

**THE
SUPREME COURT OF THE UNITED STATES
2026 TERM**

No. _____

DOYLE EUGENE GLAZE
Plaintiff

VS.

STATE OF LOUISIANA et al
Defendants

APPENDIX

EXHIBIT A: ORDER OF LOUISIANA SUPREME COURT'S DENIAL OF PETITIONER'S APPLICATION FOR SUPERVISORY WRIT.

EXHIBIT B: ORDER OF THE COURT OF APPEAL, FIRST CIRCUIT, DENYING APPEAL OF THE DISTRICT COURT'S CONVICTION AND SENTENCE.

EXHIBIT C: COPY OF PETITION FOR APPEAL TO THE FIRST CIRCUIT COURT OF APPEAL.

EXHIBIT D: COPY OF SUPERVISORY WRIT WITHIN THE LOUISIANA SUPREME COURT.

WESTLAW

State v. Glaze

Supreme Court of Louisiana. November 25, 2025 421 So.3d 532 (Mem) 2025-00968 (La. 11/25/25) (Approx. 1 page)

421 So.3d 532 (Mem)
Supreme Court of Louisiana.

STATE of Louisiana

v.

Doyle Eugene GLAZE, Jr.

No. 2025-KO-00968

November 25, 2025

Applying For Writ Of Certiorari, Parish of St. Tammany, 22nd Judicial District Court Number(s) 2483-F-2021,
Court of Appeal, First Circuit, Number(s) 2024 KA 0329.

Opinion

*1 Writ application denied.

All Citations

421 So.3d 532 (Mem), 2025-00968 (La. 11/25/25)

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State v. Glaze

Court of Appeal of Louisiana, First Circuit. April 24, 2025 Not Reported in So. Rptr. 2025 WL 11894452024-0329 (La.App. 1 Cir. 4/24/25) (Approx. 13 pages)

2025 WL 1189445

UNPUBLISHED OPINION. CHECK COURT RULES BEFORE CITING.

NOT DESIGNATED FOR PUBLICATION

Court of Appeal of Louisiana, First Circuit.

STATE of Louisiana
v.
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Appendix B

NO. 2024 KA 0329

Judgment Rendered: April 24, 2025

Appealed from the 22nd Judicial District Court In and for the Parish of St. Tammany State of Louisiana
Case No. 2483-F-2021, Division F The Honorable Vincent J. Lobello, Judge Presiding

Attorneys and Law Firms

Jane L. Beebe Addis, Louisiana Counsel for Defendant/Appellant Doyle Eugene Glaze, Jr.

J. Collin Sims District Attorney Butch Wilson Matthew Caplan Assistant District Attorneys Covington, Louisiana
Counsel for Appellee State of Louisiana

BEFORE: THERIOT, HESTER, AND EDWARDS,

Opinion

THERIOT, J.

The defendant, Doyle Eugene Glaze, Jr., was charged by an amended grand jury indictment as follows: on count one, first degree rape of a victim who is under thirteen years of age, a violation of La. R.S. 14:42(A)(4); on counts two and three, aggravated crime against nature of a victim who is under thirteen years of age, violations of La. R.S. 14:89.1(C)(2); and on count four, aggravated crime against nature of a victim who is under eighteen years of age and a known relative, a violation of La. R.S. 14:89.1(A)(2)(a). The defendant pled not guilty to each count. After a trial by jury, he was found guilty as charged on each count. He filed a motion for post-verdict judgment of acquittal or new trial, which the trial court denied. He was sentenced as follows: life imprisonment at hard labor without the benefit of probation, parole, or suspension of sentence on count one; ninety-nine years imprisonment at hard labor without the benefit of probation, parole, or suspension of sentence on counts two and three; and twenty years imprisonment at hard labor on count four. The trial court ordered the sentences to be served consecutively. The trial court denied the defendant's motion to reconsider sentence. The defendant now appeals, challenging a special jury instruction, the sufficiency of the evidence, the denial of his motions for mistrial, and the constitutionality of the sentences. For the following reasons, we affirm the convictions and sentences.

STATEMENT OF FACTS

On October 12, 2020, the St. Tammany Parish Sheriff's Office ("STPSO") received a complaint of alleged sexual abuse of M.G., L.G., and I.G. by the defendant.¹ The complaint was made by their mother, N.G., based on disclosures² made by the children after pornographic material was discovered on I.G.'s cell phone.

M.G., the eldest child, disclosed acts by the defendant that she alleged began in 2014 or 2015, when she was around ten or eleven years old, while they were living in a trailer in Pearl River. M.G. specifically alleged the defendant touched her chest, waist, and thighs, and attempted to touch her "down there."

L.G. and I.G. disclosed incidents that they alleged occurred after they moved to a house in Covington, in 2019, when they were around eleven and eight years old, respectively. Specifically, L.G. alleged incidents of the defendant using his hand to "rub" her "boobs" and to attempt to touch her "private area" while their mother was away from home at work. I.G., the youngest of the siblings, alleged that on several occasions while her mother was not home, the defendant used his hand to touch and rub her "boobs," put his finger and private part inside of her private part, and put his private part in her mouth.

SUFFICIENCY OF THE EVIDENCE

In assignment of error number two, the defendant argues the evidence was insufficient to support the convictions. He contends M.G., L.G., and I.G. gave inconsistent accounts of their claims. He argues the trial court failed to hold the State to its burden of proving all of the elements of the offenses in denying his posttrial motions.²

*4 When issues are raised on appeal contesting the sufficiency of the evidence and alleging trial court error, the reviewing court should first determine the sufficiency of the evidence. *State v. Hearold*, 603 So.2d 731, 734 (La. 1992); *State v. Duhon*, 2018-0593 (La. App. 1st Cir. 12/28/18), 270 So.3d 597, 609, writ denied, 2019-0124 (La. 5/28/19), 273 So.3d 315. The reason for reviewing sufficiency first is that the accused may be entitled to an acquittal under *Hudson v. Louisiana*, 450 U.S. 40, 43, 101 S.Ct. 970, 972, 67 L.Ed.2d 30 (1981); if a rational trier of fact, viewing the evidence in accordance with *Jackson v. Virginia*, 443 U.S. 307, 99 S.Ct. 2781, 61 L.Ed.2d 560 (1979), in the light most favorable to the State, could not reasonably conclude the elements of the offense have been proven beyond a reasonable doubt. *Hearold*, 603 So.2d at 734; *Duhon*, 270 So.3d at 609. When the entirety of the evidence is insufficient, the accused must be discharged of that crime, and any discussion of trial court error would be pure dicta, as those issues are moot. However, when the entirety of the evidence is sufficient to support the conviction, the reviewing court must then consider the other assignments of error. *Hearold*, 603 So.2d at 734; *Duhon*, 270 So.3d at 609.

A conviction based on insufficient evidence cannot stand, as it violates due process. See U.S. Const. amend. XIV; La. Const. art. I, § 2. The standard of review for sufficiency of the evidence to support a conviction is whether or not, viewing the evidence in the light most favorable to the prosecution, a rational trier of fact could conclude the State proved the essential elements of the crime beyond a reasonable doubt. See La. C.Cr.P. art. 821(B); *Jackson*, 443 U.S. at 319, 99 S.Ct. at 2789; *State v. Ordodi*, 2006-0207 (La. 11/29/06), 946 So.2d 654, 660; *State v. Mellion*, 2021-1116 (La. App. 1st Cir. 4/8/22), 342 So.3d 41, 45, writ denied, 2022-00732 (La. 6/22/22), 339 So.3d 1186, cert. denied, ___ U.S. ___, 143 S.Ct. 319, 214 L.Ed.2d 141 (2022).

*5 The *Jackson* standard of review, incorporated in Article 821, is an objective standard for testing the overall evidence, both direct and circumstantial, for reasonable doubt. *State v. Welch*, 2019-0826 (La. App. 1st Cir. 2/21/20), 297 So.3d 23, 27, writ denied, 2020-00554 (La. 9/29/20), 301 So.3d 1193. When a conviction is based on both direct and circumstantial evidence, the reviewing court must resolve any conflict in the direct evidence by viewing the evidence in the light most favorable to the prosecution. When the direct evidence is viewed, the facts established by the direct evidence and the facts reasonably inferred from the circumstantial evidence must be sufficient for a rational juror to conclude beyond a reasonable doubt the defendant was guilty of every essential element of the crime. *State v. Currie*, 2020-0467 (La. App. 1st Cir. 2/22/21), 321 So.3d 978, 982.

When analyzing circumstantial evidence, La. R.S. 15:438 provides that the factfinder must be satisfied the overall evidence excludes every reasonable hypothesis of innocence. When a case involves circumstantial evidence and the jury reasonably rejects the hypothesis of innocence presented by the defense, that hypothesis fails, and the defendant is guilty unless there is another hypothesis that raises a reasonable doubt. *State v. Southall*, 2022-0746 (La. App. 1st Cir. 6/2/23), 369 So.3d 925, 930, writ denied, 2023-00875 (La. 2/6/24), 378 So.3d 750.

Louisiana Revised Statutes 14:41(A) defines "rape" as the act of anal, oral, or vaginal sexual intercourse with a male or female person committed without the person's lawful consent. Emission is not necessary, and any sexual penetration, when the rape involves vaginal or anal intercourse, however slight, is sufficient to complete the crime. La. R.S. 14:41(B). First degree rape, in pertinent part, is a rape committed where the sexual intercourse is deemed to be without lawful consent of the victim because it is committed when the victim is under the age of thirteen years. La. R.S. 14:42(A)(4).

*6 Lack of knowledge of the victim's age shall not be a defense. La. R.S. 14:42(A)(4). First degree rape is a general intent crime. See La. R.S. 14:11; La. R.S. 14:42; see also *State v. Cutrer*, 2012-2128 (La. App. 1st Cir. 9/17/13), 2013 WL 5288918, at *2 (unpublished), writ denied, 2013-2509 (La. 6/20/14), 141 So.3d 278. General criminal intent is present whenever there is specific intent, and also when the circumstances indicate that the offender, in the ordinary course of human experience, must have adverted to the prescribed criminal consequences as reasonably certain to result from his act or failure to act. La. R.S. 14:10(2).

Louisiana Revised Statutes 14:89.1(A)(2)(a) defines aggravated crime against nature as the engaging in any enumerated prohibited act with a person who is under eighteen years of age and who is known to the offender to be related to the offender as any of the following biological, step, or adoptive relatives: child, grandchild of any degree, brother, sister, half-brother, half-sister, uncle, aunt, nephew, or niece. Enumerated prohibited acts include, in pertinent part, sexual intercourse, or any lewd fondling or touching of the person of either the child or the offender, done or submitted to with the intent to arouse or to satisfy the sexual desires of either the child, the offender, or both. La. R.S. 14:89.1(A)(2)(b)(i) & (ii). The punishment for aggravated crime against nature is enhanced when the victim is under the age of thirteen years and the offender is seventeen years of age or older. See La. R.S. 14:89.1(C)(2).

The instant case was investigated by Detective Sara Ryals of the STPSO. On November 3, 2020, the three children participated in interviews at the Children's Advocacy Center Hope House ("C.A.C."). They were subsequently physically examined and interviewed at the Children's Hospital Audrey Hepburn Care Center ("Children's Hospital"). The trial took place from July 11, 2023 to July 17, 2023.

*7 J.C., the siblings' maternal grandmother, testified the children moved around a lot and frequently stayed with her in between moves to various residences with their parents. Their mother, N.G., who did not testify at the trial, began seeing the defendant sometime before 2007, before their son, T.G., was born on April 23, 2007. Early in the relationship, they moved into a trailer on Tot Polk Road in Pearl River. N.G. married the defendant on November 22, 2008, when her daughter from a previous relationship, M.G., was four years old and T.G. was one year old. L.G., their second biological child, was born six days after their wedding. After years of moving in and out of the trailer in Pearl River, with the children sometimes staying with J.C. or other relatives, in March of 2019, N.G. and the defendant moved to a house in Covington on Fairhaven Road, and M.G., L.G., and J.C. moved into the Fairhaven Road house in June.

In August or September of 2019, M.G. moved in with the family of a school friend and the other children moved in with their grandparents.³ About a year later, after noticing high data usage in the cellular plan shared by several family members, the children's aunt, M.F., asked for their cell phones and examined their internet history. M.F. and J.C. discovered I.G., who was eight years old at the time, had pornographic material and searches on her cell phone. At that point, the children began disclosing allegations of inappropriate touching and other acts by the defendant. J.C. told N.G. to report the incidents to the police, and she did so.

Detective Ryals arranged for the children to participate in forensic interviews, medical examinations, and counseling. Camille Ditrinis, the nurse practitioner who examined and interviewed the children at Children's Hospital, *8 testified they had normal medical exams, consistent with delayed disclosure. Ditrinis noted M.G. had linear cut marks to her left forearm, which M.G. indicated were self-inflicted. Ditrinis testified the children provided consistent, spontaneous, detailed disclosures.

Detective Ryals also collected and obtained a search warrant for I.G.'s cell phone. Sergeant Matthew Rowley, a cell phone forensics examiner with the STPSO, conducted the phone dump in this case and completed a cell phone report. The cell phone extraction was conducted on March 19, 2021. Sergeant Rowley testified regarding pornographic websites searched with the phone and corresponding pornographic videos.

T.G., the defendant and N.G.'s son, was sixteen years old at the time of the trial. T.G. testified that when they lived in the trailer on Tot Polk Road in Pearl River, his parents slept in the bedroom and the children slept in the living room. He slept on the couch and the girls shared a pull-out sofa-bed.

When they moved to the house on Fairhaven Road in Covington, he slept in the living room, L.G. and I.G. shared a bedroom, and M.G. had her own bedroom. He testified his parents argued and physically fought a lot. He noted the defendant would push his mother around and would sometimes leave and return "[d]runk." He stated the children were disciplined by being spanked with a belt or placed in a corner.

T.G. noted he would sometimes watch television in his parents' bedroom. He stated that when his father would call his sisters to come into the bedroom, he would tell T.G. to leave and would close the door. He further testified he could tell something was wrong with his sisters when they came out of the bedroom. He explained that while they were happy most of the time, they would instead be sad or scared. He stated this happened once and with each sister.

***9 I.G.'s Allegations:**

The allegations made by I.G. resulted in the charges on count one, first degree rape, and count two, aggravated crime against nature of a known enumerated relative, in this instance a biological daughter, under thirteen years of age. In her C.A.C. and Children's Hospital interviews, both conducted when she was nine years old, and again at trial when she was eleven years old, I.G. described incidents of touching and sexual intercourse. She stated the incidents occurred in Covington when they lived in the house on Fairhaven Road. I.G. stated she would sometimes be disciplined by either parent by being placed in a corner or getting whipped with a hand or belt. She also said there was fighting and stated her parents would "argue a lot" which caused her to be afraid things would get physical.

I.G. stated that when they were living in Covington, while her mother was at work at Waffle House, almost every night her dad would come to get her out of her room, take her to his bedroom, and touch her. She stated she and her father would be alone in the room, and she believed her siblings were asleep. She further stated that she did not call the police because she did not want to get beaten, noting her father would beat them for no reason, leaving redness and bruises, and would bruise their mother.

Regarding anatomical drawings from the C.A.C. interview, I.G. circled "[t]he private, the boobs[,] and the mouth" on the female drawing. She stated she circled the "boobs" because every night the defendant would touch or rub that part of her body with his hands. She said it made her feel uncomfortable because it was weird. Pointing to her breasts and vaginal area, I.G. said the defendant used his finger or hand to touch her "up here" and "down there" which she also referenced as her "private" and "no-no square." She said the touching was on her skin as opposed to on top of her clothing.⁴ I.G. stated that the second time it occurred and from there forward, the defendant put his finger "inside." When asked how she knew the touching was inside of her private, she said she could feel it on the inside and it was hurting because she was not used to it. I.G. stated the touching occurred at least ten different times. She stated she was seven years old when it started. She noted that if she would say no, the defendant would force her to come to him and would also threaten her, "saying he would shoot [her]."

I.G. stated the defendant used his private to do "the same thing he did with his fingers." She specifically stated the defendant put "his private" inside "my private part that I pee with" and inside of her mouth.⁵ At trial, she defined the defendant's private as "[d]ownstairs" and the body part that you use to "[p]ee," testifying the defendant would put it in her mouth. I.G. said this also occurred ten times and stated she would kick the defendant to make him stop. She testified although she "[t]ried to push it away[,] the defendant would put his hands behind her head and

force it into her mouth. I.G. testified at the time she was thinking it was very uncomfortable, and she wondered why he was doing it.

During the Children's Hospital interview, she specifically described the position she would be in when the defendant "started getting really nasty." She said the defendant would stand up behind her and "kind of have sex" with her, again describing it as putting his private inside of her private. She stated he would also at times hold her legs up while she was lying on her back. She noted it was very uncomfortable because her neck and back would hurt. When I.G. was asked if the defendant had anything on his private, she responded positively stating it looked like a rubber band, adding, "I saw something yellow on it" and that they *11 "come in different colors." I.G. further said she saw a label indicating the rubber bands "go on boys' private parts." I.G. described the defendant's front private area as "very hairy" and described the part that was placed inside of her private as "long." She testified the incidents felt very uncomfortable, weird, and shaky, and she would tell the defendant to stop, but he did not listen. I.G. testified she did not tell anyone because she was afraid the defendant might abuse her mother.⁶ I.G. testified that the claims she made during her pretrial interviews and again at trial were all truthful.

G.'s Allegations:

The allegations made by L.G. resulted in the charge on count three, aggravated crime against nature of a known enumerated relative, in this instance a biological daughter, who is under thirteen years of age. L.G. was eleven years old at the time of her C.A.C. interview, had just turned twelve years old when the Children's Hospital interview was conducted, and was fourteen years old when she testified at the trial. She testified it was very scary living with her father because he was very abusive towards her mother, noting they argued and fought a lot, and he once picked her up and shoved her into the bathroom. L.G. said her father would touch her in places that he should not have touched her. She indicated the incidents occurred at the Covington house on Fairhaven Road in the defendant's bedroom. She stated such incidents happened a few times, "once a week or once a month."

L.G. also stated the defendant would watch television shows with "sexual things" in them and indicated he would touch her after watching the shows with sexual content. In describing the touching, L.G. stated the defendant would use his hand to rub her "boobs" and said it would hurt because the defendant was strong.¹² She stated he would try to get away, but the defendant would grab her and not allow her to go so. In the C.A.C. interview and at trial, she stated the touching occurred on top of her clothing. However, during the Children's Hospital interview, she noted it occurred once underneath her clothes. During the C.A.C. interview and at trial, L.G. stated the defendant once tried to touch her "downstairs" on her "private area" also, but she was able to get away from him. She stated she believed he was going to "rape" her. In further describing this incident, she noted his hand was near her "private" vaginal area but she was able to move it away.

L.G. testified the incidents occurred when she and the defendant were alone in the bedroom, indeed, with the door closed. She stated it made her feel "[r]eally, really uncomfortable." She said she would repeatedly tell the defendant to stop. She stated that she did not tell anyone because she was scared and did not want to "split up" her parents. She further stated she did not want her mother to know because she would confront the defendant and he would possibly beat her. She stated she eventually confided in friends that she could trust to keep it a secret.

As to other acts by the defendant, L.G. noted he would force M.G. to leave the door open while she was getting dressed, causing M.G. to begin using the closet to change clothes. She stated she thought it was weird and tried to stop the defendant from watching M.G., but he continued to do so. L.G. further testified the defendant once "barged" in the bathroom while M.G. was in there naked and stayed in there for five minutes. While she could not recall or provide any additional details, L.G. also stated the defendant would sometimes "dance sexual" and "do sexual stuff." She said she would tell the defendant to stop, but he would not listen because he was drunk. L.G. further noted the defendant once told her to watch a sex scene in a movie, including a nude man and woman, but she did not do so and left the room. L.G. denied ever seeing pornography on any other occasion.

13 M.G.'s Allegations:

The allegations made by M.G., the eldest of the children, resulted in the charge on count four, aggravated crime against nature of a known enumerated relative, in this instance a step-daughter, who is under eighteen years of age. M.G. was nineteen years old at the time of the trial. She testified she was very young when the defendant came into her life and that he was the only father she ever knew. She noted her mother had two jobs at one point and often worked double shifts. She further testified that while they were living in the trailer in Pearl River, "Dad" touched her in an inappropriate way. She specifically stated the defendant would grab her thigh, waist, and chest area with his hands and stated it happened more than once. M.G. said she was in the sixth grade when she began realizing the inappropriate touching was occurring. At trial, she testified it made her feel "uncomfortable; [v]ery uncomfortable." She further stated she did not tell anyone at the time. M.G. confirmed the touching was deliberate, not accidental or inadvertent.

She further stated in her C.A.C. and Children's Hospital interviews the defendant tried to touch her "down there," but her brother walked in the room. In further describing that incident, she stated the defendant put his hand on her thigh and was "moving it up" from there but did not actually touch her "down there." She stated the touching happened more than once. M.G. said she could not remember if the touching was on top or under her clothes. She stated she also could not remember if the defendant was actually able to ever touch her "down there" because she tried to forget everything.

