outstanding fees are collected.

If a third party transfer option is chosen pursuant to state law, a Third Party Transfer of Firearm(s) Acknowledgement form must be completed and provided to JPSO at the time of transfer. This form notifies the third party of the relevant state and federal laws and consequences for noncompliance.

For the safety of the deputy and all those involved in any transfer, the following must occur:

- a. All firearms shall be unloaded prior to the deputy's arrival.

- b. The transferor or any third party shall not be in possession of any firearm when the deputy arrives on scene.
- c. The transferor or any third party shall not attempt to handle any firearm while the deputy is on scene.
- d. The transferor or any third party shall listen and adhere to all lawful instructions given by the deputy throughout the transaction.

3. If you choose to transfer firearms to JPSO, follow the procedures below:

- a. You will be given specific instructions by the responding deputy, prior to the deputy's arrival. You must comply with all lawful instructions prior to and throughout the transfer.

If you possess a Concealed Handgun Permit you must contact the Louisiana State Police so that permit can be suspended.

YOU are required to file the Proof of Transfer Form with the issuing Clerk of Court within ten days of the transfer (exclusive of legal holidays only).

YOU ARE RESPONSIBLE FOR COMPLYING WITH THE CONDITIONS OF THE COURT ORDER WITHIN 48 HOURS.

/s/ Allison Nguyen
Signature Defendant

DATE: 10/23/24

**MOTION FOR JURY TRIAL
(MAY 13, 2025)**

24TH JUDICIAL DISTRICT COURT
PARISH OF JEFFERSON
STATE OF LOUISIANA

STATE OF LOUISIANA

v.

ALLISON NGUYEN

NO. 24-05360

DIVISION: "P"

MOTION FOR JURY TRIAL

NOW INTO COURT, through undersigned counsel, comes the defendant who respectfully avers:

1.

The defendant is charged with La. R.S. 14:35.3.

2.

The victim will not appear and is in another state.

3.

The defendant is on felony probation.

4.

A potential conviction is so grievous that she should be afforded a jury trial.

WHEREFORE, the defendant prays that this court order a hearing and after said hearing grant the defendant a jury trial.

Respectfully Submitted,

/s/ Bruce Netterville

Bruce Netterville #9947

929 4th Street

Gretna, LA 70053

(504) 368-1540

**INFORMATION FOR
DOMESTIC ABUSE BATTERY**

. . . the state of Louisiana, in and for the PARISH OF JEFFERSON gives this Honorable Court here to understand and be informed that:

ALLISON NGUYEN

late of the Parish aforesaid, on or about October 20th in the year of our Lord, Two Thousand Twenty Four with force of arms, in the parish aforesaid, and within the jurisdiction of the Twenty-Fourth Judicial District Court of Louisiana, in and for the Parish aforesaid, violated La.R.S.14:35.3 in that she did commit battery by the intentional use of force or violence upon the person of another household member, to wit:

Randy Le,

contrary to the law of the state of Louisiana and
against the peace and dignity of the same.

/s/ Alicia L. Bennette
Assistant District Attorney