

Judgment rendered August 26, 2026.
Application for rehearing may be filed
within the delay allowed by Art. 922,
La. C. Cr. P.

No. 56,982-KA

COURT OF APPEAL
SECOND CIRCUIT
STATE OF LOUISIANA

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STATE OF LOUISIANA Appellee

Versus

DONALD DEWAYNE WHITE, II Appellant

* * * * *

Appealed from the
First Judicial District Court for the
Parish of Caddo, Louisiana
Trial Court No. 399,673

Honorable Donald E. Hathaway, Jr., Judge

* * * * *

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Before PITMAN, STEPHENS, and ELLENDER, JJ.

STEPHENS, J.,

This criminal appeal arises out of the First Judicial District, the State of Louisiana, the Honorable Donald E. Hathaway, Jr., Judge, presiding. The defendant, Donald Dewayne White, II, was convicted as charged of two counts of second degree murder and one count of attempted second degree murder by a unanimous jury on September 10, 2025, and sentenced to two consecutive life sentences for the second degree murders of Jasmine Johnson, the mother of his three young children, and Jasmine's mother, Joan Johnson, and the maximum term of 50 years' imprisonment for the attempted second degree murder of Jasmine's father, John Johnson. White has appealed his convictions, urging that the trial court erred in allowing him to represent himself and that his confrontation rights were violated by the admission of other crimes and bad acts evidence in the form of hearsay testimony. For the reasons set forth below, we affirm White's convictions and sentences.

FACTS/PROCEDURAL HISTORY

Early in the morning of January 14, 2024, Shreveport Police Department officers were sent to 2715 Willis Street following a report of multiple people having been shot. Corporal Johnny Clinton, a patrol officer, testified that he was assigned to the Cooper Road area and was the first officer to respond. Upon his arrival, Cpl. Clinton observed a female, subsequently identified as Jasmine Johnson, in distress, lying on her side, facedown in a nearby ditch. Jasmine's clothes were bloody, and she was unresponsive. Cpl. Clinton rolled Jasmine onto her back and began administering chest compressions.

Officer Dustin Kennemer testified that he arrived on scene shortly thereafter. With the assistance of Officers Joshua Kennemer and Collin York, Ofc. D. Kennemer breached the front entrance to clear the residence. Just inside the door to the left, Ofc. D. Kennemer saw a small child on a couch, whom he removed and took outside. Ofc. J. Kennemer¹ picked up a second child from a bassinet and took that child from the home.²

Ofc. York proceeded to the primary bedroom where a second victim, subsequently identified as Joan Johnson, was found on the floor. Ofc. York began chest compressions on her. A third victim, John Johnson, was wounded but responsive and was taken to the hospital for emergency services. No suspects were found inside the residence. Jasmine was pronounced dead at the scene. Joan was taken to the hospital but died shortly thereafter. John was able to tell emergency responders that Jasmine's boyfriend Dewayne (White) came into the residence and shot them all. In a statement made later at the hospital, John confirmed that White was the shooter.

Based upon the information related by John, Officers located then took White to the police station for a statement. Detective Taywania Thomas took White's statement after first informing him of his *Miranda* rights. White related that he and Jasmine were Facetiming earlier that day. They were arguing. According to White, he and Jasmine argued "regularly." White drove over to Jasmine's house in his mother's vehicle, a black Toyota

¹ Officers D. Kennemer and J. Kennemer are brothers.

² There were three children under the age of five in the home, none of whom had been harmed. Their parents were Jasmine and White, who had been in a long-term relationship but had not been together since November 2023, according to the testimony of Jasmine's first cousin Camron Johnson.

Camry, and forced his way inside the residence. White stated that he shot Jasmine's mother and father. Jasmine ran out of the house and jumped into his mother's car. White shot Jasmine, dragged her out of the car, then left.

White related to Det. Thomas that he couldn't recall that anyone had weapons except for him. He also told her that no one attempted to defend themselves. White couldn't recall whether his children were at the Johnson home, what kind of gun he used, or what he did with the gun afterwards.

The black Camry was located at Angynettie Jefferson's³ home on Poinsettia Drive in Shreveport. Det. Thomas was able to see, even through the windows, what appeared to be blood around the front passenger seat and a bullet hole in the side of the center console. After warrants were secured, White's home and the vehicle were searched.⁴ There was blood on the passenger seat and passenger door frame, and four bullet casings were found on the passenger's side of the vehicle. The defect in the center console caused by a bullet was confirmed by Shreveport crime scene investigators. A live round was found under the driver's seat.⁵

Dr. James Traylor, a board-certified forensic pathologist and professor of Clinical Pathology at Ochsner LSU, testified as an expert in forensic pathology. According to Dr. Traylor, Jasmine's cause of death was a penetrating gunshot wound to the head which entered the right parietal skull and caused "extensive damage to her brain." Dr. Traylor stated that Jasmine

³ Ms. Jefferson is White's mother.

⁴ Consent for the search was given by Ms. Jefferson, but the warrants were secured in accordance with police procedure.

⁵ Numerous shell casings were collected from the Johnson home, and 18 live rounds were found in a bedroom dresser drawer in White's mother's home which is where he resided.

Johnson was shot five times, and the fatal wound entered her thigh, lacerating the femoral artery and femoral vein, which caused her to bleed out. Dr. Traylor opined that Jasmine could have survived “a few minutes” before losing consciousness.