During her pretrial interviews and at trial, M.G. detailed the incident at the trailer in Pearl River in which the defendant fell on top of her while she was lying face up in the living room and laid there unconscious. She stated his whole body was on top of her, other than his right leg which was hanging off the sofa-bed. She testified she felt the defendant's penis on her leg while he was lying on top of her. She noted it occurred about a month or two after she realized he was touching her inappropriately, when she was ten or eleven years old and in the seventh grade. She said she screamed and tried to push him off, but was unable to move him. About ten minutes later, her mother got home and helped her move the defendant so she could get from underneath him.

M.G. further recalled catching I.G. and L.G. watching videos on adult/pornographic websites, on "more than a couple" of occasions, while living in the Pearl River trailer and the Covington house. M.G. testified her parents fought a lot and there were instances of violence against her mother, including the defendant striking her. She testified the defendant was verbally, physically, and mentally abusive of her mother.

Expert Witness:

The State also presented testimony by Dr. Anne Troy, an expert in forensic child sexual abuse, regarding the normality of delayed disclosure of sexual abuse. Dr. Troy described three categories of delay: (1) naivety; (2) internal shame, fear, and guilt; and (3) external environment-based reasons, such as finances or violence in the home. She noted disclosure should be considered as a process that allows more information to be disclosed over time. She further noted that some children disassociate from the abuse.

Dr. Troy testified I.G., L.G., and M.G. gave detailed spontaneous disclosures of child sexual abuse with sensory statements of interaction. Specifically, she noted she looked for the interpretation of the child, interactions outside of the abuse, and emotional response of what happened prior to being touched. For example, she noted I.G. stated her back or neck was hurting while her legs were "15 up, indicating it was not just something she saw on pornography. Dr. Troy further testified that delayed disclosure is the norm in sexual abuse cases and indicated the body of a sexually abused child, including the tissue around the genitals, heals quickly.

Defense Witnesses:

Sergeant Rowley testified at trial as a defense witness regarding the pornographic material found during the cell phone extraction of I.G.'s phone.⁸ Sergeant Rowley was asked if he saw a video of a woman possibly putting a condom on a man. He testified it was difficult to see exactly what she had in her hand, but the woman "appeared to be putting something on a male erection." Sergeant Rowley further confirmed seeing an image of a woman "having sex with her legs held up in the air."

Sergeant Rowley testified that on March 11, 2021, an internet search was conducted with the phrase "hospital sex" three times and once on March 19, 2021, the same day the phone extraction was conducted. Sergeant Rowley confirmed he did not perform the search and indicated it must have been performed prior to his extraction. He testified the search may have been conducted by Detective Ryals. On cross-examination, Sergeant Rowley confirmed that pornographic material was not the only content on the phone and confirmed that examples of other content included video games and instructions on drawing animals and animated animals.⁹

Delaunda Dykes of the DCFS testified regarding the 2017 investigation of the children's living conditions. Dykes interviewed N.G. at the time. Dykes reviewed her notes and recalled being informed the defendant worked part-time, *16 N.G. worked full time, and her mother watched the children. Dykes testified she learned the defendant had a substance abuse problem, including pills and marijuana. She learned the children were staying with their grandmother at the time of the investigation. Dykes further interviewed J.C. and learned she took the children in 2014 and kept them that school year. She also interviewed the children, who discussed the forms of punishment used by their parents and verbal and physical altercations between their parents in the past. None of the children reported sexual abuse or ongoing physical violence between their parents. She concluded no danger or threat existed. On cross-examination, Dykes confirmed she was not investigating any claim of sexual or physical abuse at the time, and the children were not questioned in that regard.

After being called by the State, M.F., the children's maternal aunt, was called by the defense and testified regarding her discovery of pornographic content on I.G.'s cell phone and subsequent questioning of the children. She testified I.G. had a lot of videos about fathers and daughters "doing things together" on her cell phone. When she confronted I.G. about the material, I.G. would not talk to her about the content and denied viewing it. M.F. confirmed she questioned M.G. and L.G. together but testified she only asked them if something happened. She testified that after they disclosed touching that made them feel uncomfortable, she asked them if their father had done anything farther, which they denied. M.F. testified the children did not provide any other details. M.F. admitted that prior to the disclosures, she was seeking custody of the children for herself and their grandmother, J.C., and that she had asked N.G. to leave. She testified she was concerned about the children's environment and believed they would be safer with their grandmother. She denied ever telling the children to make false accusations or to be untruthful.

*17 The defendant's daughter from another relationship, Lilliana Glaze, who was twenty-four years old at the time of the trial, also testified in this case. Ms. Glaze testified she lived with the defendant until the age of six, at which point the defendant and her mother broke up and she subsequently had limited contact with the defendant. In 2018, she and the defendant reestablished a relationship, as she wanted him to be in her son's life. Ms. Glaze noted she had siblings who were fathered by and lived with the defendant, including an older, twenty-six-year-old sister and a younger twenty-one-year-old sister. Ms. Glaze denied her father had a reputation among her and her sisters for being sexually inappropriate with children or lustful or sexually attracted to minors.

The defendant's sister, Bonnie Blankenship, similarly denied the defendant had a reputation for being sexually inappropriate with children or lustful or sexually attracted to minors. Blankenship testified she recalled I.G., L.G., and M.G. living in a trailer in Pearl River with the defendant, and she would visit them once or twice a month, mainly on weekends, during that time period. She testified she never saw any pornography or sexually inappropriate items, and the children never told her anything inappropriate was occurring.

The defendant did not testify at the trial. On appeal, the defendant now argues there were inconsistencies within the children's individual accounts and notes they claimed the abuse happened in the Covington house on Fairhaven Road, though they only lived there briefly. He notes N.G. did not testify and barely participated in the investigation. The defendant further notes the children only reported abuse after pornography and extensive data on I.G.'s cell phone was discovered. He argues the State's evidence was flawed.

To resolve conflicting testimony relative to factual matters, the jury must make credibility determinations and weigh the evidence. The jury can accept or reject the testimony of any witness. * State v. Eby, 2017-1456 (La.

pp. 1st Cir. 4/6/18), 248 So.3d 420, 426, writ denied, 2018-0762 (La. 2/11/19), 265 So.3d 1153. In the absence of internal contradiction or irreconcilable conflict with any physical evidence, one witness's testimony, if believed by the trier of fact, is sufficient to support a factual conclusion. Moreover, when there is conflicting testimony about factual matters, the resolution of which depends upon a determination of the credibility of the witnesses, the matter is one of the weight of the evidence, not its sufficiency. The trier of fact's determination of the weight to be given evidence is not subject to appellate review. An appellate court will not reweigh the evidence to overturn a factfinder's determination of guilt. We are constitutionally precluded from acting as a "thirteenth juror" in assessing what weight to give evidence in criminal cases. The fact that the record contains evidence which conflicts with the testimony accepted by a trier of fact does not render the evidence accepted by the trier of fact insufficient. *State v. Jenkins*, 2022-0562 (La. App. 1st Cir. 12/22/22), 357 So.3d 840, 844.

We disagree with the defendant's assessment of the evidence in this case. After reviewing the defendant's accounts of alleged acts by the defendant given prior to and at the trial, we find the children in this case, I.G., and M.G., provided notably consistent details. Each child repeatedly described what happened to them, without ever claiming intercourse, but consistently describing being lewdly fondled and inappropriately touched by the defendant while alone with him. The children described details such as location and time periods of the instances. I.G., in providing her account of vaginal sexual intercourse, noted neck and back pain while being held on her back with her legs upward. In describing oral sexual intercourse, I.G. further stated the defendant put his hands behind her head and forced his penis into her mouth. Such sensory statements support the jury's conclusion that I.G. was detailing personal experiences, not just an act that she viewed elsewhere. Furthermore, the jury heard and rejected testimony presented *19 by the defendant regarding the possibility of the children being coached or having a motive to falsify the claims of sexual abuse.

It is well settled that the testimony of a victim alone is sufficient to prove the elements of the offense. *Jenkins*, 357 So.3d at 844; *State v. Orgeron*, 512 So.2d 467, 469 (La. App. 1st Cir. 1987), writ denied, 519 So.2d 1173 (La. 1988). An appellate court errs by substituting its appreciation of the evidence and credibility of witnesses for that of the factfinder and thereby overturning a verdict on the basis of an exculpatory hypothesis presented to and rationally rejected by the jury. *See State v. Calloway*, 2007-2306 (La. 1/21/09), 15 So.3d 417, 418 (per curiam). Viewing the evidence in the light most favorable to the prosecution, we find based on the record before us a rational trier of fact could have found that the State proved beyond a reasonable doubt all of the elements of first degree rape of a victim who is under thirteen years of age, two counts of aggravated crime against nature of a victim who is under thirteen years of age, and one count of aggravated crime against nature of a victim who is under eighteen years of age and a known relative. Accordingly, assignment of error number two lacks merit.

SPECIAL JURY INSTRUCTION

On assignment of error number one, the defendant argues the trial court erred in granting the State's request for a special jury instruction to indicate the date of the offense is not essential to the crimes involved in his case. He concedes the instruction was accurate but argues the timing of the offenses was critical to his case due to the "limited opportunity within which any of the allegations could have occurred."

When instructing a jury, the trial court must charge the jury as to the law applicable to the case. La. C.Cr.P. art. 802(1). Any jury instruction that relieves the State of its Fourteenth Amendment burden of proving every element of a criminal offense beyond a reasonable doubt is unconstitutional. *20 *State v. Brown*, 2011-0363 (La. App. 1st Cir. 9/14/11), 77 So.3d 297, 300, writ denied, 2011-2293 (La. 3/9/12), 84 So.3d 555. Pursuant to La. C.Cr.P. art. 807, the State and the defendant shall have the right before argument to submit to the court special written charges for the jury. Such charges may be received by the court in its discretion after argument has begun. A requested special charge shall be given by the court if it does not require qualification, limitation, or explanation, and if it is wholly correct and pertinent. *See* La. C.Cr.P. art. 807.

In this case, as requested in a motion filed by the State, the trial court, in pertinent part, gave the instruction to the jury prior to deliberations: "The date of the offense is not an essential element of the offenses of first degree rape or aggravated crime against nature." In objecting to the instruction, the defendant argued

would mislead the jury into believing that the timeline presented by the State has no relevance whatsoever to their determination.

The defendant relies on *State v. Gerard*, 627 So.2d 174 (La. 1993) (per curiam), wherein, the defendant was charged with two counts of simple burglary, acquitted on one count, and found guilty of the respective verdict of unauthorized entry of a business on the other count. After the conviction was upheld on appeal, the Louisiana Supreme Court granted the defendant's application for review to consider his argument that the trial court's jury instruction, some three hours into their deliberations, invited jurors to convict him of an offense not charged in the bill of information. The Court held, "under the particular circumstances of this case, the trial court's instructions, an otherwise correct statement of the law regarding the immateriality of date and time when they are not essential elements of the offense, may have misled the jury and diluted the defendant's right to a unanimous verdict on the specific act charged against him." *Id.* at 175.

In that case, the State charged the defendant in separate counts with breaking into the East Baton Rouge Parish District Attorney's Office and the East Baton Rouge Parish Sheriff's Tax Office. The defendant claimed an alibi for the Tax Office burglary, the offense for which he was acquitted. Pertinent to the instant discussion, in addition to the charged offenses, the State presented evidence linking the defendant to the removal of several pornographic videotapes from an exhibit box maintained in the office of the assistant district attorney. *Id.* at 175-76.

Three hours into deliberations, the foreperson of the jury in that case asked the court whether the dates listed in the bill of information were "set in stone." The trial court ultimately reread jurors the bill of information charging the date of the District Attorney's Office burglary. Over defense objection, the trial court also read jurors the provisions of La. C.Cr.P. art. 468, which state that "[i]f the date or time is not essential to the offense, an indictment shall not be held insufficient if it does not state the proper date or time...." "In this offense," the trial court added, "the date or time is not essential." *Id.* at 176.

On review, the Louisiana Supreme Court acknowledged the instruction correctly stated the law. However, the court stated,

Nevertheless, this general rule may not operate to deprive a defendant of the opportunity to present a defense. Even when they are not essential elements of an offense, time and date may become of the essence when the defendant presents an alibi defense to the offense charged, or is in some other way prejudiced by the date set forth in the indictment. A trial court's instruction to jurors that the date of an offense is immaterial may therefore constitute reversible error, despite its validity as a general matter, particularly when the instruction invites jurors to convict the defendant of other uncharged acts proved against him at trial of the charged offense. [internal citations omitted]

Id. at 176.

The Court noted in that case the State had placed great emphasis on the uncharged burglary of the District Attorney's Office pornographic videos. Thus, the Court held, under the circumstances, there was a reasonable possibility that jurors may not have reached a verdict on the charged offense but agreed that the defendant had committed the earlier entry involving the pornographic videotapes. *22 The Court further found a reasonable possibility existed that while all six jurors agreed that the defendant had committed an unauthorized entry of the District Attorney's Office, the six jurors did not agree unanimously on any particular fact. The Court held, "In either case, the court's instruction compromised the defendant's right to a unanimous verdict on the act charged against him, a necessary corollary of his fundamental due process protection against conviction except upon proof beyond a reasonable doubt of every fact necessary to constitute the crime with which he is charged." *Id.* at 177.

Herein, the defendant concedes the challenged jury charge is an accurate statement of law. However, the defendant cites bigamy, domestic violence, and excessive corporal punishment as uncharged offenses that paralleled what was forbidden by the Louisiana Supreme Court in **Gerard**. We find the instant case is distinguishable from **Gerard**. Herein, we find no reasonable probability that the jury charge caused the jury to reach a verdict on an uncharged offense. As the uncharged acts introduced in this case were of a completely different nature from the charged offenses, there was no danger of confusion. The jury instruction at issue does not require any qualification, limitation, or explanation. Its language was clear and succinct. The jury charge did not in any manner relieve the State of its Fourteenth Amendment burden of proving every element of the charged offenses beyond a reasonable doubt. Thus, in the instant case, the trial court did not abuse its discretion in granting the State's request for the special jury charge. Assignment of error number one lacks merit.

MOTIONS FOR MISTRIAL

In assignment of error number three, the defendant argues the trial court should have granted a mistrial based on two errors alleged to have occurred during Detective Ryals' testimony and a third error alleged to have occurred during the State's rebuttal closing arguments. The defendant argues the instance implied the defense had a burden to present a defense and testify. He argues, taken together, the errors were "so extremely prejudicial" that the jury's verdicts cannot be considered "unattributable" to the errors.

The trial court may grant a mistrial for certain inappropriate remarks that come within the context of La. C.Cr.P. art. 770, which provides in pertinent part:

Upon motion of a defendant, a mistrial shall be ordered when a remark or comment, made within the hearing of the jury by the judge, district attorney, or a court official, during the trial or in argument, refers directly or indirectly to:

...

(3) The failure of the defendant to testify in his own defense ... Otherwise, an admonition to the jury may suffice, as provided in La. C.Cr.P. art. 771:

In the following cases, upon the request of the defendant or the state, the court shall promptly admonish the jury to disregard a remark or comment made during the trial, or in argument within the hearing of the jury, when the remark is irrelevant or immaterial and of such a nature that it might create prejudice against the defendant, or the state, in the mind of the jury:

(1) When the remark or comment is made by the judge, the district attorney, or a court official; and the remark is not within the scope of Article 770; or

(2) When the remark or comment is made by a witness or person other than the judge, district attorney, or a court official, regardless of whether the remark or comment is within the scope of Article 770.

In such cases, on motion of the defendant, the court may grant a mistrial if it is satisfied that an admonition is not sufficient to assure the defendant a fair trial.

A mistrial under the provisions of La. C.Cr.P. art. 771 is at the trial court's discretion and should be granted only where the witness's or prosecutor's prejudicial remarks make it impossible for the defendant to obtain a fair trial. A mistrial is a drastic remedy that the trial court should grant only when the defendant suffers such substantial prejudice that he has been deprived of any reasonable expectation of a fair trial. *24 **State v. Murphy**, 2016-0901 (La. App. 1st Cir. 10/28/16), 206 So.3d 219, 229. Much credit should be accorded to the good sense and fairmindedness of jurors who have seen the evidence and heard the argument, and have been instructed by the trial judge that arguments of counsel are not evidence. **State v. Nixon**, 2017-1582 (La. App. 1st Cir. 4/13/18), 250 So.3d 273, 289, writ denied, 2018-0770 (La. 11/14/18), 256 So.3d 290. The determination of whether a mistrial should be granted is within the sound discretion of the trial court, and the denial of a motion for mistrial will not be disturbed on appeal absent an abuse of discretion. **State v. Dardar**, 2021-0860 (La. App. 1st Cir. 2/26/22), 340

Opening and closing arguments in criminal cases shall be limited to the evidence admitted, the lack of evidence, conclusions of fact that may be drawn therefrom, and the law applicable to the case. The argument shall not appeal to prejudice. The State's rebuttal shall be confined to answering the argument of the defendant. La. C.Cr.P. art. 774. Although they should not misstate the evidence, prosecutors are allowed wide latitude in choosing closing argument tactics. The trial court has broad discretion in controlling the scope of closing arguments, and this court will not reverse a conviction on the basis of an improper closing argument unless thoroughly convinced that the remarks influenced the jury and contributed to the verdict. *State v. Boudreaux*, 2023-0993 (La. App. 1st Cir. 4/19/24), 390 So.3d 345, 359.

Herein, the first alleged trial error occurred during defense counsel's cross-examination of Detective Ryals. Specifically, defense counsel asked Detective Ryals if she learned the defendant had three older daughters from another relationship. Detective Ryals confirmed she knew of the other children, but did not reach out to them because she did not have any indication that they would have any information relevant to her investigation. The following colloquy then occurred:

*25 Q. So, it sounds like at that point you had assumed that Gene had done what he was accused of?

A. At what point is that?

Q. Whatever point we were just talking about, when you made the decision it sounds like not to call his daughters.

A. I wouldn't say I assumed. Do I believe he is guilty, absolutely, but my job was to find probable cause on these charges that he was charged with and that's what I did.

Defense counsel then moved to strike his own elicited response. The trial court denied the motion, and counsel continued the line of questioning.

At the outset we note the defendant did not move for a mistrial or request an admonition in this regard. Moreover, a mistrial was not mandated or warranted by La. C.Cr.P. art. 770 or La. C.Cr.P. art. 771. Detective Ryals's testimony was in direct response to the question posed by defense counsel and did not amount to a comment on the defendant's failure to testify. We find no error, prejudice, or grounds for mistrial in regard to this testimony.

The second issue raised by the defendant consists of the following question by the State, during redirect examination of Detective Ryals, "Well, let's explore a few things. Defense attorneys come to you and tell you, hey these are what our defenses are going to be at trial, would you mind looking into them?" Defense counsel interjected and moved for a mistrial, arguing the State commented on the defendant's ability to present evidence, constituting burden shifting. The trial court denied the motion, noting Detective Ryals had been questioned as to what steps she did or did not take in her investigation.

We agree with the trial court's assessment. The comment by the prosecutor did not mandate a mistrial under La. C.Cr.P. art. 770, as the State did not imply the defendant had a duty to present a defense, but instead commented on Detective Ryals's duties pertaining to her investigation. Further, defense counsel requested and received an admonition, reminding the jury the defendant had no burden *26 whatsoever and the burden rested completely with the State. We find the admonition sufficient under La. C.Cr.P. art. 771.

The third alleged ground for mistrial asserted on appeal occurred when the State made the following comment during rebuttal closing remarks:

Defense wants to talk about [M.G.'s] messages how he just learned about [M.G.'s] messages.

False. [M.G.] mentioned her messages on the forensic interview. [N.G.] mentions the messages to

the police the day that it is reported, that these were reached out, and use your common sense, who are these messages going to? No notice? Who are the messages going to? This is not a surprise. There are two people on those messages and they have been talked about for the past almost four years.

Defense counsel interjected and moved for a mistrial, arguing the State commented on the defendant's presentation of evidence and on his right not to testify. The trial court disagreed with defense counsel's characterization of the State's remarks. In continuing the line of remarks, the State noted the comments were in regard to the defendant reaching out to M.G. in reference to child custody and were not pertaining to any dispositive aspects of the case.

We find the above statements by the prosecutor did not include a remark or comment on the defendant's failure to testify in his own defense, thus a mistrial was not mandated under La. C.Cr.P. art. 770. The State did not indicate the defendant had a duty in regard to the messages, only that the defense could not have validly claimed to be unaware of messages sent by the defendant himself. Further, the defendant has not shown how these remarks could have prejudiced him or denied him a fair trial. Moreover, defense counsel did not request an admonition in this regard. Considering the above, we find no trial error or abuse of discretion regarding the challenged testimony and comments during rebuttal arguments. Assignment of error number three lacks merit.

***27 EXCESSIVE SENTENCE**

In the final assignment of error, the defendant contends the trial court failed to justify imposing the sentences consecutively, including a life sentence on count one. He further states there is nothing in his history to justify consecutive sentences. He argues the sentences are excessive for that reason.