Phillip Stout, a forensic scientist with the Texas Department of Public Safety, testified that he examined the casings and projectile evidence submitted in this case. Stout’s analysis showed that there were two distinct types of casings. Four shell casings recovered from outside the Johnson home were brass 9mm cartridge cases “commonly associated with some models of Glock pistols.” On the other hand, the casings recovered from inside Mr. and Mrs. Johnson’s bedroom and from White’s vehicle were steel. Stout stated that rifling from the steel casings was consistent with having been fired from the same firearm, although there was insufficient evidence from which to make a definitive conclusion. Stout did testify that the projectile recovered from Joan’s body was “consistent with a 9-mm bullet which had been fired from the barrel of a weapon rifled with a right twist” and not the polygonal rifling associated with a Glock pistol. This finding is in keeping with the prosecution’s theory that the brass casings from the front yard were unrelated to the crime, likely fired from a Glock on New Year’s Day, which was two weeks prior to the shooting, and that the steel casings found inside the Johnson home and in White’s car had been fired by the murder weapon (which was never recovered).

Jasmine’s father, John Johnson, was the only surviving shooting victim. Johnson testified that he was 77 years old at the time of trial. On the night of the incident, Johnson, his wife Joan, Jasmine, and the three grandchildren were living at their home on Willis Street in Shreveport.

Johnson stated that Jasmine and White had a relationship, and White was the father of Johnson's three grandchildren. That night, Johnson had gone to bed but was awakened by a noise. All of a sudden, he looked up to see his wife "laying there by the bathroom door ... bloody." Johnson explained that the bathroom door was at the foot of the bed, and his wife Joan was lying to one side of the door. Johnson attempted to rise and get out of bed when he saw White. "[H]e had a gun like this here. Pow. He shot me." Johnson testified that White was about four feet away from him when the shot was fired. Johnson eventually managed to get to the living room, then made it outside the house. He walked over to his neighbor Mary's house where he was able to call for help. Johnson testified that he was interviewed by police while recovering at the hospital, and he pointed out White sitting in the courtroom and identified him as the person who shot him.

White testified in his own defense. He stated that on the night of the shooting, he went to the Willis Street address to "purchase firearms." According to White, he brought with him some ammunition wrapped in a towel so he could test-fire the weapon before he bought it. White stated that when he arrived, he entered the home with Jasmine's consent and knowledge and described a lighthearted scene—he was doing the "Pink Panther" theme and making the Johnson family laugh because he likes playing a lot. When he left the house to smoke a cigarette and relieve himself in a nearby field, he heard gunshots. At first White believed the shots were "test rounds" coming from a trench behind the property.

White stated that he grew concerned when he returned to the Johnson residence and saw perforating gunshots on both sides of the trailer. He saw two unknown men exit the home, one of whom he identified as "Donnie G."

According to White, a wounded Jasmine ran out of the house screaming. He tried to help her get into his car, but he was confronted by one of the attackers. He then panicked and drove away, leaving Jasmine behind.

White stated that he went to his mother's house on Poinsettia Street in the Southern Hills neighborhood of Shreveport where he later called 9-1-1.

On cross-examination, White admitted to giving a recorded police interview, which was played for the jury, in which he confessed to shooting Jasmine, Joan, and John Johnson. White maintained at trial that the video was "very edited" and that he was "overdosed on medication ... scared ... and trying to tell them the truth." He further told the jury that "I'm in a matrix. I'm seeing things. I'm hearing things that's not really there, and I'm trying to tell [Det. Thomas] exactly what happened."

Also introduced into evidence by the State was a recording of a telephone call made by White to his mother from jail on the evening of January 14, 2024, in which his mother stated, "I don't understand what happened. I guess I never will. It's between you, her, and God. I know you will never talk about it. Something triggered you to do that. We don't know what triggered it. Something triggered you to do that." The prosecutor pointed out that the recording reflected that White was silent in response to his mother's statements.

On April 24, 2024, White was charged by the Caddo Parish grand jury with two counts of second degree murder and one count of attempted second degree murder. On July 3, 2024, defense counsel made a motion for the appointment of a sanity commission. The court-appointed evaluators diagnosed White with schizoaffective disorder but found him competent and able to assist in his own defense.

On August 28, 2025, the State filed a motion to admit the prior statements by Jasmine under La. C.E. arts. 412.4 and 804(7)(A) and (B), which allow such statements where the victim is absent or unavailable due to the accused's wrongdoing (forfeiture by wrongdoing). A hearing on the motion was held on September 5, 2025. Prior to argument on the motion, White waived his right to counsel and declared his intention to represent himself. After a brief colloquy (including the trial judge asking the defendant whether he was aware of the saying that a lawyer who chooses to represent himself has a fool for a client), White was allowed to represent himself and standby counsel was appointed. When asked to object to the motion at issue, White attempted to argue the admissibility of his own statement to police. The State's motion was granted, and trial commenced several days later on September 9, 2025.

White represented himself through jury selection and the State's first five witnesses. On the second day of trial, White's court-appointed attorney, who had been acting as standby counsel, resumed representation of the defendant. As noted above, White took the stand and testified on his own behalf. A unanimous jury found White guilty as charged on all three counts. Post-verdict judgments for acquittal and new trial filed by White were denied by the trial court on September 18, 2025. White was sentenced to two consecutive life sentences on the second degree murder convictions and the maximum term of 50 years on the attempted second degree murder conviction on September 19, 2025. White has appealed his convictions, urging two assignments of error.