Both the United States and Louisiana Constitutions prohibit the imposition of excessive or cruel punishment. U.S. Const. amend. VIII; La. Const. art. I, § 20. Although a sentence falls within statutory limits, it may be excessive. *State v. Sepulvado*, 367 So.2d 762, 767 (La. 1979). A sentence is considered constitutionally excessive if it is grossly disproportionate to the seriousness of the offense or is nothing more than purposeless and needless infliction of pain and suffering. A sentence is considered grossly disproportionate when the crime and punishment are considered in light of the harm done to society, it shocks the sense of justice. The trial court has great discretion in imposing a sentence within the statutory limits, and this Court will not set aside such a sentence as excessive in the absence of a manifest abuse of discretion. *State v. Abbott*, 2017-0009 (La. App. 1st Cir. 9/15/17), 228 So.3d 207, 211, writ denied, 2017-1743 (La. 8/31/18), 251 So.3d 410.

Louisiana Code of Criminal Procedure article 894.1 sets forth the factors for the trial court to consider when imposing sentence. While the entire checklist of Article 894.1 need not be recited, the record must reflect the trial court adequately considered the criteria. *Id.* The articulation of the factual basis for a sentence under Article 894.1, not rigid or mechanical compliance with its provisions. *Id.* Where the record clearly shows adequate factual basis for the sentence imposed, remand is unnecessary even when there has not been full compliance with Article 894.1. *Id.* The trial court should review the defendant's personal history, his prior criminal record, the seriousness of the offense, the likelihood that *28 he will commit another crime, and his potential for rehabilitation through correctional services other than confinement. *State v. Harris*, 2022-1190 (La. App. 1st Cir. 6/2/23), 369 So.3d 447, 451. On appellate review of a sentence, the relevant question is whether the trial court abused its broad sentencing discretion, not whether another sentence might have been more appropriate. *Scott*, 28 So.3d at 211.

Moreover, there is no need for the trial court to justify a sentence under Article 894.1 when it is legally required to impose that sentence. As such, any failure to articulate reasons as set forth in Article 894.1 when imposing a mandatory life sentence is not an error; articulating such reasons or factors would be an exercise in futility since the court has no discretion. *State v. Dickerson*, 2016-1336 (La. App. 1st Cir. 4/12/17), 218 So.3d 63, writ denied, 2017-1147 (La. 8/31/18), 251 So.3d 1062. Mandatory sentences have been repeatedly upheld as

constitutional and consistent with the federal and state constitutional provisions prohibiting cruel, unusual, or excessive punishment. *Id.* To rebut the presumption that the mandatory minimum sentence is constitutional, the defendant must clearly and convincingly show that he is exceptional, which means that because of individual circumstances this defendant is a victim of the legislature's failure to assign sentences that are specifically tailored to the culpability of the offender, the gravity of the offense, and the circumstances of the offense. *Citing State v. Johnson*, 97-1906 (La. 3/4/98), 709 So.2d 672, 676.

If the defendant is convicted of two or more offenses based on the same act or transaction, or constituting parts of a common scheme or plan, the terms of imprisonment shall be served concurrently unless the court expressly directs that some or all be served consecutively. Other sentences of imprisonment shall be served consecutively unless the court expressly directs that some or all of them be served concurrently. La. C.Cr.P. art. 883.

29 On count one, first degree rape of a victim under the age of thirteen years, the defendant was subjected to a mandatory sentence of life imprisonment at hard labor without benefit of parole, probation, or suspension of sentence. La. R.S. 14:42(D)(2)(b). On counts two and three, aggravated crime against nature with a victim under the age of thirteen years, the defendant was subjected to a sentence of imprisonment at hard labor for a term not less than twenty-five years nor more than ninety-nine years. At least twenty-five years of the sentence shall be served without benefit of parole, probation, or suspension of sentence. La. R.S. 14:89.1(C)(2). On count four, aggravated crime against nature with a victim who is under the age of eighteen years and is a known enumerated relative, the defendant was subjected to a sentence of a fine not to exceed fifty thousand dollars, or imprisonment, with or without hard labor, for a term not less than five years nor more than twenty years, or both. La. R.S. 14:89.1(C)(1). Thus, the defendant received the mandatory sentence on count one and maximum term sentences on counts two, three, and four. The defendant only challenges the fact that the sentences were ordered to be served consecutively.

In imposing the sentences, the trial court first addressed the child victims, stating they deserved a father who would protect them but instead, through no fault of their own, were not given that. The court congratulated them for surviving the abuse. The trial court found maximum sentences were not only appropriate but necessary in this case. In denying the motion to reconsider sentence, the trial court noted it vividly recalled the facts of this case. The instant case involved three victims, separate crimes, on different dates, over a significant period of time. Thus, the sentences were properly ordered to be served consecutively under La. C.Cr.P. art. 883. Further, the defendant failed to show that he is exceptional such that a deviation from the mandatory minimum life sentence was warranted in this case. To the contrary, the record fully supports the imposition of the maximum *30 sentence allowed by law. The victims in this case suffered abuse of a heinous nature at the hands of their own father. The instant crimes fall within the category of the most serious violations of the described offenses, and defendant represents the worst kind of offender. He poses an unusual risk to the safety of the public as reflected by the nature of the instant offenses. Accordingly, assignment of error number four lacks merit.

For the reasons set forth herein, the defendant's convictions and sentences are affirmed.

CONVICTIONS AND SENTENCES AFFIRMED.

All Citations

Not Reported in So. Rptr., 2025 WL 1189445, 2024-0329 (La.App. 1 Cir. 4/24/25)

Footnotes

I.G.'s date of birth is October 22, 2011, L.G.'s date of birth is November 28, 2008, and M.G.'s date of birth is June 21, 2004. I.G. is sometimes referenced in the record by her nickname. In accordance with La. R.S. 46:1844(W), the child victims herein are referenced only by initials. To further protect the identity of the children, their mother, grandmother, and aunt are also referenced by initials. Although M.G. has the same initials, her last name differs from the others, as

she is not the defendant's biological child and was born prior to his marriage to N.G.

We note that the question of the sufficiency of evidence is properly raised by a motion for post-verdict judgment of acquittal. See La. C.Cr.P. art. 821. A motion for new trial presents only the issue of the weight of the evidence and is examined under the so-called thirteenth juror standard, under which the trial judge reweighs the evidence. Appellate courts may review the grant or denial of a motion for new trial only for errors of law. See La. C.Cr.P. art. 858. Accordingly, the denial of the defendant's motion for new trial, in part based on La. C.Cr.P. art. 851(3)(1), is not subject to review on appeal. *State v. Francis*, 2019-1392 (La. App. 1st Cir. 12/17/20), 318 So.3d 862, 867 n.6.

J.C. testified that in addition to poor living conditions, she witnessed the defendant being verbally abusive toward N.G. In 2017, the Department of Children and Family Services ("DCFS") began an investigation after J.C. reported hostile and poor living conditions for the children. The 2017 investigation concluded without any finding of an imminent threat. As a result of the 2020 claims, DCFS conducted another investigation. The 2020 through 2021 investigation resulted in a finding of sexual manipulation or fondling of M.G., L.G., and I.G. by the defendant.

At trial, I.G. testified she could not recall whether the touching or rubbing in that area was over or under her clothes.

During the C.A.C. interview, in addition to circling the vaginal area, breasts, and mouth of the female drawing, I.G. circled the hand and the penis of the anatomical male drawing in indicating the defendant put his private part in her mouth and private part.

I.G. also testified the defendant would try to make her watch shows on his cell phone about "[h]ospital sex" and "a few others."

M.G. further testified as to the forms of discipline she was subjected to, including being required to kneel on a pile of dry, raw rice, which had been poured into a litter box by the defendant, in a dark bathroom with roaches and rats crawling around, and being spanked with a belt on her bare bottom or over her underwear.

There was trial testimony indicating M.F. turned over the cell phone to Detective Ryals in March of 2021, the same month the extraction was later conducted. Detective Ryals testified the content on I.G.'s cell phone had no bearing on the defendant's arrest, it was simply a catalyst for the disclosures, and thus was collected at the end of the investigation.

Deputy Christopher Stevens testified he took the initial complaint of sexual abuse from N.G., and that N.G.'s then boyfriend ("Trey") was with her when she filed the complaint. Further, Deputy Stevens testified N.G. also made a complaint of bigamy. Consistent with the complaint, M.G. indicated the defendant remarried before divorcing her mother.

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IN THE

COURT OF APPEAL, FIRST CIRCUIT

STATE OF LOUISIANA

No. 2024-KA-0329

STATE OF LOUISIANA,

Appellee

versus

DOYLE EUGENE GLAZE,

Appellant

ON APPEAL FROM THE CRIMINAL DISTRICT COURT
IN AND FOR THE PARISH OF ST. TAMMANY PARISH, STATE OF
LOUISIANA, THE HONORABLE VINCENT J. LOBELLO, JUDGE
PRESIDING, NO. 2483-F-2021 DIV. "F"

ORIGINAL BRIEF OF APPELLANT

RESPECTFULLY SUBMITTED,

LOUISIANA APPELLATE PROJECT

Jane L. Beebe
Bar Roll No. 23642
P. O. Box 463
Addis, LA 70710
[504] 263-8081

Appendix C

(Criminal Appeal)

TIMELY

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JURISDICTIONAL STATEMENT

This Court has jurisdiction over this direct appeal pursuant to Article V, Section 10(A), of the Louisiana Constitution of 1974. The appellant was convicted of first degree rape with a victim under 13 years old, two counts of aggravated crime against nature involving a victim under 13 years old, and one count of aggravated crime against nature on July 17, 2023. (Rec. pp. 22-40). On October 23, 2023, Mr. Glaze was sentenced to serve life on count one, ninety-nine (99) years on counts two and three, and twenty (20) years on count four, to be served consecutively. (Rec. pp. 42-3). On November 6, 2023, the motion for appeal was granted. (Rec. pp. 237-237A).

STATEMENT OF THE CASE

Doyle Glaze was charged by a bill of indictment with one count of first degree rape involving a victim under 13, a violation of La. R.S. 14:42(A)(4) and (D), two counts of aggravated crime against nature involving a victim under 13 years old, a violation of La. R.S. 14:89.1.A(2)(a) and C(2), and one count of aggravated crime against nature, a violation of La. R.S. 14:89.1.A(2)(a) and C(1). (Rec. pp. 176-9).¹ On June 7, 2021, he entered a plea of not guilty. (Rec. pp. 1-2). The motion to reduce the bond was denied on October 18, 2021. (Rec. p. 5-6). On May 31, 2023, the defense's motion in limine to inform the jury of the mandatory minimum sentences was denied and the trial court held a *Daubert* hearing. (Rec. pp. 16-7, 180-3). On June 23, 2023, the trial court heard arguments regarding supplemental discovery. (Rec. p. 18). Jury selection began on July 10, 2023. On July 17, 2023, the appellant Glaze was found guilty as charged on all counts by a unanimous jury. (Rec. pp. 19-40, 1692). On October 23, 2023, the motion for new trial and post-verdict motion of acquittal were

¹ The bill of indictment was amended the day jury selection began and a defense continuance was denied. (Rec. pp. 176-9).

denied. On the same day, Glaze was sentenced to serve life on count one, ninety-nine (99) years on counts two and three, and twenty (20) years on count four. The sentences were to be served consecutively and without benefits. (Rec. pp. 42-3, 233-35A). On November 6, 2023, the motion for appeal was granted. (Rec. pp. 237-237A). On January 10, 2024, the motion to reconsider the sentence was denied.² (Rec. pp. 44-5, 238-239, 1719-24).

ASSIGNMENT OF ERROR

1. The trial court erred in allowing a special jury instruction requested by the state that inhibited the appellant's presentation of a defense.
2. The trial court erred in denying post trial motions because the evidence was insufficient to support the jury's verdict.
3. The trial court erred in denying the defense's motions for mistrial.
4. The trial court erred in imposing an excessive sentence by running all four sentences consecutively.

ISSUE PRESENTED

1. Did the trial court err in allowing a special jury instruction requested by the state that inhibited the appellant's presentation of a defense?
2. Did the trial court err in denying post trial motions because the evidence was insufficient to support the jury's verdict?
3. Did the trial court err in denying the defense's motions for mistrial?
4. Did the trial court err imposing an excessive sentence by running all four sentences consecutively?

² The motion to reconsider the sentence was denied after the appeal was granted and the trial court divested of jurisdiction.

STATEMENT OF FACTS

The victims B.G.³, L.G., and M.G. claimed that while living with appellant Doyle Glaze and their mother Naomi Glaze at the house on Fairhaven from June 2019 to August or September 2019, Glaze sexually abused them. M.G. claimed she was also sexually abused at the trailer on Tot Polk Road. Because it was not a stable home environment, the kids usually lived with their grandparents.

M.G. was 19 years at the time of trial. She said Glaze was the only man she knew as a father. M.G. observed violence at the trailer in Pearl River and at the house on Fairhaven. She said Glaze touched her inappropriately on the chest and thighs. M.G. told the jury she never told anyone about the violence or the inappropriate touching until October 2020. She recalled one time when Glaze was intoxicated and he fell on top of her in the bed. M.G. testified for the first time ever at trial that she felt his penis on her leg. When she was punished she was made to kneel on rice or spanked with a belt and she would have to pull down her pants. If she was spanked right out of the shower she would be still naked and wet so it hurt more. M.G. said she was not allowed to shut her bedroom door or ever lock the bathroom door when Glaze was home. On October 8, 2020, Glaze texted M.G. to tell her mother to sign the divorce papers and set up visitation. She told Glaze it was a little late for that since she saw on Facebook he had already married someone else in another state. M.G. said the whole investigation started when pornography was found on B.G.'s phone. She knew about the pornography on the phone and had caught B.G. and L.G. watching it under the piano bench. M.G. recalled the two times DCFS came and conducted an investigation. (Rec. pp. 1229-1266). She testified on cross examination that the only time Glaze touched her was when he fell on top of her drunk one night. (Rec. p. 1266). M.G. said her Mom sometimes whipped her, but as she got older she received other types of punishment such as grounding.

³ B.G.'s initials are actually I.G. but she is referred to as B. throughout the trial.

She said she reached out to Glaze once to tell him B.G. wanted to talk to him around her birthday. The last time M.G. physically saw Glaze was in 2019 when they got evicted from the house on Fairhaven. She told the jury she had a friend from church, J.B. who B.G. texted and asked him if he wanted "to have dinner and sex." M.G. was hospitalized in January 2020 for 9 days after her boyfriend died. She only told the hospital she had seen her Mom be physically, verbally and mentally abused. M.G. did not tell the staff at the hospital or the therapist she began to see afterwards about the sexual abuse even when specifically asked. She only talked about the sexual abuse in October 2020 after the pornography was found on B.G.'s phone and her Aunt Monica asked her directly. On redirect, M.G. changed her testimony and said Glaze had inappropriately touched her deliberately at other times on the chest and thighs. (Rec. pp. 1267-9).

L.G. testified she was 14 years old at the time of trial. She identified the appellant as her Dad and said it was scary to live with him because he was abusive to her Mom. L.G. said she got punished when they lived in the trailer by being put in the "hot room" for 30 minutes or so. She told the jury Glaze touched her sexually on her breasts and tried to touch her "downstairs" when they lived at the house on Fairhaven. L.G. was 10 years old when that happened. She said it happened in the bedroom and the door was closed. L.G. also said she witnessed Glaze trying to watch M.G. get changed and she stood in between them and yelled at her Dad to go away. On another occasion he burst into the bathroom when M.G. was about to shower and watched M.G. L.G. told the jury she pushed him out. L.G. said he was scared he would do to M.G. what he had done to her. She didn't tell anyone because she didn't want her Mom to get hit or to split up the family. L.G. said she started counseling and that has helped. They lived with their grandmother when she told her Aunt Monica about the abuse. On cross examination, L.G. said they were at her Aunt Monica's house not the grandmother's, when they found the pornography on B.G.'s phone and they

reported the abuse. She also said the abuse happened twice. L.G. saw Glaze watching pornography on T.V. once when she walked through the room. She went to counseling for 8 months initially. L.G. started counseling again because she cut herself at school and was nervous about the trial. (Rec. pp. 1303-44).

B.G. was eleven at the time of trial. She said when they lived in the trailer her Mom and Dad argued a lot but she never saw physical violence. B.G. was punished by standing in a corner or being whipped. She said all the yelling made her scared. B.G. testified they moved into a house on Fairhaven in 2019. B.G. said when when her Mom was working at Waffle House, her Dad came and got her nearly every night and the two of them went into his bedroom. She said he put his penis in her mouth. B.G. said she tried to push it away, but he forced it. She told the jury Glaze would take off her clothes off and put them under the bed. Glaze on multiple occasions would put his hands and penis on her vagina but she initially did not remember him putting it in her vagina. B.G. told the jury Glaze also put rubber bands on his penis of different colors. She later remembered telling the counselor that Glaze put his penis inside her vagina on more than one occasion. She told him to stop but he did not. B.G. did not tell anyone because she was scared. She said Glaze made her watch "hospital sex" and other shows on the phone. He asked her if she watched them and she would lie and say she did. B.G. said the sexual abuse only happened when they lived on Fairhaven. On cross examination, she denied putting the pornography videos on her phone or texting M.G.'s friend asking if he wanted to "have dinner and sex." B.G. did not remember telling the counselor that she kicked the appellant Glaze in his privates and that he couldn't breathe. (Rec. pp. 1344- 91).

T.G. was 16 years old by the time of trial and about to start the 11th grade. He lived with his grandparents. When they lived at the trailer on Tot Polk Road in Pearl River, he slept on a couch in the living room and his sisters shared the pull out bed also in the living room. T.G. said his parents slept in the one

bedroom. He remembered his Dad, the appellant Glaze, fighting and arguing with his Mom. T.G. recalled a time his Dad pushed his Mom into the bathtub. Another time Glaze pushed her into T.G. and she landed on him as they fell. T.G. remembered his foot got stuck in a hole in the floor that was covered by a carpet. He said he got put in a corner or spanked as punishment, but as he got older his clothes stayed on for spankings. T.G. told the jury when they moved to Covington into the house on Fairhaven, he slept on an air mattress in the living room. His sisters stayed in two of the bedrooms and his parents shared the third. T.G. testified when his Mom was at home, his Dad, Glaze, was nice. When she was not at home, he usually stayed in the bedroom most of the time and was angry. T.G. recalled getting interviewed at Hope House and said he sounded very young and very different. He said at the house on Fairhaven he would sometimes hang out with his Dad in the bedroom and play video games, watch a movie or be on his phone. T.G. said sometimes his sisters would come in the room and his Dad kicked him out of the room and shut the door. He said when his sisters came out of the room he could tell something was wrong and they looked scared. T.G. said this happened with each of his sisters. He said he did not ask them what happened or talk about it. In 2021, he saw a video of the song about the "no no square." He taught his three sisters the song. T.G. said he and M.G. got their own phone in November 2022 from their grandparents and Aunt Monica. Before that, they had old phones from Naomi and Glaze. T.G. remember one fight between his Mom and Dad when they hid in what was known as the "hot room." He said his Dad brought in a weed eater that he no longer wanted in the car and that made him afraid. (Rec. pp. 1205-29).

Jessica Cox testified she lived in Mount Herman with three of her four grandchildren. Her granddaughter, M.G. was born in June 21, 2004, and was 19 years old at the time of trial. Naomi Glaze was Cox's daughter and M.G.'s mother. Naomi met the appellant Doyle Glaze and the two lived together in a

trailer on Highway 41 for a few months and then moved to a trailer on Tot Polk Road. Naomi and the appellant Glaze were married November 22, 2008, a week before Cox's third grandchild was born. In 2010, Naomi and Glaze moved to a house on Jackie Lane with their 3 kids. They lived at the house with Cox's son Wesley, his wife and child. Cox testified the house on Jackie Lane was owned by her husband and his first wife. After Naomi and Glaze's fourth child was born on October 24, 2011, they moved to a barn on Chris Kennedy Road in Pearl River. Cox told the jury they could have stayed at the house on Jackie Lane, but there was a disagreement between them and her son and his family. She testified they stayed at the barn for about 5 months before moving back to Tot Polk Road. Cox said Naomi and Glaze would often fight and break up and the grandkids would stay with her for a few days. Cox called DCFS in 2017 because she was concerned about the conditions the kids lived in. Cox told the jury Glaze had gone to Texas and gotten in a wreck. Her grandchildren stayed with her and her husband when Naomi went to go pick him up from the hospital. Cox said Naomi called her because they were lost and she heard Glaze yelling at Naomi. Cox said she never witnessed Glaze physically abuse Naomi but she did hear him curse and call her names when they would argue. From 2017, Cox and her husband were the primary caregivers for the kids. In 2019, Naomi and the appellant Glaze moved into a house on Fairhaven Road in Covington. The four kids moved in after they finished the school year. Three of the four moved back with Cox and her husband by August 2019. One child, M.G., moved in with a friend to continue going to Covington High School. (Rec. pp. 803-21).

Cox testified they had no wifi but instead used data and hotspots. Each of Naomi's four kids had a phone and used Cox's hotspot for wifi. Several months in a row the data was being used up very quickly. Cox's other daughter, Monica,

⁴ Cox testified that B.G. was born October 2, 2011, and later testified he was born October 22, 2011. (Rec. pp. 804, 813). B.G. initials are actually I.G. but she is referred to as B. throughout the trial.

was on their data plan and checked everyone's phone for data use history. On B.G.'s phone there was a lot of what Cox described as "hard core pornography." Cox spoke with the child and then told Naomi the kids accused Glaze of molesting them and she needed to report it. Naomi reported the abuse and went with the kids to only one counseling or interview appointment and to none of the medical appointments. Cox told the jury that since 2019, Naomi has never really tried to get custody of her kids. (Rec. pp. 821-9).