DISCUSSION

(1) Whether the trial court erred in allowing the defendant, who has a history of mental illness and was not being administered his prescribed medications, to represent himself at trial.

The Defendant's Argument

According to White, the trial court erred in allowing him to represent himself at trial. White notified the trial court of his intent to waive counsel and represent himself during the September 5, 2025, pre-trial hearing, only four days before jury selection was to begin in this double homicide case. The trial court questioned White as to his education and experience; White replied that he had a high school diploma and worked occasionally as a laborer. He also informed the trial court that he had been diagnosed with an “outside condition” for which he had been prescribed several anti-psychotic medications that he was not receiving during pre-trial custody due to the Caddo Correctional Center’s internal policies.⁶

According to appellate counsel, the prescription and sudden withdrawal of some of these medications calls into question White’s competency to represent himself or his ability to knowingly and voluntarily waive his right to counsel. The prescriptions White should have been taking include treatment for significant anxiety, mood instability, depression, and attention deficit disorder. Discontinuation of the medication (especially the benzodiazepines) can cause withdrawal manifested by “severe anxiety, impaired concentration, agitation, sleep disruption, and even a risk of seizures and marked cognitive disorganization.” Counsel asserts that White’s ability to think clearly, regulate impulses, as well as appreciate the

⁶ The medications counsel alleges that White was supposed to be taking were Adderall, alprazolam, Celexa, Ativan, and Depakote.

consequences of self-representation were “materially compromised,” which calls into question whether the waiver of counsel was knowing, intelligent, and voluntary.

Counsel cites several examples of White’s erratic behavior from the first day of testimony, irrational objections, an emotional breakdown, and an incriminating cross-examination of the surviving victim, to illustrate that White’s mental illness and medication withdrawal precluded his ability to exercise his right to self-representation. The trial court should have been warned when, during the colloquy, White told the judge that he was not receiving his medications, he had an “outside condition,” and needed his doctor and counselor present in the courtroom during trial. According to counsel, the *Faretta* standard cannot be satisfied when a defendant, while answering “yes” to questions during the colloquy, nonetheless discloses an untreated psychiatric condition. The record shows that White’s waiver was neither knowing nor intelligent, and for this reason, White’s conviction cannot stand.

The State’s Argument

At a pre-trial hearing the week before trial, White advised the trial court that he was choosing to exercise his right to waive counsel and represent himself at trial. The trial court ascertained White’s age and education and made sure he understood the charges against him and the possible penalties. The trial court also inquired into White’s mental health history, including whether he was taking any medications.⁷ The trial court

⁷ The State correctly points out that the only medications White had discontinued that the trial court was made aware of at the time he waived counsel were his ADHD and general anxiety medications.

further told the defendant of the pitfalls of self-representation and appointed his public defender as standby counsel. The State contends that the record contains nothing to show that White was incapable of making this choice knowingly and voluntarily at the time he decided to exercise his right of self-representation.

The State emphasizes that White's difficulty in handling the trial, in particular, his cross-examination of the victim John Johnson, and his realization that self-representation was not helping his case, is not determinative of his pre-trial competence to waive counsel. In other words, White's incompetence at self-representation in a second degree/attempted second degree murder trial does not equal incompetence to waive his right to counsel.

The State also urges that, notwithstanding White's statement that his ADHD and anxiety medications had been discontinued while he was in CCC, during the *Faretta* colloquy, he exhibited a "calm and steady" behavior and showed mental clarity regarding his understanding of the circumstances, the charges he faced, the jury trial before him, and his desire for self-representation. The State suggests that there was no overt indication to the trial court at that time that any potential mental health issue was affecting White's competence to waive his right to counsel. "[A]t the point in the trial where White's mental/emotional state began impairing his self-representation and White became aware that his self-representation was not effective, he requested that standby counsel resume his role as defense counsel for the remainder of the trial."

Analysis

The Sixth Amendment to the United States Constitution and Article I, § 13 of the Louisiana Constitution give a defendant the right to counsel as well as the right to defend himself. A defendant may represent himself only if he makes an unequivocal request to represent himself and knowingly and intelligently waives his right to counsel. *Faretta v. California*, 422 U.S. 806, 95 S. Ct. 2525, 45 L. Ed. 2d 562 (1975); *State v. Bell*, 09-0199 (La. 11/30/10), 53 So. 3d 437, *cert. denied*, 564 U.S. 1025, 131 S. Ct. 3035, 180 L. Ed. 2d 856 (2011); *State v. Edwards*, 54,055 (La. App. 2 Cir. 9/22/21), 327 So. 3d 1079.

The trial court should inform the defendant of the dangers and disadvantages of self-representation so that the record will establish that “he knows what he is doing, and his choice is made with his eyes wide open.” *Faretta*, 422 U.S. at 835, 95 S. Ct. at 2541, citing *Adams v. United States ex rel. McCann*, 317 U.S. 269, 279, 63 S. Ct. 236, 242, 87 L. Ed. 268 (1942); *State v. Edwards*, *supra*. Once the defendant has made an unequivocal request to represent himself, the trial court must determine whether he did so knowingly and intelligently with full understanding of the risks and possible consequences. *State v. Bell*, *supra*; *State v. Edwards*, *supra*.