Cox admitted on cross examination that the appellant Glaze had not seen the kids in over a year since they moved in September 2019. The abuse was reported on October 2020. Cox said the initial report was made to Monica when she asked each child individually after she has examined their phone's data history. Months later, Cox asked B.G. if her father, the appellant Glaze, touched her in places he shouldn't have. B.G. eventually said he had. M.G. reported there was one time when Glaze got into bed with her when they lived in the trailer on Tot Polk Road. Finally Cox said that by the time the abuse was reported, Naomi was dating a guy named Trey and was no longer with Glaze. (Rec. pp. 838-60).

Detective Sara Ryals was a detective assigned to the Special Victims Unit for the St. Tammany Parish Sheriff's Office (hereinafter "STPSO") on October 12, 2020, when Glaze was arrested. Ryals testified that because this complaint involved three juveniles she only got the basic information and the juveniles were interviewed at the Children's Advocacy Center (hereinafter "CAC"). The recording of the statements of the three female juveniles and the one male juvenile was admitted and punished to the jury. The male juvenile did not indicate he had been abused in any way. The three female juveniles indicated they had been abused and were brought to Children's Hospital and examined by medical professionals. Ryals told the jury only B.G.'s phone was collected and placed in evidence because it had pornography on it. None of the other kids' phones had pornography on them and they were not placed into evidence. Ryals

did not get a search warrant for the trailer in Pearl River or the house on Fairhaven Road in Covington because the amount of time that had passed since the abuse was alleged to have occurred. The abuse was reported in October 2020. It was alleged to have occurred over a year before between June 2019 to August or September 2019 at Fairhaven. Additional allegations by M.G. occurred before that at the trailer on Tot Polk Road. (Rec. pp. 873-902).

On cross examination, Ryals admitted the cases were not exigent because Naomi and the appellant Glaze were no longer together and had not been for a year and two months when the allegations were first made. She told the jury that was why the interviews and physical examinations took place as late as almost two years after the juveniles last had contact with Glaze. Ryals knew M.G. had been hospitalized in 2020 after self harm, but she did not investigate those medical records to see if any additional allegations or disclosures were made regarding the appellant Glaze. She also did not investigate either residence where the events were alleged to have occurred to corroborate the layout of the residences. Ryals claimed it was because the description of the rooms in both locations was generic and there was nothing unique to confirm. She admitted that Monica offered to give the detective all four of the kids phone in March 2021. Ryals said she only wanted to collect B.G.'s phone. That was despite the fact L.G. told police she had deleted sex pictures from Glaze on her phone. Ryals did not confirm when the family lived at the house on Fairhaven Road or if/when the family had been evicted, even though that was the only place L.G. and B.G. claimed they were abused. She admitted that when B.G. spoke with CAC she did not mention Glaze had a yellow band on his penis or that he taught her sign language about sex. It was six or seven months later that B.G. first mentioned the yellow band on Glaze's penis and that he taught her sign language about sex. Ryals did not interview Glaze's adult daughters or the friends M.G. said she talked to about these things. She also was unaware that as of September 2019,

Naomi had a new boyfriend, Trey, who had access to the children prior to their initial disclosure in October 2020. (Rec. pp. 902-82).

On redirect that state went through the forensic phone dump report with Ryals. The state also asked the detective why search warrants were not obtained, why DCFS reports were not obtained, or why several people were not interviewed to verify the allegations in this case. (Rec. pp. 983-95).

Camille Ditrinis was the nurse practitioner at the Audrey Hepburn Care Center and Children's Hospital and on December 18, 2020, she conducted the exam on L.G. at the Covington satellite location. She told the jury they take the vital signs of the juvenile and speak with the caregiver before speaking with the juvenile one on one and conducting a physical exam. Ditrinis said they wrap up the process by speaking with the caregiver again. The caregiver for L.G. was her aunt, Monica. Ditrinis identified the medical report from L.G.'s exam. She also identified the audio only recording of the interview and it was played for the jury. L.G.'s physical exam was normal. Ditrinis also examined and interviewed M.G. on the same day. She identified the medical report and audio recording and it too was played for the jury. M.G.'s physical exam showed some self inflicted cuts on her left forearm. Ditrinis told the jury that M.G. did not wish to participate in the anogenital exam, but it made little difference because there was nothing in her disclosure that indicated her vagina had been touched. (Rec. pp. 996-1010).

On June 9, 2021, Ditrinis performed a medical examination of B.G. at the Care Center in New Orleans. B.G.'s caregiver that day was her grandmother, Jessica Cox. Ditrinis reviewed the report of B.G.'s prior visit to the center when she refused to participate in the exam. She explained the juvenile is allowed to refuse to participate in the interview and/or the examination. Ditrinis also identified the medical report and audio recording of the June 9, 2021 examination. The audio recording was played for the jury. Ditrinis told the jury that because B.G. was younger than M.G. and L.G., she used a scenario to make

sure B.G. knew the difference between the truth than a lie. She asked B.G. to describe Glaze's penis and said he had "hairy balls and a long front." B.G. showed Ditrinis the sign language Glaze showed her to ask for sex and the position he "put her in for sex" when he touched her "no no square," a.k.a. her vagina. Ditrinis acknowledged that B.G. had a happy demeanor and was snacking on Oreos as she was interviewed. B.G.'s physical exam was normal. On cross examination, Ditrinis admitted she could not be sure if what B.G. reported was from experience or from what she had seen on the porn videos found on her phone. She also admitted she did not review B.G.'s medical records from her primary care physician. Dimitris did not review M.G.'s hospitalization records, but recalled M.G. told her that she tried to kill herself to get away from Glaze. (Rec. pp. 1010-33).

Dr. Anne Troy was qualified as an expert in forensic child sexual abuse over defense objection. (Rec. pp. 1045-57). She testified delayed reporting happens for several reasons and that in 95% of cases kids will have a normal physical exam. Troy also told the jury about how "grooming" works in sexual abuse cases. She explained that a child will deny abuse even when directly asked by a non-offending parent out of guilt or shame. Troy testified she has interviewed kids with a STI or even pregnant and they will still deny have been sexually abused. She also told the jury that kids that act out with self harm or suicidal ideations years later may have not talked about the abuse for years. She listened to the reports of the three juveniles in this case and heard no evidence of coaching or anything that would have her call Child Protection. On cross examination, Troy testified she only reviewed videos and watched the court testimony the day before. She did not speak to any of the witnesses involved in this case or write a report. (Rec. pp. 1057-89).

Stacy Williams was a child protection investigation supervisor at the Department of Children and Family Services (hereinafter "DCFS"). Prior to

being a supervisor she was an investigator for the allegations against Naomi and Glaze. Williams testified they received a report on November 2, 2020. Because it involved juveniles, they went to the school to speak with the kids in a neutral setting, away from any potential perpetrators. The state and defense stipulated to the admission of the two DCFS reports. Williams conclusion was there was a "valid finding of sexual manipulation or fondling" by the appellant Glaze of all three female juveniles. She spoke to the three juveniles after they had already been interviewed at the CAC. Williams testified all four juveniles made statements that there was some form of domestic violence in their home. She admitted on cross that the initial focus is to determine if the child is safe or needs to be moved and if it is a valid finding. Once a valid finding is made, the case moves to the court for disposition. Williams said all three female juveniles told her they didn't tell their mother, Naomi, about the sexual abuse because they were afraid their father, Glaze, would kill her. She said because the children lived with Cox they were all determined to be safe and were not moved. (Rec. pp. 1090-1134).

Sarah Scanlan worked at the CAC Hope House as a clinical therapist. Juveniles are referred to her by victim advocates or by a DCFS worker for therapy after their forensic interview at CAC. Scanlan said the process is voluntary and begins with an initial assessment to identify any trauma symptoms. Therapy can take between 4-6 months and there is a graduation when they complete therapy. L.G. participated in therapy and graduated. Scanlan testified that either the grandmother, grandfather or Monica brought her to therapy and were at her graduation. Her mother, Naomi, did not attend the graduation or bring her to therapy. L.G. came back to therapy to deal with some additional worries in 2023, primarily regarding her upcoming appearance in court. B.G. did therapy at the same time, but the two had separate appointments. B.G. likewise graduated in 2021, but came back for additional therapy in 2023. (Rec. pp.

1134-1204).

The evidence was published for the jury and the state rested. (Rec. pp. 1391-1401). The defense called Sergeant Matthew Rowley who worked for STPSO. In March 2021, he was assigned to Major Crimes as a cell phones forensic examiner. He examined a phone in evidence in this case that was activated or factory reset on May 27, 2020. Rowley explained that whenever a website was searched a digital cookie would be left as kind of a bookmark. On the phone he examined, there was a cookie from August 11, 2020, at 1:03 pm from a domain called "MegaTube.XXX." Rowley said the search entered was a video titled, "Sexy Nurse Jane Doux heals patient with heart hospital sex." Another pornographic video was searched that afternoon at 1:07 pm. On September 12, 2020, a web domain named "sleczyandeasy" was accessed. On October 2, 2020 the web domain "pornhub" was accessed. Rowley testified he saw no pornography on the phone before May 2020 when it was activated or factory reset. (Rec. pp. 1401-20).

Lilliana Glaze testified she was the appellant Glaze's daughter from a prior marriage. She lived with Glaze and her mother until she was 6 years old and the two split up. Lilliana had a son in 2018 and reconnected with Glaze so her son would have a grandfather. She never knew Glaze to have a lustful disposition towards minors. Lilliana told the jury that she was at a family funeral when Naomi told her sister she didn't want them contacting Glaze again. (Rec. pp. 1420-9).

Deputy Christopher Stevens identified a still photo from the body cam footage of when he responded to a complaint made by Naomi. He identified her boyfriend, Trey, in the photo. Stevens said the incident had been reported to Naomi from her sister about a week and a half before. He received a second complaint of bigamy from Naomi that day as well. The body cam footage was viewed and Stevens identified the part where Naomi told him Glaze was sending

harassing messages to her daughter M.G. on Facebook. (Rec. pp. 1430-43).

Delaunda Dykes was an investigator with DCFS in 2017. She investigated the family on October 3, 2017, regarding inadequate shelter. There was no allegations of sexual abuse at that time. Dykes learned Glaze had a substance abuse problem with pain pills, Lortab, morphine and marijuana. She sent Glaze for a substance abuse evaluation, but he failed to appear. After speaking with all four kids individually, Dykes found the claim of inadequate shelter to be invalid and heard nothing about sexual abuse, excessive parental discipline, or physical abuse between Naomi and Glaze. (Rec. pp. 1444-66).

Monica Fonrose testified she was Naomi's sister and an Aunt to the four juveniles in this case. She told the jury M.G. lived with her and the other three kids lived with her mother in Mt. Hermann. In October 2020 there was a day when pornography was found on B.G.'s phone. Monica testified she looked through all the kid's devices because they were using so much data. She gave B.G.'s phone to Ryals and offered to give all the devices to her. Monica asked B.G. if she was looking at pornography and she denied it. She said B.G. finally admitted to looking at it when she was in counseling. Monica spoke with L.G. and M.G. and they both said Glaze had touched them inappropriately. When she left she told her Mom to contact Naomi, the kids' mother, and tell her to report the sexual abuse. Monica admitted she wanted Naomi or her mother to get custody of the kids and not Glaze. (Rec. pp. 1495-1529).

Bonnie Blankenship is the sister of the appellant Glaze. She saw the family at the trailer in Pearl River once or twice a month. She was a teacher and a mother and testified that if she felt like anything was going on she would have "stepped in." Blankenship told the jury her brother did not have the reputation of having a lustful disposition towards the children. Finally, she said she loved her brother, but she would not testify on his behalf if she felt he had done these things. (Rec. pp. 1532-48).

SUMMARY OF THE ARGUMENT

The trial court erred when it gave a special jury instruction requested by the state that inhibited the appellant's right to present a defense. The trial court erred in denying post trial motions because the evidence in this case was insufficient to support the jury's verdict. The trial court should have granted the mistrial after improper statements in the state's closing argument, especially in light of the previous admonishments and motions for mistrial. Finally, the trial court imposed an excessive sentences in this case by running all four sentences consecutively.

ASSIGNMENT OF ERROR ONE: Jury Instruction/Right to Present a Defense

La. C. Cr. P. 807 provides that the state and the defendant have the right to submit special charges for the jury. A requested special charge shall be given if it does not require qualification, limitation, or explanation, and if it is wholly correct and pertinent. The jurisprudence also requires that a requested instruction must be supported by the evidence. *State v. Craig*, 95-2499 (La. 5/20/97), 699 So. 2d 865, 869, cert. denied, 522 U.S. 935, 118 S. Ct. 343 (1997). *State v. Lingefelt*, 38,038 (La. App. 2 Cir. 01/28/04) 865 So.2d 280. The charge as given was correct and accurate. However, it impeded the appellant's right to present his defense at trial.

A criminal defendant has the constitutional right to present a defense. U.S. Const. amend. 6; La. Const. Art. 1 § 16; *Washington v. Texas*, 388 U.S. 14, 87 S. Ct. 1920, 18 L. Ed. 2d 1019 (1967); *State v. Gremillion*, 542 So. 2d 1074 (La. 1989); *State v. Vigee*, 518 So. 2d 501 (La. 1989). Due process affords the defendant the right of full confrontation and cross examination of the State's witnesses. *Chambers v. Mississippi*, 410 U.S. 284, 93 S. Ct. 1038, 35 L. Ed. 2d 297 (1973); *State v. Mosby*, 595 So. 2d 1135 (La. 1992). It is difficult to imagine rights more inextricably linked to our concept of a fair trial.

The state requested a special jury instruction in this case to inform the jury that "(t)he date of the offense is not an essential element of the offenses of first-degree rape or aggravated crime against nature." The defense filed an objection citing *State v. Gerard*, 627 So.2d 174, 176 (La. 1993). (Rec. pp. 185-6, 192-3)

In *Gerard*, the Louisiana Supreme Court opined:

In many jurisdictions, proof that the offense has occurred at any time within the statutory limits on prosecution and before the filing of the indictment appears sufficient to sustain the validity of the indictment, no matter what date the state has alleged in its formal charge. See 3 C.E. Torcia, Wharton's Criminal Procedure, § 511 (12th ed. 1975). Nevertheless, this general rule "may not operate to deprive a defendant of the opportunity to present a defense." *State v. Cameron*, 83 N.C. App. 69, 349 S.E.2d 327, 330 (1986). Even when they are not essential elements of an offense, time and date may become "of the essence when the defendant presents an alibi defense to the offense charged, or is in some other way prejudiced by the date set forth in the indictment." *Commonwealth v. Peluso*, 240 Pa. Super. 330, 361 A.2d 852, 856-57 (1976); *State v. Booth*, 92 N.C. App. 729, 376 S.E.2d 242 (1989); *State v. Cameron*, *supra*; *Commonwealth v. Boyer*, 216 Pa. Super. 286, 264 A.2d 173 (1970). A trial court's instruction to jurors that the date of an offense is immaterial may therefore constitute reversal error, despite its validity as a general matter, *State v. Chittim*, 261 S.W.2d 79 (Mo. 1953), particularly when the instruction invites jurors to convict the defendant of other uncharged acts proved against him at trial of the charged offense. See e.g. *State v. Whittemore*, 255 N.C. 583, 122 S.E.2d 396 (1961). *Id.* at 176

In this case, critical to the defense was the timing of the reporting and the limited opportunity within which any of the allegations could have occurred. (Rec. pp. 1474-80). The trial court found that unlike *Gerard* there was no *Prieur* or other crimes evidence in this case to confuse the jury. (Rec. p. 1479). However, there was quite a bit of other crimes evidence of domestic violence and excessive corporal punishment of all four kids that was allowed into evidence in this case. As in *Gerard* there were "other uncharged acts proved against (Glaze) at trial of the charged offense." The instruction given by the trial court invited conviction for these other bad acts instead of focusing the jury on the four charges at issue. As argued throughout trial, and specifically in closing arguments, the defense noted the appellant Glaze had not seen any of the kids for over a year before this was reported. (Rec. pp. 1571-1626). It was only after Glaze sent a

message to M.G. on October 8 or 9⁵, 2020, requesting her to ask her mother to sign the divorce papers and establish visitation, that these allegations were reported. Glaze had long since left the state and remarried. Bigamy was therefore another uncharged offense brought before this jury. All of the uncharged offenses paralleled what was specifically forbidden by the Louisiana Supreme Court in *Gerard*. While it was an accurate jury instruction, in this case it hamstrung the appellant's right to present his defense. Glaze's defense was not an alibi, but was dependent on the timing of the allegations and the reporting. (Rec. pp. 203, 1660). For these reasons, the jury instruction given created reversible error.

ASSIGNMENT OF ERROR TWO: Insufficient evidence

The appellant was convicted of various sex crimes with his three juvenile female daughters. A defendant challenging the sufficiency of the evidence to support his conviction may do so through either a motion for post-verdict judgment of acquittal, under La. C.Cr.P. art. 821, or a motion for new trial, under La. C.Cr.P. art. 851. La. C.Cr.P. art. 821, paragraph B, presents a codification of the *Jackson v. Virginia*, 443 U.S. 307, 99 S.Ct 2781, 61 L.Ed. 2d 560 (1979) standard. (Rec. pp. 233-5, 1696-1706).

In *Jackson v. Virginia*, 443 U.S. 307, 99 S.Ct 2781, 61 L.Ed. 2d 560 (1979), the United States Supreme Court set out the standard by which appellate courts are to review the sufficiency of the evidence in criminal prosecutions:

... the relevant question is whether, after viewing the evidence in a light most favorable to the prosecution, any rational trier of the fact could have found the essential elements of the crime beyond a reasonable doubt.

Also see State v. Matthews, 375 So.2d 1165 (La. 1979). In reviewing the sufficiency of the evidence to support a criminal conviction, the Due Process Clause of the Fourteenth Amendment to the United States Constitution requires the court to determine whether the evidence is minimally sufficient. A complete

⁵ Both dates are testified to and argued in closing.

reading of the transcript of this trial shows that the state failed to meet the burden of proof enunciated by the Supreme Court in *Jackson v. Virginia*. In *State v. Dixon*, 620 So.2d 904 (La. App. 1st Cir 1993), the First Circuit explained:

The standard of review for the sufficiency of the evidence to uphold a conviction is whether or not, viewing the evidence in the light most favorable to the prosecution, a rational trier of fact could conclude that the State proved the essential elements of the crime beyond a reasonable doubt.

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

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

Ultimately, all the evidence in the record, viewed in a light favorable to the state, must satisfy the reviewing court that a rational trier of fact could have found the defendant guilty of the crime for which he was convicted, beyond a reasonable doubt. *State v. Perow*, 616 So.2d 1336 (La. App. 3d Cir. 1993). The circumstantial evidence rule is a component of this reasonable doubt standard. On appeal, the issue is whether a rational trier of fact, viewing the evidence in a light favorable to the state, could find that all reasonable hypotheses of innocence were excluded.

In order for the state to obtain a conviction, it must prove the elements of the crime beyond a reasonable doubt. The question in this case was if any abuse actually happened. All three juvenile females tell a different story and are not consistent in their own versions. All three allege the abuse happened at the house on Fairhaven where they only lived from June 2019 to August or September 2019. M.G. also claimed that Glaze fell on her at the trailer on Tot Polk Road one night and claimed for the first time ever at trial that she felt his penis on her leg. On the stand, M.G. provided a text conversation she had with Glaze on October 8 or 9, 2020, wherein he asks her to get her mother to sign the divorce papers and to set up visitation. M.G. responded to Glaze that it was a little late since she had

seen on Facebook he had remarried and committed the crime of bigamy. Despite this, M.G. said nothing in this same conversation about sexual abuse or the pornography found on B.G.'s phone. It stands to reason, it had not yet been reported. (Rec. pp. 1229-69). What is known is Naomi reported the allegations to the police on Monday, October 12, 2020, and Glaze was arrested. (Rec. pp. 873-902). By this time, Glaze had not physically seen any of the kids for over a year. Naomi did not testify at trial and barely participated in the investigation. Despite the allegations of what happened to all three of her daughters, she never took any of them to counseling and did not go to any of their graduations from their counseling. The defense, not the state, called the juveniles' Aunt Monica, to whom the three first reported the abuse, to testify. The kids only reported the abuse when the pornography using up all the phone data was found on B.G.'s phone. B.G. denied watching the pornography on her phone even though M.G. specifically remembered seeing her and L.G. looking at it under the piano bench. L.G. also denied ever seeing pornography except for one time when she walked through the room and saw Glaze watching it on T.V. (Rec. pp. 1229-69, 1303-44, 1344-91).

All three juveniles remembered differently whether they were at their grandmother's house or Monica's house when they first reported and whether their grandmother was in the room. Ryals only collected B.G.'s phone although she was offered all of them by Monica in March 2021. Ryals said she only wanted to collect B.G.'s phone. That was despite the fact L.G. told police she had deleted sex pictures from Glaze on her phone. (Rec. pp. 902-82). The defense called Rowley who analyzed the forensic download of B.G.'s phone. All of the pornography on the phone was downloaded in 2020 long after Glaze last saw the kids much less touched their phones. Rowley testified the phone cookies indicated the websites and times the pornography was viewed. None of it was the

daddy/daughter pornography the state alleged was on the phone. (Rec. pp. 1401-20).

After trial, the defense filed a motion for new trial and a motion for post verdict judgement of acquittal. (Rec. pp. 233-5, 1696-1706). Unfortunately, the trial court did not see the flawed proof presented by the state in the case. By denying the post trial motions, the trial court again failed to legitimately hold the state to its burden to prove all of the elements of the crime and to prove them beyond a reasonable doubt. Any and all reasonable doubts must be decided in favor of Glaze and not the state. The evidence was insufficient in this case to support the requisite elements beyond a reasonable doubt.

ARGUMENT ISSUE THREE: Mistrial

A mistrial should have been granted based on the cumulative effect of three separate errors by the prosecution or its witness. First, on cross examination, the defense asked Detective Ryals if she made the decision not to call Glaze's older three daughters when investigating these claims because she had already assumed Glaze had done what he was accused of. Ryals denied assuming that, but went on to ask herself, "Do I believe he is guilty, absolutely, but my job was to find probable cause on these charges..." The defense made a motion to strike her answer as not responsive and was denied. (Rec. pp. 912-3). The second error was when the state on redirect questioning of Ryals posed the question, "(d)efense attorneys come to you and tell you, hey these are what our defenses are going to be at trial, would you mind looking into them?" Defense counsel immediately objected to the improper "comment on defense ability to present defense" arguing it shifted the burden onto the defense. The trial court denied the motion for mistrial, but an admonishment was given to the jury that "the defendant has no burden whatsoever in this case. The burden rests one-hundred percent on the State and the District Attorney's Office." (Rec. pp. 989-91). Finally, the third

error was when the prosecutor in rebuttal closing again commented on the defendant's presentation of evidence and his right not to testify about the messages between he and M.G. The prosecutor said the "defense wants to talk about (M.G.'s) messages how he just learned about (M.G.'s) messages....who are these messages going to? This is not a surprise. There are two people on those messages and they have been talked about for the past almost four years." The defense again moved for mistrial and it was denied. (Rec. pp. 1638-40).

La. C.r.P. 774 requires that closing arguments at trial be confined "to evidence admitted, to the lack of evidence, to conclusions of fact that the state or defendant may draw therefrom, and to the law applicable to the case." *State v. Smallwood*, 09-86, (La. App. 5 Cir. 7/28/09), 20 So.3d 479, 489; *State v. Robertson*, 08-297 (La. App. 5 Cir. 10/28/08), 995 So.2d 650. Closing arguments shall not appeal to prejudice. *Id.* at 659. A prosecutor has considerable latitude in making closing arguments. *State v. Jackson*, 04-293, (La. App. 5 Cir. 7/27/04), 880 So.2d 69. However, prosecutors may not resort to personal experience or turn their arguments into a referendum on crime. *Robertson*, at 659-60.

The trial judge has broad discretion in controlling the scope of closing arguments. *Robertson* at 660. A conviction will not be reversed due to improper remarks during closing argument unless the reviewing court is thoroughly convinced that the remarks influenced the jury and contributed to the verdict. *Id.* (citing *Jackson*, 04-293 at 5-6, 880 So.2d 69 at 73). In making its determination, the appellate court should give credit to the good sense and fair-mindedness of the jury that has seen the evidence and heard the argument, and has been instructed that the arguments of counsel are not evidence. *Id.*

In addition, assuming the prosecutor's argument was improper, reversal is not required when such error was limited and did not show significant impact on the outcome of the case. *State v. Huckabay*, 00-1082 (La. App. 4 Cir. 2/6/02), 809

So.2d 1093, 1110; *State v. Francis*, 95-194 (La. App. 5 Cir. 11/28/95), 665 So.2d 596, 604; *State v. Foster*, 09-837 (La. App. 5 Cir. 6/29/10), 33 So.3d 733, 741-3.

The trial court should have granted the mistrial because on the three above mentioned occasions the state implied that the defense had a burden to present a defense and to testify. In the present case, the error in not sustaining the objection and later not granting either motion for mistrial was not harmless because it was so prejudicial in depicting appellant Glaze as having a burden to present a defense and testify. The statement made by the prosecutor quoted above in rebuttal closing arguments was the last argument the jury would hear and the defense was unable to correct it afterwards. The trial court should have by granting the mistrial. Taken together all three errors were so extremely prejudicial, the jury's verdict can not be considered "unattributable" to this error.

ARGUMENT ISSUE FOUR: Excessive Sentence

The trial court erred when it imposed a consecutive sentence for all four counts including the life sentence imposed for count one. (Rec. pp. 1714-7). While it is true the consecutive sentence was within the legal sentencing range, that should not change or denigrate the law and the necessity of justifying a deviation from the preferred imposition of concurrent sentences. Louisiana is the second most incarcerated per capita state in the most incarcerated per capita nation in the world. Meaningless compounding of sentences does nothing for any legitimate state or community interest.

Excessive punishment is prohibited by the Louisiana Constitution. La. Const. Art. I, Sec. 20. A sentence imposed within a statutory limit may nevertheless violate a defendant's constitutional right against excessive punishment. *State v. Cann*, 471 So.2d 701 (La. 1985); *State v. Francosi*, 511 So.2d 1181 (La. 4th Cir. 1987). A sentence that is grossly disproportionate to the crime, or which is nothing more than the needless imposition of pain and

suffering, will be considered excessive and unconstitutional. *State v. Brogdon*, 457 So.2d 616 (La. 1984), cert. den. *Brogdon v. Louisiana*, 471 U.S. 1111, 105 S.Ct. 2345 (1985); *State v. Telsee*, 425 So.2d 1251 (La. 1983).

The trial judge must consider several factors in determining the sentence, including the personal and past criminal history of the defendant, as well as the seriousness of the particular crime committed. Further, a sentence which appears severe must be tailored to the individual offender and the particular offense. *State v. Quebedeaux*, 424 So.2d 1009 (La. 1982), affirmed on remand 446 So.2d 1210 (La. 1984); *State v. Jones*, 398 So.2d 1049 (La. 1981); *State v. Tilley*, 400 So.2d 1363 (La. 1981); *State v. Francosi*, *supra*.

La. C.Cr.P. art. 894.1 sets forth the criteria to be used by the trial court in its determination. Although it is not necessary for the trial judge to articulate every single factor used in making the sentencing determination, the trial court must at least indicate that it considered the criteria of article 894.1 in giving a particular defendant the sentence imposed for that specific crime. *State v. Guiden*, 399 So.2d 1294 (La. 1981), cert. den. *Guiden v. Louisiana*, 454 U.S. 1150, 109 S.Ct. 1017 (1982). The mitigating circumstances must also be considered by the trial court in sentencing the defendant, *State v. Franks*, 373 So.2d 1307 (La. 1979), cert. denied 450 U.S. 983, 101 S.Ct. 1500 (1981), and the court must state the factual basis for the sentence imposed and articulate reasons for a severe sentence. *State v. Saunders*, 393 So.2d 1278 (La. 1981).

While the law favors concurrent sentences, a trial judge retains discretion to impose consecutive penalties on the basis of other factors, such as the offender's past criminal acts, the violent nature of the charged crimes, or the risk he may pose to the general safety of the community. La. C.Cr.P. 883; *State v. Thomas*, 98-1144 (La.10/9/98), 719 So.2d 49; *State v. Williams*, 98-1146, p. 23 (La.App. 5 Cir. 6/1/99), 738 So.2d 640, 656, writ denied, 99-1984 (La.1/7/00), 752 So.2d 176.

The trial court heard victim impact statements by way of letters read by the prosecutor from Naomi, L.G. and M.G., and an in person statement by Dustin Vinson, but never indicated why the sentences on all four counts were to be run consecutively and not in accordance with the law's favoring of concurrent sentences. (Rec. pp. 1707-17).

While sentencing is in the sound discretion of the trial court, in this case the trial court failed to justify why in this particular case the sentences on all four counts were all to run consecutively. There was no indication why the trial court deviated from the law's preference for concurrent sentences. There was also nothing particular indicated in the facts of this case or Glaze's criminal history that justified the trial court's consecutive sentence. (Rec. pp. 1714-7). For these reasons, the imposition of a consecutive sentences was not justified and was thus excessive.

CONCLUSION

Wherefore, the appellant's convictions and sentences should be reversed.

RESPECTFULLY SUBMITTED:

LOUISIANA APPELLATE PROJECT

s/Jane L. Beebe
JANE L. BEEBE
Bar Roll No. 23642
P. O. Box 463
Addis, LA 70710
(504) 263-8081

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing brief upon Doyle Glaze, DOC#783361, Louisianan State Penitentiary, 17544 Tunica Trace, Angola, LA 70712-3029, St. Tammany Parish District Attorney's Office c/o Matthew Caplan, Appeals Division, and upon Judge Vincent J. Borello, by delivering copies of same to each by mail or email this 11th day of June, 2024.

s/ Jane L Beebe
JANE L. BEEBE

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NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NO. 2024 KA 0329

Appendix D

STATE OF LOUISIANA

VERSUS

DOYLE EUGENE GLAZE, JR.

Judgment Rendered: APR 24 2025

Appealed from the
22nd Judicial District Court
In and for the Parish of St. Tammany
State of Louisiana
Case No. 2483-F-2021, Division F

The Honorable Vincent J. Lobello, Judge Presiding

Jane L. Beebe
Addis, Louisiana

Counsel for Defendant/Appellant
Doyle Eugene Glaze, Jr.

J. Collin Sims
District Attorney
Butch Wilson
Matthew Caplan
Assistant District Attorneys
Covington, Louisiana

Counsel for Appellee
State of Louisiana

BEFORE: THERIOT, HESTER, AND EDWARDS, JJ.

THERIOT, J.

The defendant, Doyle Eugene Glaze, Jr., was charged by an amended grand jury indictment as follows: on count one, first degree rape of a victim who is under thirteen years of age, a violation of La. R.S. 14:42(A)(4); on counts two and three, aggravated crime against nature of a victim who is under thirteen years of age, violations of La. R.S. 14:89.1(C)(2); and on count four, aggravated crime against nature of a victim who is under eighteen years of age and a known relative, a violation of La. R.S. 14:89.1(A)(2)(a). The defendant pled not guilty to each count. After a trial by jury, he was found guilty as charged on each count. He filed a motion for post-verdict judgment of acquittal or new trial, which the trial court denied. He was sentenced as follows: life imprisonment at hard labor without the benefit of probation, parole, or suspension of sentence on count one; ninety-nine years imprisonment at hard labor without the benefit of probation, parole, or suspension of sentence on counts two and three; and twenty years imprisonment at hard labor on count four. The trial court ordered the sentences to be served consecutively. The trial court denied the defendant's motion to reconsider sentence. The defendant now appeals, challenging a special jury instruction, the sufficiency of the evidence, the denial of his motions for mistrial, and the constitutionality of the sentences. For the following reasons, we affirm the convictions and sentences.

STATEMENT OF FACTS

On October 12, 2020, the St. Tammany Parish Sheriff's Office ("STPSO") received a complaint of alleged sexual abuse of M.G., L.G., and I.G. by the defendant.¹ The complaint was made by their mother, N.G., based on disclosures

¹ I.G.'s date of birth is October 22, 2011, L.G.'s date of birth is November 28, 2008, and M.G.'s date of birth is June 21, 2004. I.G. is sometimes referenced in the record by her nickname, B.G. In accordance with La. R.S. 46:1844(W), the child victims herein are referenced only by their initials. To further protect the identity of the children, their mother, grandmother, and aunt are

made by the children after pornographic material was discovered on I.G.'s cell phone.

M.G., the eldest child, disclosed acts by the defendant that she alleged began in 2014 or 2015, when she was around ten or eleven years old, while they were living in a trailer in Pearl River. M.G. specifically alleged the defendant touched her chest, waist, and thighs, and attempted to touch her "down there."

L.G. and I.G. disclosed incidents that they alleged occurred after they moved to a house in Covington, in 2019, when they were around eleven and eight years old, respectively. Specifically, L.G. alleged incidents of the defendant using his hand to "rub" her "boobs" and to attempt to touch her "private area" while their mother was away from home at work. I.G., the youngest of the siblings, alleged that on several occasions while her mother was not home, the defendant used his hand to touch and rub her "boobs," put his finger and private part inside of her private part, and put his private part in her mouth.

SUFFICIENCY OF THE EVIDENCE

In assignment of error number two, the defendant argues the evidence was insufficient to support the convictions. He contends M.G., L.G., and I.G. gave inconsistent accounts of their claims. He argues the trial court failed to hold the State to its burden of proving all of the elements of the offenses in denying his posttrial motions.²

also referenced by initials. Although M.G. has the same initials, her last name differs from her siblings, as she is not the defendant's biological child and was born prior to his marriage to N.G.

² We note that the question of the sufficiency of evidence is properly raised by a motion for post-verdict judgment of acquittal. See La. C.Cr.P. art. 821. A motion for new trial presents only the issue of the weight of the evidence and is examined under the so-called thirteenth juror standard, under which the trial judge reweighs the evidence. Appellate courts may review the grant or denial of a motion for new trial only for errors of law. See La. C.Cr.P. art. 858. Accordingly, the denial of the defendant's motion for new trial, in part based on La. C.Cr.P. art. 851(B)(1), is not subject to review on appeal. *State v. Francis*, 2019-1392 (La. App. 1st Cir. 12/17/20), 318 So.3d 862, 867 n.6.

When issues are raised on appeal contesting the sufficiency of the evidence and alleging trial court error, the reviewing court should first determine the sufficiency of the evidence. **State v. Hearold**, 603 So.2d 731, 734 (La. 1992); **State v. Duhon**, 2018-0593 (La. App. 1st Cir. 12/28/18), 270 So.3d 597, 609, writ denied, 2019-0124 (La. 5/28/19), 273 So.3d 315. The reason for reviewing sufficiency first is that the accused may be entitled to an acquittal under **Hudson v. Louisiana**, 450 U.S. 40, 43, 101 S.Ct. 970, 972, 67 L.Ed.2d 30 (1981), if a rational trier of fact, viewing the evidence in accordance with **Jackson v. Virginia**, 443 U.S. 307, 99 S.Ct. 2781, 61 L.Ed.2d 560 (1979), in the light most favorable to the State, could not reasonably conclude the elements of the offense have been proven beyond a reasonable doubt. **Hearold**, 603 So.2d at 734; **Duhon**, 270 So.3d at 609. When the entirety of the evidence is insufficient, the accused must be discharged of that crime, and any discussion of trial court error would be pure dicta, as those issues are moot. However, when the entirety of the evidence is sufficient to support the conviction, the reviewing court must then consider the other assignments of error. **Hearold**, 603 So.2d at 734; **Duhon**, 270 So.3d at 609.

A conviction based on insufficient evidence cannot stand, as it violates due process. See U.S. Const. amend. XIV; La. Const. art. I, § 2. The standard of review for sufficiency of the evidence to support a conviction is whether or not, viewing the evidence in the light most favorable to the prosecution, a rational trier of fact could conclude the State proved the essential elements of the crime beyond a reasonable doubt. See La. C.Cr.P. art. 821(B); **Jackson**, 443 U.S. at 319, 99 S.Ct. at 2789; **State v. Ordodi**, 2006-0207 (La. 11/29/06), 946 So.2d 654, 660; **State v. Mellion**, 2021-1116 (La. App. 1st Cir. 4/8/22), 342 So.3d 41, 45, writ denied, 2022-00732 (La. 6/22/22), 339 So.3d 1186, cert. denied, ___ U.S. ___, 143 S.Ct. 319, 214 L.Ed.2d 141 (2022).

The **Jackson** standard of review, incorporated in Article 821, is an objective standard for testing the overall evidence, both direct and circumstantial, for reasonable doubt. **State v. Welch**, 2019-0826 (La. App. 1st Cir. 2/21/20), 297 So.3d 23, 27, writ denied, 2020-00554 (La. 9/29/20), 301 So.3d 1193. When a conviction is based on both direct and circumstantial evidence, the reviewing court must resolve any conflict in the direct evidence by viewing the evidence in the light most favorable to the prosecution. When the direct evidence is viewed, the facts established by the direct evidence and the facts reasonably inferred from the circumstantial evidence must be sufficient for a rational juror to conclude beyond a reasonable doubt the defendant was guilty of every essential element of the crime. **State v. Currie**, 2020-0467 (La. App. 1st Cir. 2/22/21), 321 So.3d 978, 982.

When analyzing circumstantial evidence, La. R.S. 15:438 provides that the factfinder must be satisfied the overall evidence excludes every reasonable hypothesis of innocence. When a case involves circumstantial evidence and the jury reasonably rejects the hypothesis of innocence presented by the defense, that hypothesis falls, and the defendant is guilty unless there is another hypothesis that raises a reasonable doubt. **State v. Southall**, 2022-0746 (La. App. 1st Cir. 6/2/23), 369 So.3d 925, 930, writ denied, 2023-00875 (La. 2/6/24), 378 So.3d 750.

Louisiana Revised Statutes 14:41(A) defines “rape” as the act of anal, oral, or vaginal sexual intercourse with a male or female person committed without the person’s lawful consent. Emission is not necessary, and any sexual penetration, when the rape involves vaginal or anal intercourse, however slight, is sufficient to complete the crime. La. R.S. 14:41(B). First degree rape, in pertinent part, is a rape committed where the sexual intercourse is deemed to be without lawful consent of the victim because it is committed when the victim is under the age of thirteen years. La. R.S. 14:42(A)(4).

Lack of knowledge of the victim's age shall not be a defense. La. R.S. 14:42(A)(4). First degree rape is a general intent crime. See La. R.S. 14:11; La. R.S. 14:42; see also **State v. Cutrer**, 2012-2128 (La. App. 1st Cir. 9/17/13), 2013 WL 5288918, at *2 (unpublished), writ denied, 2013-2509 (La. 6/20/14), 141 So.3d 278. General criminal intent is present whenever there is specific intent, and also when the circumstances indicate that the offender, in the ordinary course of human experience, must have adverted to the prescribed criminal consequences as reasonably certain to result from his act or failure to act. La. R.S. 14:10(2).

Louisiana Revised Statutes 14:89.1(A)(2)(a) defines aggravated crime against nature as the engaging in any enumerated prohibited act with a person who is under eighteen years of age and who is known to the offender to be related to the offender as any of the following biological, step, or adoptive relatives: child, grandchild of any degree, brother, sister, half-brother, half-sister, uncle, aunt, nephew, or niece. Enumerated prohibited acts include, in pertinent part, sexual intercourse, or any lewd fondling or touching of the person of either the child or the offender, done or submitted to with the intent to arouse or to satisfy the sexual desires of either the child, the offender, or both. La. R.S. 14:89.1(A)(2)(b)(i) & (ii). The punishment for aggravated crime against nature is enhanced when the victim is under the age of thirteen years and the offender is seventeen years of age or older. See La. R.S. 14:89.1(C)(2).

The instant case was investigated by Detective Sara Ryals of the STPSO. On November 3, 2020, the three children participated in interviews at the Children's Advocacy Center Hope House ("C.A.C."). They were subsequently physically examined and interviewed at the Children's Hospital Audrey Hepburn Care Center ("Children's Hospital"). The trial took place from July 11, 2023 to July 17, 2023.

J.C., the siblings' maternal grandmother, testified the children moved around a lot and frequently stayed with her in between moves to various residences with their parents. Their mother, N.G., who did not testify at the trial, began seeing the defendant sometime before 2007, before their son, T.G., was born on April 23, 2007. Early in the relationship, they moved into a trailer on Tot Polk Road in Pearl River. N.G. married the defendant on November 22, 2008, when her daughter from a previous relationship, M.G., was four years old and T.G. was one year old. L.G., their second biological child, was born six days after their wedding. After years of moving in and out of the trailer in Pearl River, with the children sometimes staying with J.C. or other relatives, in March of 2019, N.G. and the defendant moved to a house in Covington on Fairhaven Road, and M.G., L.G., and I.G. moved into the Fairhaven Road house in June.

In August or September of 2019, M.G. moved in with the family of a school friend and the other children moved in with their grandparents.³ About a year later, after noticing high data usage in the cellular plan shared by several family members, the children's aunt, M.F., asked for their cell phones and examined their internet history. M.F. and J.C. discovered I.G., who was eight years old at the time, had pornographic material and searches on her cell phone. At that point, the children began disclosing allegations of inappropriate touching and other acts by the defendant. J.C. told N.G. to report the incidents to the police, and she did so.

Detective Ryals arranged for the children to participate in forensic interviews, medical examinations, and counseling. Camille Ditrinis, the nurse practitioner who examined and interviewed the children at Children's Hospital,

³ J.C. testified that in addition to poor living conditions, she witnessed the defendant being verbally abusive toward N.G. In 2017, the Department of Children and Family Services ("DCFS") began an investigation after J.C. reported hostile and poor living conditions for the children. The 2017 investigation concluded without any finding of an imminent threat. As a result of the 2020 claims, DCFS conducted another investigation. The 2020 through 2021 investigation resulted in a finding of sexual manipulation or fondling of M.G., L.G., and I.G. by the defendant.

testified they had normal medical exams, consistent with delayed disclosure. Ditrinis noted M.G. had linear cut marks to her left forearm, which M.G. indicated were self-inflicted. Ditrinis testified the children provided consistent, spontaneous, detailed disclosures.