The decision to waive counsel does not require a higher level of mental functioning than the decision to waive other constitutional rights. *Godinez v. Moran*, 509 U.S. 389, 399, 113 S. Ct. 2680, 2686, 125 L. Ed. 2d 321 (1993). The competence that is required of a defendant seeking to waive his right to counsel is the competence to waive the right, not the competence to represent himself. *Id.*; *State v. Edwards*, *supra*.

Furthermore, a criminal defendant's ability to represent himself has no bearing upon his competence to choose self-representation. *Godinez*, 509 U.S. at 400, 113 S. Ct. at 2687.

Hybrid representation involves the appointment of standby counsel and it allows a defendant the right to defend himself as co-counsel while standby counsel is available to explain and enforce the basic courtroom rules or to take over the defense of the accused, should the defendant decide to re-exercise his right to counsel at some point in the proceedings. *State v. Brown*, 03-0897 (La. 4/12/05), 907 So. 2d 1, *cert. denied*, 547 U.S. 1022, 126 S. Ct. 1569, 164 L. Ed. 2d 305 (2006). A trial court has the discretion to appoint a standby counsel to aid the accused if and when the accused requests help, and to be available to represent him should termination of the defendant's self-representation be necessary. *Faretta*, 422 U.S. at 834, n. 46, 95 S. Ct. at 2541; *State v. Mathieu*, 10-2421, p. 6 (La. 7/1/11), 68 So. 3d 1015, 101; *State v. Bell*, *supra*; *State v. Cornelison*, 55,957, pp. 12-13 (La. App. 2 Cir. 11/20/24), 401 So. 3d 918, 926-27. The appointment of co-counsel for an accused who opts to represent himself is not mandatory but is within the discretion of the trial court. *State v. Bell*, *supra*.

A defendant who chooses to represent himself may not complain on appeal that his self-representation was inadequate. *Faretta*, *supra*; *State v. Bell*, *supra*. The propriety of allowing a defendant to elect self-representation shall not be judged by what happens in the subsequent course of that representation. Instead, it is the record made in recognizing the waiver that controls. *State v. Strain*, 585 So. 2d 540, 542 (La. 1991); *State v. Moore*, 40,311 (La. App. 2 Cir. 1/13/06), 920 So. 2d 334, *writ denied*, 06-2267 (La. 6/1/07), 957 So. 2d 167.

Whether a defendant has knowingly, intelligently, and unequivocally asserted the right to self-representation must be determined on a case-by-case basis, considering the facts and circumstances of each case, including the background, experience, and conduct of the accused. *State v. Strain, supra.*; *State v. Leger*, 05-0011 (La. 7/10/06), 936 So. 2d 108, *cert. denied*, 549 U.S. 1221, 127 S. Ct. 1279, 167 L. Ed. 2d 100 (2007); *State v. Cornelison, supra.*; *State v. Edwards, supra.* There must be a showing of a clear abuse of discretion for a trial court's ruling on a defendant's right to counsel to be upset, as the trial court has the opportunity to observe the defendant in court appearances and become familiar with him. *State v. Cornelison*, 55,957 at 16, 401 So. 3d at 930, citing *State v. Holley*, 53,405, p. 12 (La. App. 2 Cir. 4/22/20), 297 So. 3d 180, 188, *writ denied*, 20-00923 (La. 11/10/20), 303 So. 3d 1036.

Although there is no particular formula which must be followed by the trial court to determine whether a defendant has validly waived his right to counsel, *State v. Carpenter*, 390 So. 2d 1296 (La. 1980), a trial judge, in accepting a waiver of counsel at trial, should advise the accused of the nature of the charges and the penalty range, inquire into the accused's age, education, and mental condition, and determine according to the totality of the circumstances whether the accused understands the significance of the waiver. *State v. Strain, supra.*; *State v. Edwards, supra.* "The Constitution does not force a lawyer upon a defendant. What is required is that the accused knows what he is doing and that his choice was made with eyes open." *Johnson v. Zerbst*, 304 U.S. 458, 468-69, 58 S. Ct. 1019, 1024, 82 L. Ed. 1461 (1938).

At the pre-trial hearing held on September 4, 2025, the week before trial, White informed the trial judge that he wanted to waive his right to counsel and represent himself. The same trial judge considered and ruled upon White's motion for appointment of a sanity commission at a hearing, which was held on September 30, 2024. Both mental health experts appointed by the trial court to examine the defendant specifically opined that he was capable of understanding the nature of the proceedings and able to assist in his defense. Dr. Jennifer Russell noted that White, who was incarcerated at the time of both evaluations, was not taking his prescribed ADHD medication and that "any attentional problems were not of sufficient severity as to interfere with his competency-related abilities during this evaluation."

The trial judge had this information regarding White's mental health, as well as what he gleaned during the colloquy with White at the motions hearing. The trial court first determined the defendant's age and education level before then inquiring about his mental health history. The defendant acknowledged that he had been diagnosed with mental health issues and he reminded the judge about the earlier determination by the sanity commission that he was competent enough for trial. The judge asked White whether he was supposed to be taking medication, and he related that the ones he was supposed to be taking were Adderall, an extended release alprazolam (Xanax), and another alprazolam-type medication. However, White told the trial court that he was not taking the prescribed medications in jail because Caddo Corrections said it was too addictive.