Detective Ryals also collected and obtained a search warrant for I.G.'s cell phone. Sergeant Matthew Rowley, a cell phone forensics examiner with the STPSO, conducted the phone dump in this case and completed a cell phone report. The cell phone extraction was conducted on March 19, 2021. Sergeant Rowley testified regarding pornographic websites searched with the phone and corresponding pornographic videos.

T.G., the defendant and N.G.'s son, was sixteen years old at the time of the trial. T.G. testified that when they lived in the trailer on Tot Polk Road in Pearl River, his parents slept in the bedroom and the children slept in the living room. He slept on the couch and the girls shared a pull-out sofa-bed.

When they moved to the house on Fairhaven Road in Covington, he slept in the living room, L.G. and I.G. shared a bedroom, and M.G. had her own bedroom. He testified his parents argued and physically fought a lot. He noted the defendant would push his mother around and would sometimes leave and return "[d]runk." He stated the children were disciplined by being spanked with a belt or placed in a corner.

T.G. noted he would sometimes watch television in his parents' bedroom. He stated that when his father would call his sisters to come into the bedroom, he would tell T.G. to leave and would close the door. He further testified he could tell something was wrong with his sisters when they came out of the bedroom. He explained that while they were happy most of the time, they would instead be sad or scared. He stated it happened more than once and with each sister.

I.G.'s Allegations:

The allegations made by I.G. resulted in the charges on count one, first degree rape, and count two, aggravated crime against nature of a known enumerated relative, in this instance a biological daughter, under thirteen years of age. In her C.A.C. and Children's Hospital interviews, both conducted when she was nine years old, and again at trial when she was eleven years old, I.G. described incidents of touching and sexual intercourse. She stated the incidents occurred in Covington when they lived in the house on Fairhaven Road. I.G. stated she would sometimes be disciplined by either parent by being placed in a corner or getting whipped with a hand or belt. She also said there was fighting and stated her parents would "argue a lot" which caused her to be afraid things would get physical.

I.G. stated that when they were living in Covington, while her mother was at work at Waffle House, almost every night her dad would come to get her out of her room, take her to his bedroom, and touch her. She stated she and her father would be alone in the room, and she believed her siblings were asleep. She further stated that she did not call the police because she did not want to get beaten, noting her father would beat them for no reason, leaving redness and bruises, and would bruise their mother.

Regarding anatomical drawings from the C.A.C. interview, I.G. circled "[t]he private, the boobs[,] and the mouth" on the female drawing. She stated she circled the "boobs" because every night the defendant would touch or rub that part of her body with his hands. She said it made her feel uncomfortable because it was weird. Pointing to her breasts and vaginal area, I.G. said the defendant used his finger or hand to touch her "up here" and "down there" which she also referenced as her "private" and "no-no square." She said the touching was on her skin as

opposed to on top of her clothing.⁴ I.G. stated that the second time it occurred and from there forward, the defendant put his finger "inside." When asked how she knew the touching was inside of her private, she said she could feel it on the inside and it was hurting because she was not used to it. I.G. stated the touching occurred at least ten different times. She stated she was seven years old when it started. She noted that if she would say no, the defendant would force her to come to him and would also threaten her, "saying he would shoot [her]."

I.G. stated the defendant used his private to do "the same thing he did with his fingers." She specifically stated the defendant put "his private" inside "my private part that I pee with" and inside of her mouth.⁵ At trial, she defined the defendant's private as "[d]ownstairs" and the body part that you use to "[p]ee" in testifying the defendant would put it in her mouth. I.G. said this also occurred ten times and stated she would kick the defendant to make him stop. She testified although she "[t]ried to push it away[.]" the defendant would put his hands behind her head and force it into her mouth. I.G. testified at the time she was thinking it was very uncomfortable, and she wondered why he was doing it.

During the Children's Hospital interview, she specifically described the position she would be in when the defendant "started getting really nasty." She said the defendant would stand up behind her and "kind of have sex" with her, again describing it as putting his private inside of her private. She stated he would also at times hold her legs up while she was lying on her back. She noted it was very uncomfortable because her neck and back would hurt. When I.G. was asked if the defendant had anything on his private, she responded positively, stating it looked like a rubber band, adding, "I saw something yellow on it" and that they

⁴ At trial, I.G. testified she could not recall whether the touching or rubbing in that area was over or under her clothes.

⁵ During the C.A.C. interview, in addition to circling the vaginal area, breasts, and mouth of the female drawing, I.G. circled the hand and the penis of the anatomical male drawing in indicating the defendant put his private part in her mouth and private part.

"come in different colors." I.G. further said she saw a label indicating the rubber bands "go on boys' private parts." I.G. described the defendant's front private area as "very hairy" and described the part that was placed inside of her private as "long." She testified the incidents felt very uncomfortable, weird, and shaky, and she would tell the defendant to stop, but he did not listen. I.G. testified she did not tell anyone because she was afraid the defendant might abuse her mother.⁶ I.G. testified that the claims she made during her pretrial interviews and again at trial were all truthful.

L.G.'s Allegations:

The allegations made by L.G. resulted in the charge on count three, aggravated crime against nature of a known enumerated relative, in this instance a biological daughter, who is under thirteen years of age. L.G. was eleven years old at the time of her C.A.C. interview, had just turned twelve years old when the Children's Hospital interview was conducted, and was fourteen years old when she testified at the trial. She testified it was very scary living with her father because he was very abusive towards her mother, noting they argued and fought a lot, and he once picked her up and shoved her into the bathroom. L.G. said her father would touch her in places that he should not have touched her. She indicated the incidents occurred at the Covington house on Fairhaven Road in the defendant's bedroom. She stated such incidents happened a few times, "once a week or once a month."

L.G. also stated the defendant would watch television shows with "sexual things" in them and indicated he would touch her after watching the shows with sexual content. In describing the touching, L.G. stated the defendant would use his hand to rub her "boobs" and said it would hurt because the defendant was strong.

⁶ I.G. also testified the defendant would try to make her watch shows on his cell phone about "[h]ospital sex" and "a few others."

She stated she would try to get away, but the defendant would grab her and not allow her to do so. In the C.A.C. interview and at trial, she stated the touching occurred on top of her clothing. However, during the Children's Hospital interview, she noted it occurred once underneath her clothes. During the C.A.C. interview and at trial, L.G. stated the defendant once tried to touch her "downstairs" on her "private area" also, but she was able to get away from him. She stated she believed he was going to "rape" her. In further describing this incident, she noted his hand was near her "private" vaginal area but she was able to move it away.

L.G. testified the incidents occurred when she and the defendant were alone in the bedroom, in bed, with the door closed. She stated it made her feel "[r]eally, really uncomfortable." She said she would repeatedly tell the defendant to stop. She stated that she did not tell anyone because she was scared and did not want to "split up" her parents. She further stated she did not want her mother to know because she would confront the defendant and he would possibly beat her. She stated she eventually confided in friends that she could trust to keep it a secret.

As to other acts by the defendant, L.G. noted he would force M.G. to leave the door open while she was getting dressed, causing M.G. to begin using the closet to change clothes. She stated she thought it was weird and tried to stop the defendant from watching M.G., but he continued to do so. L.G. further testified the defendant once "barged" in the bathroom while M.G. was in there naked and stayed in there for five minutes. While she could not recall or provide any additional details, L.G. also stated the defendant would sometimes "dance sexual" and "do sexual stuff." She said she would tell the defendant to stop, but he would not listen because he was drunk. L.G. further noted the defendant once told her to watch a sex scene in a movie, including a nude man and woman, but she did not do so and left the room. L.G. denied ever seeing pornography on any other occasion.

M.G.'s Allegations:

The allegations made by M.G., the eldest of the children, resulted in the charge on count four, aggravated crime against nature of a known enumerated relative, in this instance a step-daughter, who is under eighteen years of age. M.G. was nineteen years old at the time of the trial. She testified she was very young when the defendant came into her life and that he was the only father she ever knew. She noted her mother had two jobs at one point and often worked double shifts. She further testified that while they were living in the trailer in Pearl River, "Dad" touched her in an inappropriate way. She specifically stated the defendant would grab her thigh, waist, and chest area with his hands and stated it happened more than once. M.G. said she was in the sixth grade when she began realizing the inappropriate touching was occurring. At trial, she testified it made her feel "[u]ncomfortable, [v]ery uncomfortable." She further stated she did not tell anyone at the time. M.G. confirmed the touching was deliberate, not accidental or inadvertent.

She further stated in her C.A.C. and Children's Hospital interviews the defendant tried to touch her "down there," but her brother walked in the room. In further describing that incident, she stated the defendant put his hand on her thigh and was "moving it up" from there but did not actually touch her "down there." She stated the touching happened more than once. M.G. said she could not remember if the touching was on top or under her clothes. She stated she also could not remember if the defendant was actually able to ever touch her "down there" because she tried to forget everything.

During her pretrial interviews and at trial, M.G. detailed the incident at the trailer in Pearl River in which the defendant fell on top of her while she was lying face up in the living room and laid there unconscious. She stated his whole body was on top of her, other than his right leg which was hanging off the sofa-bed. She

testified she felt the defendant's penis on her leg while he was lying on top of her. She noted it occurred about a month or two after she realized he was touching her inappropriately, when she was ten or eleven years old and in the seventh grade. She said she screamed and tried to push him off, but was unable to move him. About thirty minutes later, her mother got home and helped her move the defendant so she could get from underneath him.

M.G. further recalled catching I.G. and L.G. watching videos on adult/pornographic websites, on "more than a couple" of occasions, while living in the Pearl River trailer and the Covington house. M.G. testified her parents fought a lot and there were instances of violence against her mother, including the defendant striking her. She testified the defendant was verbally, physically, and mentally abusive of her mother.⁷

Expert Witness:

The State also presented testimony by Dr. Anne Troy, an expert in forensic child sexual abuse, regarding the normality of delayed disclosure of sexual abuse. Dr. Troy described three categories of delay: (1) naivety; (2) internal shame, fear, and guilt; and (3) external environment-based reasons, such as finances or violence in the home. She noted disclosure should be considered as a process that allows more information to be disclosed over time. She further noted that some children disassociate from the abuse.

Dr. Troy testified I.G., L.G., and M.G. gave detailed spontaneous disclosures of child sexual abuse with sensory statements of interaction. Specifically, she noted she looked for the interpretation of the child, interactions outside of the abuse, and emotional response of what happened prior to being touched. For example, she noted I.G. stated her back or neck was hurting while her legs were

⁷ M.G. further testified as to the forms of discipline she was subjected to, including being required to kneel on a pile of dry, raw rice, which had been poured into a litter box by the defendant, in a dark bathroom with roaches and rats crawling around, and being spanked with a belt on either a bare bottom or over her underwear.

N.G. worked full time, and her mother watched the children. Dykes testified she learned the defendant had a substance abuse problem, including pills and marijuana. She learned the children were staying with their grandmother at the time of the investigation. Dykes further interviewed J.C. and learned she took the children in 2014 and kept them that school year. She also interviewed the children, who discussed the forms of punishment used by their parents and verbal and physical altercations between their parents in the past. None of the children reported sexual abuse or ongoing physical violence between their parents. She concluded no danger or threat existed. On cross-examination, Dykes confirmed she was not investigating any claim of sexual or physical abuse at the time, and the children were not questioned in that regard.

After being called by the State, M.F., the children's maternal aunt, was called by the defense and testified regarding her discovery of pornographic content on I.G.'s cell phone and subsequent questioning of the children. She testified I.G. had a lot of videos about fathers and daughters "doing things together" on her cell phone. When she confronted I.G. about the material, I.G. would not talk to her about the content and denied viewing it. M.F. confirmed she questioned M.G. and L.G. together but testified she only asked them if something happened. She testified that after they disclosed touching that made them feel uncomfortable, she asked them if their father had done anything further, which they denied. M.F. testified the children did not provide any other details. M.F. admitted that prior to the disclosures, she was seeking custody of the children for herself and their grandmother, J.C., and that she had asked N.G. to leave. She testified she was concerned about the children's environment and believed they would be safer with their grandmother. She denied ever telling the children to make false accusations or to be untruthful.

The defendant's daughter from another relationship, Lilliana Glaze, who was twenty-four years old at the time of the trial, also testified in this case. Ms. Glaze testified she lived with the defendant until the age of six, at which point the defendant and her mother broke up and she subsequently had limited contact with the defendant. In 2018, she and the defendant reestablished a relationship, as she wanted him to be in her son's life. Ms. Glaze noted she had siblings who were fathered by and lived with the defendant, including an older, twenty-six-year-old sister and a younger twenty-one-year-old sister. Ms. Glaze denied her father had a reputation among her and her sisters for being sexually inappropriate with children or lustful or sexually attracted to minors.

The defendant's sister, Bonnie Blankenship, similarly denied the defendant had a reputation for being sexually inappropriate with children or lustful or sexually attracted to minors. Blankenship testified she recalled I.G., L.G., and M.G. living in a trailer in Pearl River with the defendant, and she would visit them once or twice a month, mainly on weekends, during that time period. She testified she never saw any pornography or sexually inappropriate items, and the children never told her anything inappropriate was occurring.

The defendant did not testify at the trial. On appeal, the defendant now argues there were inconsistencies within the children's individual accounts and notes they claimed the abuse happened in the Covington house on Fairhaven Road, though they only lived there briefly. He notes N.G. did not testify and barely participated in the investigation. The defendant further notes the children only reported abuse after pornography using excessive data on I.G.'s cell phone was discovered. He argues the State's evidence was flawed.

To resolve conflicting testimony relative to factual matters, the jury must make credibility determinations and weigh the evidence. The jury can accept or reject the testimony of any witness. **State v. Eby**, 2017-1456 (La. App. 1st Cir.

4/6/18), 248 So.3d 420, 426, writ denied, 2018-0762 (La. 2/11/19), 263 So.3d 1153. In the absence of internal contradiction or irreconcilable conflict with any physical evidence, one witness's testimony, if believed by the trier of fact, is sufficient to support a factual conclusion. Moreover, when there is conflicting testimony about factual matters, the resolution of which depends upon a determination of the credibility of the witnesses, the matter is one of the weight of the evidence, not its sufficiency. The trier of fact's determination of the weight to be given evidence is not subject to appellate review. An appellate court will not reweigh the evidence to overturn a factfinder's determination of guilt. We are constitutionally precluded from acting as a "thirteenth juror" in assessing what weight to give evidence in criminal cases. The fact that the record contains evidence which conflicts with the testimony accepted by a trier of fact does not render the evidence accepted by the trier of fact insufficient. **State v. Jenkins**, 2022-0562 (La. App. 1st Cir. 12/22/22), 357 So.3d 840, 844.

We disagree with the defendant's assessment of the evidence in this case. After reviewing the detailed accounts of alleged acts by the defendant given prior to and at the trial, we find the children in this case, I.G., L.G., and M.G., provided notably consistent details. Each child repeatedly described what happened to them with two of them never claiming intercourse, but consistently describing being lewdly fondled and inappropriately touched by the defendant while alone with him. The children described details such as locations and time periods of the instances. I.G., in providing her account of vaginal sexual intercourse, noted neck and back pain while being held on her back with her legs upward. In describing oral sexual intercourse, I.G. further stated the defendant put his hands behind her head and forced his penis into her mouth. Such sensory statements support the jury's conclusion that I.G. was detailing personal experiences, not just an act that she viewed elsewhere. Furthermore, the jury heard and rejected testimony presented

by the defendant regarding the possibility of the children being coached or having a motive to falsify the claims of sexual abuse.

It is well settled that the testimony of a victim alone is sufficient to prove the elements of the offense. **Jenkins**, 357 So.3d at 844; **State v. Orgeron**, 512 So.2d 467, 469 (La. App. 1st Cir. 1987), writ denied, 519 So.2d 113 (La. 1988). An appellate court errs by substituting its appreciation of the evidence and credibility of witnesses for that of the factfinder and thereby overturning a verdict on the basis of an exculpatory hypothesis presented to, and rationally rejected by, the jury. See State v. Calloway, 2007-2306 (La. 1/21/09), 1 So.3d 417, 418 (per curiam). Viewing the evidence in the light most favorable to the prosecution, we find based on the record before us, a rational trier of fact could have found that the State proved beyond a reasonable doubt all of the elements of first degree rape of a victim who is under thirteen years of age, two counts of aggravated crime against nature of a victim who is under thirteen years of age, and one count of aggravated crime against nature of a victim who is under eighteen years of age and a known relative. Accordingly, assignment of error number two lacks merit.

SPECIAL JURY INSTRUCTION

In assignment of error number one, the defendant argues the trial court erred in granting the State's request for a special jury instruction to indicate the date of the offense is not essential to the crimes involved in this case. He concedes the instruction was accurate but argues the timing of the offenses was critical to his defense due to the "limited opportunity within which any of the allegations could have occurred."

When instructing a jury, the trial court must charge the jury as to the law applicable to the case. La. C.Cr.P. art. 802(1). Any jury instruction that relieves the State of its Fourteenth Amendment burden of proving every element of a criminal offense beyond a reasonable doubt is unconstitutional. **State v. Brown**,

2011-0363 (La. App. 1st Cir. 9/14/11), 77 So.3d 297, 300, writ denied, 2011-2293 (La. 3/9/12), 84 So.3d 550. Pursuant to La. C.Cr.P. art. 807, the State and the defendant shall have the right before argument to submit to the court special written charges for the jury. Such charges may be received by the court in its discretion after argument has begun. A requested special charge shall be given by the court if it does not require qualification, limitation, or explanation, and if it is wholly correct and pertinent. See La. C.Cr.P. art. 807.

In this case, as requested in a motion filed by the State, the trial court, in pertinent part, gave the following instruction to the jury prior to deliberations: "The date of the offense is not an essential element of the offenses of first degree rape or aggravated crime against nature." In objecting to the instruction, the defendant argued it would mislead the jury into believing that the timeline presented by the State has no relevance whatsoever to their determination.

The defendant relies on **State v. Gerard**, 627 So.2d 174 (La. 1993) (*per curiam*). Therein, the defendant was charged with two counts of simple burglary, acquitted on one count, and found guilty of the responsive verdict of unauthorized entry of a business on the other count. After the conviction was upheld on appeal, the Louisiana Supreme Court granted the defendant's application for review to consider his argument that the trial court's jury instruction, some three hours into their deliberations, invited jurors to convict him of an offense not charged in the bill of information. The Court held, "under the particular circumstances of this case, the trial court's instructions, an otherwise correct statement of the law regarding the immateriality of date and time when they are not essential elements of the offense, may have misled the jury and diluted the defendant's right to a unanimous verdict on the specific act charged against him." *Id.* at 175.

In that case, the State charged the defendant in separate counts with breaking into the East Baton Rouge Parish District Attorney's Office and the East Baton

Rouge Parish Sheriff's Tax Office. The defendant claimed an alibi for the Tax Office burglary, the offense for which he was acquitted. Pertinent to the instant discussion, in addition to the charged offenses, the State presented evidence linking the defendant to the removal of several pornographic videotapes from an exhibit box maintained in the office of the assistant district attorney. *Id.* at 175-76.

Three hours into deliberations, the foreperson of the jury in that case asked the court whether the dates listed in the bill of information were "set in stone." The trial court ultimately reread jurors the bill of information charging the date of the District Attorney's Office burglary. Over defense objection, the trial court also read jurors the provisions of La. C.Cr.P. art. 468, which state that "[i]f the date or time is not essential to the offense, an indictment shall not be held insufficient if it does not state the proper date or time. . . ." "In this offense," the trial court added, "the date or time is not essential." *Id.* at 176.

On review, the Louisiana Supreme Court acknowledged the instruction correctly stated the law. However, the court stated,

Nevertheless, this general rule may not operate to deprive a defendant of the opportunity to present a defense. Even when they are not essential elements of an offense, time and date may become of the essence when the defendant presents an alibi defense to the offense charged, or is in some other way prejudiced by the date set forth in the indictment. A trial court's instruction to jurors that the date of an offense is immaterial may therefore constitute reversal error, despite its validity as a general matter, particularly when the instruction invites jurors to convict the defendant of other uncharged acts proved against him at trial of the charged offense. [internal citations omitted]

Id. at 176.

The Court noted in that case the State had placed great emphasis on the uncharged burglary of the District Attorney's Office pornographic videos. Thus, the Court held, under the circumstances, there was a reasonable possibility that jurors may not have reached a verdict on the charged offense but agreed that the defendant had committed the earlier entry involving the pornographic videotapes.

The Court further found a reasonable possibility existed that while all six jurors agreed that the defendant had committed an authorized entry of the District Attorney's Office, the six jurors did not agree unanimously on any particular act. The Court held, "In either case, the court's instruction compromised the defendant's right to a unanimous verdict on the act charged against him, a necessary corollary of his fundamental due process protection against 'conviction except upon proof beyond a reasonable doubt of every fact necessary to constitute the crime with which he is charged.'" *Id.* at 177.

Herein, the defendant concedes the challenged jury charge is an accurate statement of law. However, the defendant cites bigamy, domestic violence, and excessive corporal punishment as uncharged offenses that paralleled what was forbidden by the Louisiana Supreme Court in *Gerard*. We find the instant case is distinguishable from *Gerard*. Herein, we find no reasonable probability that the jury charge caused the jury to reach a verdict on an uncharged offense. As the uncharged acts introduced in this case were of a completely different nature from the charged offenses, there was no danger of confusion. The jury instruction at issue does not require any qualification, limitation, or explanation. Its language was clear and succinct. The jury charge did not in any manner relieve the State of its Fourteenth Amendment burden of proving every element of the charged offenses beyond a reasonable doubt. Thus, in the instant case, the trial court did not abuse its discretion in granting the State's request for the special jury charge. Assignment of error number one lacks merit.

MOTIONS FOR MISTRIAL

In assignment of error number three, the defendant argues the trial court should have granted a mistrial based on two errors alleged to have occurred during Detective Ryals' testimony and a third error alleged to have occurred during the State's rebuttal closing arguments. The defendant argues the instances implied the

defense had a burden to present a defense and testify. He argues, taken together, the errors were "so extremely prejudicial" that the jury's verdicts cannot be considered "unattributable" to the errors.

The trial court may grant a mistrial for certain inappropriate remarks that come within the context of La. C.Cr.P. art. 770, which provides in pertinent part:

Upon motion of a defendant, a mistrial shall be ordered when a remark or comment, made within the hearing of the jury by the judge, district attorney, or a court official, during the trial or in argument, refers directly or indirectly to:

...

(3) The failure of the defendant to testify in his own defense . . .

Otherwise, an admonition to the jury may suffice, as provided in La. C.Cr.P. art.

771:

In the following cases, upon the request of the defendant or the state, the court shall promptly admonish the jury to disregard a remark or comment made during the trial, or in argument within the hearing of the jury, when the remark is irrelevant or immaterial and of such a nature that it might create prejudice against the defendant, or the state, in the mind of the jury:

(1) When the remark or comment is made by the judge, the district attorney, or a court official, and the remark is not within the scope of Article 770; or

(2) When the remark or comment is made by a witness or person other than the judge, district attorney, or a court official, regardless of whether the remark or comment is within the scope of Article 770.

In such cases, on motion of the defendant, the court may grant a mistrial if it is satisfied that an admonition is not sufficient to assure the defendant a fair trial.

A mistrial under the provisions of La. C.Cr.P. art. 771 is at the trial court's discretion and should be granted only where the witness's or prosecutor's prejudicial remarks make it impossible for the defendant to obtain a fair trial. A mistrial is a drastic remedy that the trial court should grant only when the defendant suffers such substantial prejudice that he has been deprived of any reasonable expectation of a fair trial. **State v. Murphy**, 2016-0901 (La. App. 1st

Cir. 10/28/16), 206 So.3d 219, 229. Much credit should be accorded to the good sense and fairmindedness of jurors who have seen the evidence and heard the argument, and have been instructed by the trial judge that arguments of counsel are not evidence. **State v. Nixon**, 2017-1582 (La. App. 1st Cir. 4/13/18), 250 So.3d 273, 289, writ denied, 2018-0770 (La. 11/14/18), 256 So.3d 290. The determination of whether a mistrial should be granted is within the sound discretion of the trial court, and the denial of a motion for mistrial will not be disturbed on appeal absent an abuse of discretion. **State v. Dardar**, 2021-0860 (La. App. 1st Cir. 2/25/22), 340 So.3d 1110, 1119, writ denied, 2022-00533 (La. 5/24/22), 338 So.3d 1192.

Opening and closing arguments in criminal cases shall be limited to the evidence admitted, the lack of evidence, conclusions of fact that may be drawn therefrom, and the law applicable to the case. The argument shall not appeal to prejudice. The State's rebuttal shall be confined to answering the argument of the defendant. La. C.Cr.P. art. 774. Although they should not misstate the evidence, prosecutors are allowed wide latitude in choosing closing argument tactics. The trial court has broad discretion in controlling the scope of closing arguments, and this court will not reverse a conviction on the basis of an improper closing argument unless thoroughly convinced that the remarks influenced the jury and contributed to the verdict. **State v. Boudreaux**, 2023-0993 (La. App. 1st Cir. 4/19/24), 390 So.3d 345, 359.

Herein, the first alleged trial error occurred during defense counsel's cross-examination of Detective Ryals. Specifically, defense counsel asked Detective Ryals if she learned the defendant had three older daughters from another relationship. Detective Ryals confirmed she knew of the other children, but did not reach out to them because she did not have any indication that they would have any information relevant to her investigation. The following colloquy the occurred:

Q. So, it sounds like at that point you had assumed that Gene had done what he was accused of?

A. At what point is that?

Q. Whatever point we were just talking about, when you made the decision it sounds like not to call his daughters.

A. I wouldn't say I assumed. Do I believe he is guilty, absolutely, but my job was to find probable cause on these charges that he was charged with and that's what I did.

Defense counsel then moved to strike his own elicited response. The trial court denied the motion, and counsel continued the line of questioning.

At the outset we note the defendant did not move for a mistrial or request an admonition in this regard. Moreover, a mistrial was not mandated or warranted by La. C.Cr.P. art. 770 or La. C.Cr.P. art. 771. Detective Ryals's testimony was in direct response to the question posed by defense counsel and did not amount to a comment on the defendant's failure to testify. We find no error, prejudice, or grounds for mistrial in regard to this testimony.

The second issue raised by the defendant consists of the following question by the State, during redirect examination of Detective Ryals, "Well, let's explore a few things. Defense attorneys come to you and tell you, hey these are what our defenses are going to be at trial, would you mind looking into them?" Defense counsel interjected and moved for a mistrial, arguing the State commented on the defendant's ability to present evidence, constituting burden shifting. The trial court denied the motion, noting Detective Ryals had been questioned as to what steps she did or did not take in her investigation.

We agree with the trial court's assessment. The comment by the prosecutor did not mandate a mistrial under La. C.Cr.P. art. 770, as the State did not imply the defendant had a duty to present a defense, but instead commented on Detective Ryals's duties pertaining to her investigation. Further, defense counsel requested and received an admonition, reminding the jury the defendant had no burden

whatsoever and the burden rested completely with the State. . We find the admonition sufficient under La. C.Cr.P. art. 771.

The third alleged ground for mistrial asserted on appeal occurred when the State made the following comment during rebuttal closing remarks:

Defense wants to talk about [M.G.'s] messages how he just learned about [M.G.'s] messages. False. [M.G.] mentioned her messages on the forensic interview. [N.G.] mentions the messages to the police the day that it is reported, that these were reached out, and use your common sense, who are these messages going to? No notice? Who are the messages going to? This is not a surprise. There are two people on those messages and they have been talked about for the past almost four years.

Defense counsel interjected and moved for a mistrial, arguing the State commented on the defendant's presentation of evidence and on his right not to testify. The trial court disagreed with defense counsel's characterization of the State's remarks. In continuing the line of remarks, the State noted the comments were in regard to the defendant reaching out to M.G. in reference to child custody and were not pertaining to any dispositive aspects of the case.

We find the above statements by the prosecutor did not include a remark or comment on the defendant's failure to testify in his own defense, thus a mistrial was not mandated under La. C.Cr.P. art. 770. The State did not indicate the defendant had a duty in regard to the messages, only that the defense could not have validly claimed to be unaware of messages sent by the defendant himself. Further, the defendant has not shown how these remarks could have prejudiced him or denied him a fair trial. Moreover, defense counsel did not request an admonition in this regard. Considering the above, we find no trial error or abuse of discretion regarding the challenged testimony and comments during rebuttal arguments. Assignment of error number three lacks merit.

EXCESSIVE SENTENCE

In the final assignment of error, the defendant contends the trial court failed to justify imposing the sentences consecutively, including a life sentence on count one. He further states there is nothing in his history to justify consecutive sentences. He argues the sentences are excessive for that reason.

Both the United States and Louisiana Constitutions prohibit the imposition of excessive or cruel punishment. U.S. Const. amend. VIII; La. Const. art. I, § 20. Although a sentence falls within statutory limits, it may be excessive. **State v. Sepulvado**, 367 So.2d 762, 767 (La. 1979). A sentence is considered constitutionally excessive if it is grossly disproportionate to the seriousness of the offense or is nothing more than a purposeless and needless infliction of pain and suffering. A sentence is considered grossly disproportionate if, when the crime and punishment are considered in light of the harm done to society, it shocks the sense of justice. The trial court has great discretion in imposing a sentence within the statutory limits, and this Court will not set aside such a sentence as excessive in the absence of a manifest abuse of discretion. **State v. Scott**, 2017-0209 (La. App. 1st Cir. 9/15/17), 228 So.3d 207, 211, writ denied, 2017-1743 (La. 8/31/18), 251 So.3d 410.

Louisiana Code of Criminal Procedure article 894.1 sets forth the factors for the trial court to consider when imposing sentence. While the entire checklist of Article 894.1 need not be recited, the record must reflect the trial court adequately considered the criteria. **Id.** The articulation of the factual basis for a sentence is the goal of Article 894.1, not rigid or mechanical compliance with its provisions. **Id.** Where the record clearly shows an adequate factual basis for the sentence imposed, remand is unnecessary even when there has not been full compliance with Article 894.1. **Id.** The trial court should review the defendant's personal history, his prior criminal record, the seriousness of the offense, the likelihood that

he will commit another crime, and his potential for rehabilitation through correctional services other than confinement. **State v. Harris**, 2022-1190 (La. App. 1st Cir. 6/2/23), 369 So.3d 447, 451. On appellate review of a sentence, the relevant question is whether the trial court abused its broad sentencing discretion, not whether another sentence might have been more appropriate. **Scott**, 228 So.3d at 211.

Moreover, there is no need for the trial court to justify a sentence under Article 894.1 when it is legally required to impose that sentence. As such, any failure to articulate reasons as set forth in Article 894.1 when imposing a mandatory life sentence is not an error; articulating such reasons or factors would be an exercise in futility since the court has no discretion. **State v. Dickerson**, 2016-1336 (La. App. 1st Cir. 4/12/17), 218 So.3d 633, 642, writ denied, 2017-1147 (La. 8/31/18), 251 So.3d 1062. Mandatory sentences have been repeatedly upheld as constitutional and consistent with the federal and state constitutional provisions prohibiting cruel, unusual, or excessive punishment. **Id.** To rebut the presumption that the mandatory minimum sentence is constitutional, the defendant must clearly and convincingly show that he is exceptional, which means that because of unusual circumstances this defendant is a victim of the legislature's failure to assign sentences that are meaningfully tailored to the culpability of the offender, the gravity of the offense, and the circumstances of the case. **Id.**, citing **State v. Johnson**, 97-1906 (La. 3/4/98), 709 So.2d 672, 676.

If the defendant is convicted of two or more offenses based on the same act or transaction, or constituting parts of a common scheme or plan, the terms of imprisonment shall be served concurrently unless the court expressly directs that some or all be served consecutively. Other sentences of imprisonment shall be served consecutively unless the court expressly directs that some or all of them be served concurrently. La. C.Cr.P. art. 883.

On count one, first degree rape of a victim under the age of thirteen years, the defendant was subjected to a mandatory sentence of life imprisonment at hard labor without benefit of parole, probation, or suspension of sentence. La. R.S. 14:42(D)(2)(b). On counts two and three, aggravated crime against nature with a victim under the age of thirteen years, the defendant was subjected to a sentence of imprisonment at hard labor for not less than twenty-five years nor more than ninety-nine years. At least twenty-five years of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence. La. R.S. 14:89.1(C)(2). On count four, aggravated crime against nature with a victim who is under the age of eighteen years and is a known enumerated relative, the defendant was subjected to a sentence of a fine not to exceed fifty thousand dollars, or imprisonment, with or without hard labor, for a term not less than five years nor more than twenty years, or both. La. R.S. 14:89.1(C)(1). Thus, the defendant received the mandatory sentence on count one and maximum term sentences on counts two, three, and four. The defendant only challenges the fact that the sentences were ordered to be served consecutively.

In imposing the sentences, the trial court first addressed the child victims, stating they deserved a father who would protect them but instead, through no fault of their own, were not given that. The court congratulated them for surviving the abuse. The trial court found maximum sentences were not only appropriate but necessary in this case. In denying the motion to reconsider sentence, the trial court noted it vividly recalled the facts of the case. The instant case involved three victims, separate crimes, on different dates, over a significant period of time. Thus, the sentences were properly ordered to be served consecutively under La. C.Cr.P. art. 883. Further, the defendant failed to show that he is exceptional such that a deviation from the mandatory minimum life sentence was warranted in this case. To the contrary, the record fully supports the imposition of the maximum

sentence allowed by law. The victims in this case suffered abuse of a heinous nature at the hands of their own father. The instant crimes fall within the category of the most serious violations of the described offenses, and defendant represents the worst kind of offender. He poses an unusual risk to the safety of the public as reflected by the nature of the instant offenses. Accordingly, assignment of error number four lacks merit.

For the reasons set forth herein, the defendant's convictions and sentences are affirmed.

CONVICTIONS AND SENTENCES AFFIRMED.

Adopted December 18, 1997, effective March 1, 1998
Amended December 16, 1998, Revised October 11, 2002

SUPREME COURT OF LOUISIANA

WRIT APPLICATION FILING SHEET

NO. _____

TO BE COMPLETED BY COUNSEL or PRO SE LITIGANT FILING APPLICATION TITLE

Applicant: DOYLE EUGENE GLAZE
Have there been any other filings in this
Court in this matter? ☐ Yes ☒ No

Doyle Eugene Glaze
vs.

Are you seeking a Stay Order? _____
Priority Treatment? _____
If you MUST complete & attach a Priority Form

STATE OF LOUISIANA

LEAD COUNSEL/PRO SE LITIGANT INFORMATION

APPLICANT:

Name: Doyle Eugene Glaze
Address: Camp C - Wolf #1
L.S.P., Angola, La. 70712
Phone No. _____ Bar Roll No. _____

RESPONDENT:

Name: J. Collin Sims, District Attorney
Address: 22nd Judicial District, 701 N. Columbia St.
Covington, La. 70433
Phone No. (985) 809-8391 Bar Roll No. _____

Pleading being filed: ☐ In proper person, ☐ In Forma Pauperis

Attach a list of additional counsel/pro se litigants, their addresses, phone numbers and the parties they represent.

TYPE OF PLEADING

☐ Civil, ☒ Criminal, ☐ Bar, ☐ Civil Juvenile, ☐ Criminal Juvenile,
☐ Other
☐ CINC, ☐ Termination, ☐ Surrender, ☐ Adoption, ☐ Child Custody

ADMINISTRATIVE, MUNICIPAL OR DISTRICT COURT INFORMATION

Tribunal/Court: _____ Docket No. _____
Judge/Commissioner/Hearing Officer: _____ Ruling Date: _____

APPELLATE COURT INFORMATION

Circuit: First Docket No. 2024-KA-0329 Action: conviction and sentence affirmed
Applicant in Appellate Court: Doyle Eugene Glaze Filing Date: June 11, 2024
Ruling Date: April 24, 2025 Panel of Judges: Thejot, Hester, and Edwards, JJ En Banc: ☐ NO]

REHEARING INFORMATION

Applicant: _____ Date Filed: _____ Action on Rehearing: _____
Ruling Date: _____ Panel of Judges: _____ En Banc: ☐]

PRESENT STATUS

☐ Pre-Trial, Hearing/Trial Schedule date: _____, ☐ Trial in Progress, ☐ Post Trial

Is there a stay now in effect? No Has this pleading been filed simultaneously in any other court? _____

If so, explain briefly _____

VERIFICATION

I certify that the above information and all of the information contained in this application is true and correct to the best of my knowledge and that all relevant pleadings and rulings, as required by Supreme Court Rule X, are attached to this filing. I further certify that a copy of this application has been mailed or delivered to the appropriate court of appeal (if required), to the respondent judge in the case of a remedial writ, and to all other counsel and unrepresented parties.

DATE

SIGNATURE



Louisiana 22nd Judicial District Court,
Parish of St. Tammany
Minutes, 10/23/2023

STATE OF LOUISIANA vs. GLAZE, DOYLE E., JR.

Case #: 2483-F-2021

Citation #:

Hearing Type: Sentencing Hearing

Hearing Date: October 23, 2023 at 9:00 AM

Location: Division F

Heard by: Hon. Vincent J. Lobello

Minute/Deputy: Rachelle Eiselen

Clerk:

Court: Karen Jenkins

Court: N/A

Reporter:

Interpreter:

Bailiff: Jason Broussard

ADA: Tiffany Dover

CHARGES:

1. FIRST DEGREE RAPE- VICTIM UNDER 13 YEARS OF AGE

April 01, 2019 - September 30, 2019 (Felony) 14:42A(4) (1442A4)

2. AGGRAVATED CRIME AGAINST NATURE- VICTIM UNDER THIRTEEN

April 01, 2019 - September 30, 2019 (Felony) 14:89.1A2aC2 (14891A2aC2)

3. AGGRAVATED CRIME AGAINST NATURE- VICTIM UNDER THIRTEEN

April 01, 2019 - September 30, 2019 (Felony) 14:89.1A2aC2 (14891A2aC2)

4. AGGRAVATED CRIME AGAINST NATURE- VICTIM UNDER 18

August 01, 2015 - September 30, 2019 (Felony) 14:89.1A(2)(a) (14891A2a and C(1))

APPEARANCES:

DOYLE GLAZE, Defendant, present

DANIEL GINNETTY, Attorney, present

STATE OF LOUISIANA, State, present

PROCEEDINGS:

The defendant being present in open Court attended by Counsel and this matter being on assignment for Felony Sentencing.

Defense Counsel having filed a Motion for Post Verdict Judgment of Acquittal or New Trial. Evidence was heard on behalf of the Defense with the following person being sworn and given testimony.

1. Doyle Glaze, defendant, having been questioned by the Defense and the State.

Arguments were heard on behalf of the Defense and the State matter submitted to the Court, whereupon Court after reviewing the Motion, Court denied said motion and noted defenses objection.

Defense Counsel waived delays of Sentencing. Victim impact statements were given at this time.

Court ordered the following sentence imposed:



Louisiana 22nd Judicial District Court,
Parish of St. Tammany
Minutes, 10/23/2023

Case Number: 2483-F-2021

Page 2 of 2

SENTENCES:

COUNT 1,

Confinement

Start Date: 10/23/2023

Agency: Department of Corrections Baton Rouge

Sentence Term: Life in Prison at Hard Labor, without the benefit of probation, parole, or suspension of sentence

COUNT 2,

Confinement

Start Date: 10/23/2023

Agency: Department of Corrections Baton Rouge

Sentence Term: 99 Years at Hard Labor, without the benefit of probation, parole, or suspension of sentence

COUNT 3,

Confinement

Start Date: 10/23/2023

Agency: Department of Corrections Baton Rouge

Sentence Term: 99 Years at Hard Labor, without the benefit of probation, parole, or suspension of sentence

COUNT 4,

Confinement

Start Date: 10/23/2023

Agency: Department of Corrections Baton Rouge

Sentence Term: 20 Years at Hard Labor

Court applied sentencing factors under Article 894.1 of the Code of Criminal Procedure and applied Article 883 Code of Criminal Procedure. Court ordered all sentences imposed herein **AS TO EACH COUNT** are to run consecutive to each other, given credit for time served since arrest.

Court informed the defendant under the provisions of Article 930.8 of the Code of Criminal procedure he/she has a period of two (2) years in which to file application for post-conviction relief.

Further, Court remanded the defendant to the custody of the Department of Corrections to serve his sentence and noted defenses objection.