The trial court then explained to White that self-representation was unwise and could be dangerous, especially since the defendant would be

required to follow Louisiana's Evidence Code and Code of Criminal Procedure. The judge further explained to White that, as his own attorney, regardless of the outcome, he could not claim ineffective assistance of counsel. The defendant indicated his understanding that he would not be given any special treatment as a non-lawyer. White also acknowledged that he understood the charges against him (the current ones as well as the pending domestic ones) as well as the possible penalties. Although White told the trial judge that he didn't want to allow his current counsel to continue to represent him on a temporary basis, the court granted the State's motion that White's attorney be appointed as standby counsel. The judge explained to White that this was necessary "to relieve the trial court of the necessity of constantly explaining and enforcing the basic rules of courtroom procedure and to assist you in overcoming routine obstacles during the preparation and trial."

There is no abuse of the trial court's discretion in this case. As noted above, White's ultimate handling of his defense at trial and difficulties with evidentiary and trial procedures as proof of his mental capacity or lack thereof do not factor in this Court's after-the-fact determination of whether White was competent to waive his right to counsel and elect self-representation *before* trial. The record shows that White's trial proceeded in an orderly fashion notwithstanding his emotional breakdown while he was cross-examining John Johnson. In fact, White had the mental acuity at that time to realize the ineffectiveness of self-representation and wisely chose to have standby counsel resume his role as trial counsel. In a case involving a defendant with a prior medical health history such that appointment of a sanity commission for evaluation of the accused's mental state to proceed to

trial and assist in his defense is warranted, standby counsel is beneficial to ensure that a defendant's Constitutional right to counsel is protected while balancing his right to self-representation. *See, State v. Cornelison, supra.* This assignment of error is without merit.

(2) Whether the defendant's rights under the Confrontation Clause were violated by the presentation of testimonial hearsay statements of other crimes and "bad acts" by a deceased witness per the doctrine of forfeiture by wrongdoing.

The Defendant's Argument

Defense counsel asserts that White's confrontation rights under the U.S. and Louisiana Constitutions were flagrantly violated by the admission of testimonial hearsay statements regarding alleged other crime evidence admitted through an unusual source—the videotaped statements of the deceased victim Jasmine Johnson. On or about August 26, 2023, Jasmine reported a domestic violence incident wherein White allegedly drove her vehicle off the roadway and struck her repeatedly after she got out of the car and ran into a nearby field. Jasmine reported the incident to law enforcement, and SPD Sgt. Jennie Brooks took Jasmine's videotaped statement. Two years later, on September 4, 2025, on the same day of (but *prior to*) White's waiver of counsel, the State moved to admit this taped statement into evidence, relying upon the forfeiture by wrongdoing provision of La. C.E. art. 804.

The link between the defendant's actions and the victim's unavailability may be established when "a defendant puts forward to a witness the idea to avoid testifying, either by threats, coercion, persuasion, or pressure." *State v. Aguilar*, 15-1230, p. 2 (La. 9/18/15), 181 So. 3d 649, 650. *See also, Giles v. California*, 554 U.S. 353, 128 S. Ct. 2678, 171 L. Ed.

2d 488 (2008), in which the Supreme Court held that this exception applies only if the defendant has in mind the particular purpose of making the witness unavailable. Counsel argues that *Giles* is right on point—evidence of a prior altercation, even when coupled with a later homicide—does not establish forfeiture absent proof that the charged conduct was undertaken for the purpose of silencing the victim as a witness.

In the instant case, the State offered no evidence linking the homicide to any effort by White to prevent Jasmine from testifying about the earlier incident, argues counsel. Therefore, *Giles* precludes application of the forfeiture doctrine and the trial court erred in allowing this hearsay testimony into evidence against an unrepresented “likely mentally infirm” defendant, contends appellate counsel. The State only mentioned the articles supporting its motion but no facts, and the trial court made no further inquiry.

Counsel claims that admission of Jasmine’s videotaped statements was “constitutional error of the first magnitude” given that the State’s entire argument for forfeiture rested on the bare fact that Jasmine was dead, and White was charged with killing her. There is no evidence to support the trial court’s finding, which was made without an independent analysis in support thereof. Jasmine’s statement was testimonial—it was a formal recorded account given to officers to document White’s criminal conduct, and its admission with no opportunity for cross-examination violated the defendant’s Sixth Amendment right to confrontation of his accuser. “[B]ecause the jury heard Jasmine’s own voice describing White as dangerous and violent, this Court cannot find the error harmless beyond a reasonable doubt.”

White asks this Court to reverse his convictions “on all counts” and remand the matter to the trial court for a new trial.

The State’s Argument

According to the State, the record supports a finding of forfeiture by wrongdoing warranting the admission of Jasmine’s prior statement to officers in the domestic violence incident that preceded the instant homicides and attempted homicide. The statement, which was videotaped, was made by Jasmine to the SPD detective assigned to investigate a domestic abuse incident that occurred on August 26, 2023, approximately three months prior to Jasmine’s murder.

In the instant case, at the September 4, 2025, pre-trial hearing, White, representing himself, objected to the admission of Jasmine’s prior statement on the grounds that he had filed a “404 motion.” However, the clerk of court could not locate any such motion filed by either White or his attorney, and the trial court granted the State’s motion, finding Jasmine’s recorded statement to be admissible.

The circumstances leading to the prior statement of Jasmine were introduced at trial through the testimony of Sgt. Brooks, who told the jury that a domestic abuse situation had been reported to an Officer Williams with the SPD on August 26, 2023, by Jasmine Johnson. According to Jasmine, White, her ex-boyfriend, had struck her vehicle with his, causing her to run off the road into a field. White then dragged Jasmine from her car and slammed her into the ground before striking her in the head with a pistol and threatening to kill her. Sgt. Brooks stated that she had interviewed Jasmine at the hospital and that this interview was recorded. A portion of

Jasmine's interview was played for the jury over a contemporaneous objection made by White.

White's appellate attorney asserts that his confrontation rights were violated and that admission of the statement was erroneous because the State failed to show that any wrongdoing by White was intended to prevent Jasmine from testifying.

The State relies on *State v. Aguilar, supra*, in which the Louisiana Supreme Court held that the applicable code articles do not require that the defendant engage in violence or employ threats of physical violence to cause fear in the victim in order to procure the witness's unavailability. *Id.* Instead, the link between the defendant's actions and the victim's unavailability can be established when a defendant "puts forward" to a witness the idea to avoid testifying, either by threats, coercion, persuasion, or pressure. *Id.* According to the State, in *State v. Aguilar, supra*, the Louisiana Supreme Court found that the defendant's violation of a protective order and repeated suggestions and encouragement of the victims to recant their statements was sufficient "persistent contact" to warrant application of the forfeiture by wrongdoing exception. "Because the witnesses' unavailability is a logical outgrowth of the defendant's actions in this domestic violence case, the forfeiture by wrongdoing doctrine is properly applied." *Id.*

The State argues that there was no abuse of the trial court's discretion in its admission of Jasmine's recorded statement as the forfeiture by wrongdoing doctrine was properly applied. However, if the trial court erred in allowing the statement into evidence, this error was harmless. *See, Chapman v. California*, 386 U.S. 18, 87 S. Ct. 824, 17 L. Ed. 2d 705 (1967);

Sullivan v. Louisiana, 508 U.S. 275, 113 S. Ct. 2078, 124 L. Ed. 2d 182 (1993); and, *State v. Johnson*, 94-1379 (La. 11/27/95), 664 So. 2d 94.

According to the State, White's guilty verdict would surely have been rendered even without admission of Jasmine's prior statement, since, notwithstanding Jasmine's statement (and Det. Brooks' testimony explaining it to the jury), the record contains "overwhelming and straightforward evidence" that White committed the second degree murders of both Joan and Jasmine Johnson as well as the attempted second degree murder of Jasmine's father, John Johnson. *See, Chapman, supra; Sullivan, supra*. The only contrary evidence is the "outrageous" story told to the jury by White during his testimony, urges the State.

Analysis

The Sixth Amendment to the United States Constitution guarantees an accused in a criminal prosecution the right to confront the witnesses against him. The Confrontation Clause of the Louisiana Constitution specifically and expressly guarantees the accused the right "to confront and cross-examine the witnesses against him." La. Const. Art. I, § 16; *State v. Robinson*, 01-273, p. 5 (La. 5/17/02), 817 So. 2d 1131, 1135. Confrontation not only means the ability to confront the witnesses physically but also to secure for the opponent the opportunity of cross-examination, which is its main and essential purpose. *Id.*

Cross-examination is the principal way to test the believability and truthfulness of the testimony, and it has traditionally been used to impeach or discredit the witness. *Id.* at p. 6, 817 So. 2d at 1135; *State v. Anderson*, 55,168 (La. App. 2 Cir. 9/27/23), 372 So. 3d 413, *writs denied*, 23-01427, 23-01446 (La. 4/9/24), 382 So. 3d 842, 844, *cert. denied*, ___ U.S. ___, 145

S. Ct. 296, 220 L. Ed. 2d 96 (2024); *State v. Williams*, 04-608 (La. App. 5 Cir. 11/30/04), 889 So. 2d 1093, 1100, *writ denied*, 05-0081 (La. 4/22/05), 899 So. 2d 559. The confrontation clause prohibits the admission of an out-of-court “testimonial” statement against a defendant unless the declarant is unavailable and the defendant had a prior opportunity to cross-examine him. *Davis v. Washington*, 547 U.S. 813, 821, 126 S. Ct. 2266, 2273, 165 L. Ed. 2d 224 (2006); *Crawford v. Washington*, 541 U.S. 36, 68, 124 S. Ct. 1354, 1374, 158 L. Ed. 2d 177 (2004).

In *Crawford, supra*, the U.S. Supreme Court restricted the admissibility of testimonial statements as evidence at a criminal trial in situations where a declarant is unavailable to testify and required that the defendant have a prior opportunity to cross-examine the declarant. *Id.*; *State v. Griffin*, 14-251, pp. 26-27 (La. App. 5 Cir. 3/11/15), 169 So. 3d 473, 490. The *Crawford* court, while not defining “testimonial,” observed that “an accuser who makes a formal statement to government officials bears testimony in a sense that a person making a casual remark to an acquaintance does not.” *Crawford*, 541 U.S. at 51, 124 S. Ct. at 1354 (internal citations omitted); *State v. Warner*, 12-0085, p. 16 (La. App. 4 Cir. 5/1/13), 116 So. 3d 811, 819.