A TRUE EXTRACT OF THE MINUTES OF THIS COURT

DEPUTY CLERK
22ND JUDICIAL DISTRICT COURT
ST. TAMMANY PARISH, LOUISIANA

IN THE
SUPREME COURT OF LOUISIANA

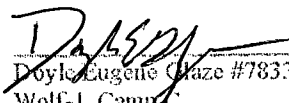
DOCKET NUMBER: _____

STATE OF LOUISIANA
VERSUS
DOYLE EUGENE GLAZE

WRIT OF CERTIORARI OR REVIEW TO THE COURT OF APPEALS,
CIRCUIT, NO. 2024-KA-0329, THE HONORABLE THERIOT, HESTER,
AND EDWARDS, JJ., JUDGES, ON APPEAL FROM THE TWENTY-
SECOND JUDICIAL DISTRICT COURT, PARISH OF ST. TAMMANY,
NO. 2483-F-2021, HONORABLE VINCENT J. LOBELLO, JUDGE

ORIGINAL BRIEF ON BEHALF OF
DEFENDANT/APPELLANT, DOYLE EUGENE GLAZE,
IN SUPPORT OF WRIT OF CERTIORARI

RESPECTFULLY SUBMITTED BY:


Doyle Eugene Glaze #783361, Pro-Se
Wolf-1, Camp C
Louisiana State Penitentiary
Angola, La. 70712

ADDITIONAL COUNSEL OF RECORD FOR THE STATE OF LOUISIANA

Warren LeDoux Montgomery
22nd Judicial District Court
District Attorney
701 N. Columbia Street
Covington, La. 70433
wmontgomery@22da.com

Butch Wilson
22nd Judicial District Court Assistant District Attorney
701 N. Columbia Street
Covington, La. 70433

Doyle Eugene Glaze, Jr., Appellant (pro se)
D.O.C. #783361
Louisiana State Penitentiary
Angola, Louisiana 70712

<i>Broussard v. Hilcorp Energy Co.</i> , 24 So.3d 813, 2009-0449, 2009-0469 (La. 10/20/09) ..ix	
<i>State v. Powell</i> , 438 So.2d 1306, 1307-08 (La.App. 3 Cir. 1983) – [1][2] ix	
<i>State v. Caminita</i> , 411 So.2d 13 (La.1982) <i>cert. denied</i> 459 U.S. 976, 103 S.Ct. 314, 74 L.Ed.2d 291 (1982) x	
<i>State v. Turner</i> , 365 So.2d 1352 (La. 1978) x	
<i>State v. Mathews</i> , 375 So.2d 1165 (La. 1979) x	
<i>Jackson v. Virginia</i> , 443 U.S. 307, 99 S.Ct. 2781, 61 L.Ed.2d 560 (1979) x	
<i>State v. West</i> , 419 So.2d 868 (La.1982) x	
<i>State v. Graham</i> , 422 So.2d 123 (La.1982) x	
<i>State v. Baudier</i> , 2000-1108 (La. App. 4 Cir. 5/23/01) 789 So. 2D 696 x	
<i>State v. Gobert</i> , 00-924 (La. App. 3 Cir. 2/28/01) 780 So. 2D 616 xi	
<i>State v. Cook</i> , 95-2784 (La. 5/31/96), 674 So.2d 957, <i>cert. denied</i> , 519 U.S. 1043, 117 S.Ct. 615, 136 L.Ed.2d 539 (1996) xi	
<i>State v. Coleman</i> , 101 So.3d 612, 613, 2012-372 (La.App. 3 Cir. 2012) xi.	

OTHER AUTHORITY:

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Rule X § 1(a)(2) iv	
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Louisiana Supreme Court Filing Sheet attached.

Pleadings of Counsels: District Attorneys and Appellant's Counsel of Record.

Judgment of the lower Court attached.

Appendices attached.

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Rule X § 1(a)(5) iv	

WRIT GRANT CONSIDERATIONS

The Fourteenth Amendment Due Process Clause is the source of three different kinds of constitutional protection.

First, it incorporates specific protections defined in the Bill of Rights. Thus, the State, as well as the Federal Government, must comply with the commands in the First and Eight Amendments; so too, the State must respect the guarantees in the Fourth Fifth and Sixth Amendments.

Second, it contains a substantive component, sometimes referred to as "substantive due process," which bars certain arbitrary government actions "regardless of the fairness of the procedures used to implement them."

Third, it is a guarantee of fair procedure, sometimes referred to as "procedural due process¹"; the State may not execute, imprison, or fine a defendant without giving him a fair trial, nor may it take property without providing appropriate procedural safe-guards.

For the reasons set above, petitioner avers that it is clear that trial court abused its discretion and ruled biased in denying, without reason, petitioner requested critical evidence, and said denial feasibly cost petitioner the trial.

¹The defendant is deprived of his defense and a fair trial when the court erroneously excludes defense evidence that would have substantially helped the defense. *State v. Shoemaker*, 500 So. 2d. 385, 389 (La. 1987). See also, La.Code Evid. Art. 403 (2), where author articulated that: Although broad discretion is allotted to the trial judge to effect the balancing test described by this article, to achieve the statutory benefits envisioned by the code, appellate court should be ever zealous to correct abuse of discretion.

JURISDICTIONAL STATEMENT

The judgment of the Louisiana Supreme Court sought to be reviewed was entered in Docket Number 2025-KO-00968 on November 25, 2025. The petition is timely under 28 U.S.C. § 2101(c) and Supreme Court Rules 13.1 and 13.3 because it is being filed within 90 days after denial of a timely sought writ to the Louisiana Supreme Court. This Court has Jurisdiction to review the Judgment of the Louisiana Supreme Court pursuant to the United States Constitution Article 3 § 2, clause 1, and Title 28, U.S.C.A. § 1254.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The United States Constitution, Amendment I provides in pertinent part:

Freedom of religion, speech and press; peaceful assemblage; petition of grievances

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

The United States Constitution, Amendment IV provides in pertinent part:

Search and seizure

"The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable search and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

The United States Constitution, Amendment V provides in pertinent part:

"No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation."

The United States Constitution, Amendment VI provides in pertinent part:

"In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense."

The United States Constitution, Amendment XIV § I provides in pertinent part:

"No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

STATEMENT OF THE CASE

Doyle Glaze was charged by a bill of indictment with one count of first degree rape involving a victim under 13, a violation of La. R.S. 14:42(A)(4) and (D), two counts of aggravated crime against nature involving a victim under 13 years old, a violation of La. R.S. 14:89.1 (A)(2)(a) and C(2), and one count of aggravated crime against nature, a violation of La. R.S. 14:89.1 A(2)(a) and C(1). (Rec. pp. 176-9).² On June 7, 2021, he entered a plea of not guilty. (Rec. pp. 1-2). On May 31, 2023, the defense's motion in limine to inform the jury of the mandatory minimum sentences was denied and the trial court held a Daubert hearing. (Rec. pp. 16-7, 180-3). On June 23, 2023, the trial court heard arguments regarding supplemental discovery. (Rec. p. 18). Jury selection began on July 10, 2023. On July 17, 2023, the appellant Glaze was found guilty as charged on all counts by a unanimous jury. (Rec. pp. 19-40, 1692). On October 23, 2023, the motion for new trial and post-verdict motion of acquittal were denied. On The same day, Glaze was sentenced to serve life on count one, ninety-nine (99) years on counts two and three, and twenty (20) years on count four. The sentences were to be served consecutively and without benefits. (Rec. pp. 42-3, 233-35A). On November 6, 2023, the motion for appeal was granted. (Rec. pp. 237-237 A). On January 10, 2024, the motion to reconsider the sentence was denied.³ (Rec. pp. 44-5, 238-239, 1719-24). On 11th day of June 2024, Jane L. Beebe of the Louisiana Appellant Project filed the direct appeal into the First Circuit Court of Appeal. (Exhibit 1). On July 29, 2024, Assistant District Attorney, Butch Wilson filed the State of Louisiana Original Brief seeking to affirmed the conviction and sentence. (Exhibit 2). And April 24, 2025, the Honorable Theriot, Hester, and Edwards, JJ., did in fact affirmed the convictions and sentences. (Exhibit 3).

STATEMENT OF THE FACTS

On October 12, 2020, the St. Tammany Parish Sheriff's Office ("STPSO") received a complaint of alleged sexual abuse of M.G., L.G., and I.G. By the Appellant. The complaint was made by their mother, N.G., based on disclosures made by the children after pornographic material was discovered on I.G.'s cell phone.

M.G., the eldest child, disclosed acts by the Appellant that she alleged began in 2014 or

² The bill of indictment was amended the day jury selection began and a defense continuance was denied (Rec. pp. 176-9).

³ The motion to reconsider the sentence was denied after the appeal was granted and the court divested of jurisdiction.

2015, when she was around ten or eleven years old, while they were living in a trailer in Pearl River. M.G. Specifically alleged the Appellant touched her chest, waist, and thighs, and attempted to touch her "down there."

L.G. And I.G. Disclosed incidents that they alleged occurred after they moved to a house in Covington, in 2019, when they were around eleven and eight years old, respectively. Specifically, L.G. Alleged incidents of the Appellant using his hand to "rub" her boobs and to attempt to touch her "private area while their mother was away from home at work. I.G., the youngest of the siblings, alleged that on several occasions while her mother was not home, the Appellant use his hand to touch and rub her "boobs," put his finger and private part inside of her private part, and his private part in her mouth.

The victims B.G.⁴ L.G., and M.G. Claimed that while living with appellant Doyle Glaze and their mother Naomi Glaze at the house on Fairhaven from June 2019 to August or September 2019, Glaze sexually abused them. M.G. Claimed she was also sexually abused at the trailer on Tot Polk Road. Because it was not a stable home environment, the kids usually lived with their grandparents.

M.G. was 19 years at the time of trial. She said Glaze was the only man she knew as a father. M.G. Observed violence at the trailer in Pearl River and at the house on Fairhaven. She said Glaze touched her inappropriately on the chest and thighs. M.G. Told the jury she never told anyone about the violence or the inappropriate touching until October 2020.

ASSIGNMENT OF ERRORS

ASSIGNMENT OF ERROR NO. 1

THE COURT OF APPEAL ERRED OR ABUSED ITS DISCRETION IN DENYING DEFENDANT/APPELLANT'S CLAIM THAT THE JURY INSTRUCTION/RIGHT TO PRESENT A DEFENSE WAS DENIED.

ASSIGNMENT OF ERROR NO. 2

THE COURT OF APPEAL ERRED OR ABUSED ITS DISCRETION IN DENYING DEFENDANT/APPELLANT'S CLAIM OF INSUFFICIENT EVIDENCE.

ASSIGNMENT OF ERROR NO. 3

THE COURT OF APPEAL ERRED OR ABUSED ITS DISCRETION IN DENYING DEFENDANT/APPELLANT'S CLAIM THAT MISTRIAL SHOULD HAVE BEEN GRANTED BASED UPON CUMULATIVE EFFECT OF THE THREE SEPARATE ERRORS.

⁴B.G.'s initial are actually I.G. But she is referred to as B. throughout the trial.

ASSIGNMENT OF ERROR NO. 4

THE COURT OF APPEAL ERRED OR ABUSED ITS DISCRETION IN DENYING DEFENDANT/APPELLANT'S CLAIM THAT CONSECUTIVE SENTENCE FOR ALL FOUR COUNTS IS EXCESSIVELY DISPROPORTIONATE TO THE CRIME CHARGED.

SUMMARY ARGUMENT

The Fourteenth Amendment Due Process Clause is the source of three different kinds of constitutional protection.

First, it incorporates specific protections defined in the Bill of Rights. Thus, the State, as well as the Federal Government, must comply with the commands in the First⁵ and Eighth⁶ Amendments; so too, the State must respect the guarantees in the Fourth⁷ Fifth⁸ and Sixth⁹ Amendments.

Second, it contains a substantive component, sometimes referred to as "substantive due process," which bars certain arbitrary government actions "regardless of the fairness of the procedures used to implement them."¹⁰

Third, it is a guarantee of fair procedure, sometimes referred to as "procedural due process": *the State may not execute, imprison, or fine a defendant without giving him a fair trial,¹¹ nor may it take property without providing appropriate procedural safe-guards.¹²*

ARGUMENT TO ASSIGNMENT OF ERROR NO. 1

Fundamental Error -- In appellate practice, error which goes to the merits of the plaintiff's cause of action, and which will be considered on review, whether assigned as error or not, where the justice of the case seems to require it. Error so grave that, if not rectified, would result in denial of fundamental due process. Roberts v. State, Ind., 492 N.E.2d 310, 313. Error in law apparent on the face of the record; e.g. court lacked jurisdiction. Such error is

⁵See, e.g., Douglas v. Jeannette, 319 U.S. 157, 63 S.Ct. 877, 87 L.Ed. 1324 (1943).

⁶See, e.g., Robinson v. California, 370 U.S. 660, 82 S.Ct. 1417, 8 L.Ed.2d 758 (1962).

⁷See, e.g., Mapp v. Ohio, 367 U.S. 643, 81 S.Ct. 1684, 6 L.Ed.2d 1081 (1961).

⁸See, e.g., Malloy v. Hogan, 378 U.S. 1, 84 S.Ct. 1489, 12 L.Ed.2d 653 (1964) (right to protection from compelled self-incrimination applies to States); Benton v. Maryland, 395 U.S. 784, 89 S.Ct. 2056, 23 L.Ed.2d 707 (1969) (right to protection from double jeopardy applies to States).

⁹See, e.g., Duncan v. Louisiana, 391 U.S. 145, 88 S.Ct. 1444, 20 L.Ed.2d 491 (1969) (right to jury trial applies to States).

¹⁰See Moore v. East Cleveland, 431 U.S. 494, 97 S.Ct. 1932, 52 L.Ed.2d 531 (1977); Youngberg v. Romeo, 457 U.S. 307, 102 S.Ct. 2452, 73 L.Ed.2d 28 (1982).

¹¹See, e.g., Groppi v. Leslie, 404 U.S. 496, 92 S.Ct. 582, 30 L.Ed.2d 632 (1972); *In re Oliver*, 333 U.S. 257, 68 S.Ct. 499, 92 L.Ed. 682 (1948).

¹²See, e.g., Fuentes v. Shevin, 407 U.S. 167, 81 S.Ct. 1983, 32 L.Ed.2d 556 (1972).

presented, for example, where error in court's instruction to jury goes to very basis of case so that charge fails to state and apply law under which accused is prosecuted. Kenner v. State, Tex.Cr.App., 589 S.W.2d 403, 409. See Reversible error. See also Plain error rule.

Request for special instructions:

La. C.Cr.P. Art. 807. **Special written charges**, states in pertinent part that:

The state and the defendant shall have the right before argument to submit to the court special written charges for the jury. Such charges may be received by the court in its discretion after argument has begun. The party submitting the charges shall furnish a copy of the charges to the other party when the charges are submitted to the court.

A requested special charge shall be given by the court if it does not require qualification, limitation, or explanation, and if it is wholly correct and pertinent. **It need not be given if it is included in the general charge or in another special charge to be given.**

District Court abuses its discretion when it makes error of law. *State v. Lee*, 83 So.3d 1191, 2011-0398 (La.App. 4 Cir. 2012). When a trial judge's ruling is based upon a legal mistake, the ruling is no longer entitled to deference by the reviewing court. *Id.* "Abuse of discretion" by trial court is any unreasonable, unconscionable and arbitrary action taken without proper consideration of facts and law pertaining to matter submitted. Generally an abuse of discretion results from a conclusion reached capriciously or in an arbitrary manner. 'Capriciously' has been defined such as 'a conclusion of a commission when the conclusion is announced with no substantial evidence to support it to a conclusion contrary to substantial competent evidence.' The word 'arbitrary' implies 'a disregard of evidence or of the proper weight thereof.' **Discretion is abused** when exercised arbitrarily and unreasonably and causes prejudice to the accused. Commentators have distinguished the abuse of discretion standard as being a "higher standard of deference" than the manifest error standard, applicable to cases where "the substantive law vests a high degree of discretion in the trial judge."

Although great deference is afforded the discretion of a trial judge in a criminal case¹³ when a trial judge's ruling is based upon a legal mistake, the ruling is no longer entitled to deference by the reviewing court.¹⁴

¹³ *Gathen v. Gathen*, 66 So.3d 1, 2010-2312 (La. 2011); *State v. Lee*, 83 So.3d 1191, 2011-0398 (La.App. 4 Cir. 2012).

¹⁴ *State v. Lee*, citing *Koon v. U.S.*, 513 U.S. 81, 100, 116 S.Ct. 2035, 135 L.Ed2d 392 (1996).

Because an abuse-of-discretion standard almost always requires an appellate court to defer to the trial court's admittedly discretionary ruling, in order to obtain a reversal of such a discretionary ruling, a complaining party is usually required to show that the trial judge's ruling was based upon a mistaken application of law. See *Koon v. U.S.*, 518 U.S. 81, 100, 116 S.Ct. 2035, 135 L.Ed.2d 392 (1996). When a trial judge's ruling is based upon a legal mistake, the ruling is no longer entitled to deference by the reviewing court. *Id.* ("A district court by definition abuses its discretion when it makes an error of law.").

See *State v. Lee*, 83 So.3d 1191, 2011-0398 (La.App. 4 Cir. 2012).

After review on a question of law, Supreme Court renders judgment on the record, without deference to the legal conclusions of the tribunals below. *Silver Dollar Liquor, Inc. v. Red River Parish Police Jury*, 74 So.3d 641, 2010-2776 (La. 9/7/11). ALSO SEE *Broussard v. Hilcorp Energy Co.*, 24 So.3d 813, 2009-0449, 2009-0469 (La. 10/20/09).

ARGUMENT TO ASSIGNMENT OF ERROR NO. 2

.....*State v. Powell*, 438 So.2d 1306, 1307-08 (La.App. 3 Cir. 1983) – [1][2]. Pursuant to C.Cr.P. Art. 851(1) the defendant moved for a new trial on the ground that the verdict was contrary to the law and evidence. In criminal cases, the jurisdiction of the Courts of Appeal is limited to questions of law only. La. Const. Art. V, sec. 10(B)(1974). Generally, we are precluded from reviewing the record on a motion for new trial in the absence of an abuse of discretion. *State v. Caminita*, 411 So.2d 13 (La.1982) *cert. denied* 459 U.S. 976, 103 S.Ct. 314, 74 L.Ed.2d 291 (1982); *State v. Turner*, 365 So.2d 1352 (La. 1978). However, in *State v. Mathews*, 375 So.2d 1165 (La. 1979).

the Louisiana Supreme Court determined that the United States Supreme Court case of *Jackson v. Virginia*, 443 U.S. 307, 99 S.Ct. 2781, 61 L.Ed.2d 560 (1979) required that the standard of review when considering the sufficiency of the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime proven beyond a reasonable doubt. This standard of review is now relied upon by the courts in an appellate review to determine whether the trial court abused its discretion in denying a motion for new trial when defendant contends on appeal that the verdict was contrary to the law and evidence. *State v. West*, 419 So.2d 868 (La.1982). We note however, that the most appropriate manner to raise the issue of insufficiency of the evidence is by motion for post

verdict judgment of acquittal. C.Cr.P. art. 821. This motion and statutory provision mandates application of the Jackson standard by the trial court and vests authority in the appellate courts to render modified verdicts or acquittals on review of the evidence. Review of the evidence by an appellate court is required by the Due Process Clause of the Fourteenth Amendment of the United States Constitution when it is alleged that the evidence was insufficient to support the conviction. *State v. Graham*, 422 So.2d 123 (La.1982). Armed with these constitutional standards we proceed to review the evidence in a light most favorable to the State to determine whether a rational fact finder could find that the essential elements of the crime have been proven beyond a reasonable doubt.

ARGUMENT TO ASSIGNMENT OF ERROR NO. 3

Scope of closing argument shall be confined to evidence admitted, to lack of evidence, to conclusions of fact that state or defendant may draw therefrom, and to law applicable to case. *State v. Baudier*, 2000-1108 (La. App. 4 Cir. 5/23/01) 789 So. 2D 696.

During closing argument, prosecutor's reference to Glaze's presentation of evidence and his right not to testify about the messages between he and M.G. and insinuation that defense counsel was dishonest concerning defendant's criminal history warranted mistrial, where defendant's credibility was crucial to defense and defendant voluntarily opened himself to detailed cross-examination concerning character and specific past acts of misconduct, but state chose not to pursue such line of questioning during trial. *State v. Gobert*, 00-924 (La. App. 3 Cir. 2/28/01) 780 So. 2d 616.

ARGUMENT TO ASSIGNMENT OF ERROR NO. 4

Appellant assert that SENTENCING ISSUES THAT ARE WITHIN STATUTORY LIMITS - ABUSE OF DISCRETION.

The trial court has wide discretion "in the imposition of [a] sentence within the statutory limits. The pertinent standard, therefore, is whether the trial court abused its broad discretionary powers, not whether a different sentence might have been more appropriate. *State v. Cook*, 95-2784 (La. 5/31/96), 674 So.2d 957, cert. denied, 519 U.S. 1043, 117 S.Ct. 615, 136 L.Ed.2d 539 (1996). *State v. Coleman*, 101 So.3d 612, 613, 2012-372 (La.App. 3 Cir. 2012).

CONCLUSION

For all the above and forgoing reasons this Honorable Court should vacate the lower court's judgment and remand with instructions to conduct a new trial in accord with dictates of Due Process. Alternatively, a remand to complete the record is necessary.

Respectfully submitted by:

Doyle Eugene Glaze #783361, Pro-Se
Wolf-1, Camp C
Louisiana State Penitentiary
Angola, La. 70712

VERIFICATION AND CERTIFICATE OF SERVICE

I, DOYLE EUGENE GLAZE, #783361, do swear under the penalty of perjury, that all of the foregoing is true to the best of my knowledge and belief and that a true and correct copy of the foregoing Writ of Certiorari has been mailed to the District Attorney of Warren LeDoux Montgomery Parish, St. Tammany, 22nd JDC, 701 N. Columbia Street, Covington, La. 70433 and to the Clerk of Court, Louisiana Supreme Court of Appeal, 400 Royal Street, New Orleans, La. 70130, (504) 568-5707, by placing a copy of same in the United States mail, with requisite postage affixed, on this May, day of 22, 2025.

Counsel in this matter, in addition to applicant are:

ATTORNEYS FOR THE STATE

BUTCH WILSON
22nd JDC Assistant District Attorney
701 N. Columbia Street
Covington, La. 70433

The Judge presiding at the District Court is:

Hon Vincent J. Lobello
701 N. Columbia Street
Room 3006
Covington, La. 70433


Doyle Eugene Glaze #783361