The U.S. Supreme Court in *Crawford* recognized that there are exceptions to a defendant’s right of confrontation, including the doctrine of “forfeiture by wrongdoing,” which is premised on the principle that a defendant should not be allowed to benefit from his own wrongdoing. *State v. Griffin*, 14-251 at p. 27, 169 So. 3d at 490; *State v. Warner*, 12-85 at p. 17, 116 So. 3d at 820.

La. C.E. art. 804(B)(7), which is modeled after F.R.E. Rule 804(b)(6), sets forth exceptions to the rule excluding hearsay for certain types of evidence when the declarant is unavailable as a witness, provides:

(a) Forfeiture by wrongdoing. A statement offered against a party that has engaged or acquiesced in wrongdoing that was intended to, and did, procure the unavailability of the declarant as a witness.

(b) A party seeking to introduce statements under the forfeiture by wrongdoing hearsay exception shall establish, by a preponderance of the evidence, that the party against whom the statement is offered, engaged or acquiesced in the wrongdoing.

As required by *Giles, supra*, and La. C.E. art. 804(B)(7), in order to introduce an unavailable victim's out-of-court statement, the State must show that a defendant engaged or acquiesced in wrongdoing that was intended to, and did, procure the unavailability of the of the declarant as a witness. *Id.*; *State v. Aguilar, supra*. There is no requirement in La. C.E. art. 804(B)(7) that the defendant must engage in violence or employ threats of physical violence to cause fear in the victim in order to procure the witness's unavailability. *State v. Aguilar, supra*. Instead, the link between the defendant's actions and the victim's unavailability may be established when a defendant "puts forward to a witness the idea to avoid testifying, either by threats, coercion, persuasion, or pressure...." *Id.*, 15-1230, p. 2, 181 So. 3d at 650.

A trial court's ruling on the admissibility of evidence is reviewed under an abuse of discretion standard. *State v. Taylor*, 16-1124, p. 18 (La. 12/1/16), 217 So. 3d 283, 296; *State v. Glover*, 56,285 (La. App. 2 Cir. 7/16/25), 416 So. 3d 34, *writ denied*, 25-01055 (1/28/26), 425 So. 3d 108.

A pre-trial hearing was held on September 4, 2025. The State's attorney informed the trial court that, *inter alia*, a notice to introduce other

crimes evidence under La. C.E. art. 412.4 had been filed regarding its intent to present evidence of an incident of prior domestic violence perpetrated by White upon Jasmine on August 26, 2023. The prosecutor also indicated the State's intent to play for the jury a recorded statement made by Jasmine to Det. Jennie Brooks regarding the August 26, 2023, incident, and noted that a motion to allow this interview pursuant to La. C.E. art. 804(B)(7) had been filed.

As the State's attorney attempted to argue the merits of the notice and motion, White informed the trial court of his intent to exercise his right of self-representation, and the hearing veered off in that direction. The State's motion and notice had attached thereto the initial and supplemental police reports documenting the August 26, 2023, incident, Jasmine's injuries and interview with Det. Brooks, and White's arrest for the instant offenses on January 14, 2024. Together with the evidence presented at trial, the record is clear that there was no abuse of the trial court's discretion in allowing the State to play a portion of Jasmine's recorded statement for the jury in this case.

Det. Brooks testified that on August 26, 2023, she was contacted by Officer W.J. Williams who related that he was at the Willis Knighton South location at 2510 Bert Kouns in Shreveport to work a domestic violence incident. The victim, Jasmine Johnson, told Ofc. Williams that her ex-boyfriend struck her car with his vehicle which caused her car to run off the road into a field. Jasmine's ex-boyfriend grabbed her from her vehicle, slammed her to the ground, then struck her in the head with a pistol before threatening to kill her. Det. Brooks stated that she went to the hospital to speak to Jasmine and record an interview with her. Before doing so, Det.

Brooks met with the Ofc. Williams to get the suspect's information. The suspect had been identified as the defendant White.

Det. Brooks testified that she found Jasmine in the emergency room at Willis Knighton South.⁸ The detective identified and authenticated the DVD that contained her interview with Jasmine, and a portion of the recorded interview was then played for the jury.

On the day of the incident, August 26, 2023, Jasmine went to a Walmart Marketplace store where White worked to retrieve a gun that belonged to her. Jasmine got the gun from White's unlocked car, then went into the store to tell him she had done so. White got mad and told her to leave. Jasmine left; two children, toddlers aged one and two years old, were riding with their mother in her car. White called Jasmine as she was driving and told her to return the gun. Jasmine then noticed a car coming upon her fast from behind. White was the driver of the approaching car. He struck Jasmine's car, forcing her off the road into a field. White rammed her vehicle a second time, then pulled Jasmine from her car by her shirt and threw her to the ground several times. He then got the gun from Jasmine's car, struck her in the head with it, and told her he would kill her. Jasmine got back in her car and drove herself to a hospital.⁹

⁸ Jasmine executed a HIPAA release and the medical information from her visit to Willis Knighton South on August 26, 2023, was included among the police reports submitted to the trial judge in support of the State's evidentiary motions. In relating the incident to ER staff, Jasmine reported that she sustained a loss of consciousness as well as head and abdominal injuries. Jasmine also stated that she was 23 weeks pregnant at the time. ER staff noted swelling and edema in Jasmine's scalp, and based on a fetal ultrasound, personnel in the Labor and Delivery department estimated Jasmine's delivery date to be December 16, 2023 (which is less than 30 days prior to the date of the shootings).

⁹ At the time, White also had pending charges in Bossier Parish for a previous incident involving Jasmine.

Two days later, on August 28, 2023, Sgt. Brooks scheduled an interview with White for August 30, 2023. Later that day, White called Sgt. Brooks to inquire whether Jasmine had contacted her. When he learned that Jasmine had not contacted Sgt. Brooks, White said, “okay,” and hung up. On August 29, 2023, Jasmine called Sgt. Brooks and related that she wanted to dismiss the charge. Sgt. Brooks informed Jasmine that she could not dismiss the charge because it was a felony, and the investigation would proceed. Two minutes later, White called Sgt. Brooks, whose report contains the following entry:

At 0953, this investigator received a phone call from White stating, Ms. Johnson just told him she was informed she couldn't dismiss charges. Upon informing Mr. White that is correct, he advised he didn't understand how she couldn't if she said he didn't do anything to her. Mr. White was informed Ms. Johnson didn't say he didn't do anything to her, she said she wanted to dismiss charges. He was further informed if she did state he didn't do anything to her, this investigator wouldn't believe her because victims of Domestic Violence tend to recant their statement.

Less than ten minutes later, Jasmine called Sgt. Brooks back to tell her that “when she hit her brakes, Mr. White struck the back of her vehicle and then she hit her head on the steering wheel.” Four minutes after that, White called Sgt. Brooks to verify that Jasmine had called her and asked again whether he needed to attend the interview scheduled for the next day. Sgt. Brooks told White that he did need to attend and explained that because of Jasmine's physical injuries, the investigation was proceeding. White did not show up at the interview. An arrest warrant for White was issued on August 30, 2023. However, White killed Jasmine before the arrest warrant could be executed.

Both White and the State have cited *Giles, supra*. The following language from the majority's opinion in *Giles* we find to be especially compelling. Recognizing the difficulty of prosecuting defendants accused of domestic violence whose victims have been silenced by further incidents of domestic abuse or intimidation, the Louisiana Supreme Court found:

The domestic violence context is, however, relevant for a separate reason. Acts of domestic violence often are intended to dissuade a victim from resorting to outside help, and include conduct designed to prevent testimony to police officers or cooperation in criminal prosecutions. Where such an abusive relationship culminates in murder, the evidence may support a finding that the crime expressed the intent to isolate the victim and to stop her from reporting abuse to the authorities or cooperating with a criminal prosecution—rendering her prior statements admissible under the forfeiture doctrine. Earlier abuse, or threats of abuse, intended to dissuade the victim from resorting to outside help would be highly relevant to this inquiry, as would evidence of ongoing criminal proceedings at which the victim would have been expected to testify.

Id., 554 U.S. at 377, 128 S. Ct. 15 2693.

The domestic violence incident in which White ran Jasmine off the road, pistol-whipped her, then threatened to kill her, occurred only five months prior to her murder by White. During Sgt. Brooks' investigation into the domestic violence incident, White made numerous attempts to get Jasmine to drop the charges. Upon learning that even a forced recantation by Jasmine would not suffice to have the investigation halted and charges dropped, White failed to show up for his interview with police and then killed Jasmine before the arrest warrant on the domestic abuse charges could be served.

In *State v. Aguilar, supra*, the defendant repeatedly violated a protective order prohibiting him from contacting witnesses against him in an upcoming criminal prosecution, and both witnesses (his girlfriend and their

daughter) recanted their testimony, ultimately becoming uncooperative with prosecution of the case against the defendant. In this case, White not only threatened physical violence against Jasmine, but he carried it out by shooting her four times and killing her, which, while maybe not the intended purpose at that time, prohibited her from testifying against him in the pending domestic violence case. Jasmine's unavailability "is a logical outgrowth of the defendant's actions in this domestic violence case..." *Id.*, 15-1230 at p. 2, 181 So. 3d at 650. As the Louisiana Supreme Court found in *State v. Aguilar*, we find that the forfeiture by wrongdoing doctrine is applicable under the facts and circumstances of this case.

The defendant himself killed the witness he now complains he cannot confront. White's actions in having Jasmine call the investigating officer several times in an attempt to get the domestic violence charges against him dropped, and then when that didn't work, his ultimate silencing of her by killing her after shooting her mother and father, shows that White engaged in a pattern of behavior intended to ensure that Jasmine could never testify against him. *See, Giles, supra*. "[W]hen defendants seek to undermine the judicial process by procuring or coercing silence from witnesses and victims, the Sixth Amendment does not require courts to acquiesce. While defendants have no duty to assist the State in proving their guilt, they do have the duty to refrain from acting in ways that destroy the integrity of the criminal-trial system." *Davis v. Washington*, 547 U.S. at 833, 126 S. Ct. at 2280. This assignment of error is without merit.

Errors Patent

The record was reviewed for errors patent, and there were none.

CONCLUSION

For the reasons set forth above, the convictions and sentences imposed in this case against the defendant, Donald Dewayne White, II, are affirmed.

AFFIRMED.