Judgment rendered November 18, 2026.
Application for rehearing may be filed
within the delay allowed by Art. 922,
La. C. Cr. P.

No. 57,149-KA

COURT OF APPEAL
SECOND CIRCUIT
STATE OF LOUISIANA

* * * * *

STATE OF LOUISIANA Appellee

versus

ANDREW ADAWAY Appellant

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Appealed from the
First Judicial District Court for the
Parish of Caddo, Louisiana
Trial Court No. 389,905

Honorable Donald Edgar Hathaway, Jr., Judge

* * * * *

LOUISIANA APPEALS
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Before HUNTER, MARCOTTE, and ELLENDER, JJ.

ELLENDER, J.

Andrew Adaway appeals a unanimous jury verdict finding him guilty of second degree murder. Adaway contends the trial court's rulings on the admissibility of certain evidence violated La. C. Cr. P. art. 772, as well as his Sixth Amendment right to present a defense. He argues the court's commentary and evidentiary rulings eased the state's burden of proof as to causation and intent. Finding no merit to these claims, we affirm Adaway's conviction and sentence.

FACTS

On June 3, 2022, Adaway was arrested for entry and remaining after being forbidden at the Food Mart in Shreveport. Adaway was booked into the Shreveport City Jail and placed in a locked intake cell with the victim, Bobby Young, who was seated on a metal bench against the wall. Almost immediately, Adaway attacked Young, whose arms were tucked inside his shirt, and punched him in the head no less than 12 times in quick succession. Jail personnel removed Adaway and secured him in a separate cell. Young, whose lower body rested on the floor while his upper body leaned against the metal bench, slid off the bench, and hit his head on the floor. Young was transported to the hospital, where he was admitted with brain swelling. Young died from his injuries 17 days later. Adaway, who was originally charged with the second degree battery, was then charged with second degree murder.

PROCEDURAL HISTORY

After receiving restoration services and being found competent to assist counsel, Adaway's case proceeded to trial. The state opened, giving jurors a brief overview of the facts of the case and acknowledging the jurors

would be hearing testimony from jailers whose conduct they might find less than acceptable. The state reminded jurors Adaway was on trial for only his actions, which it would prove resulted in Young's death.

The defense also gave an opening statement, which included the following:

> Counsel for Adaway: I have in my hands the civil lawsuit that was filed and is in the record in this case by Mr. Young's family. Who are the named defendants? The Shreveport City Jail and its employees. Who is not a named defendant in that case? Mr. Adaway. Curious. I'm going to read to you the allegations in that civil lawsuit.
>
> The state: Your Honor.
>
> The court: Completely irrelevant. The fact that a lawsuit has been brought is one thing, but what they are alleging in that lawsuit is completely irrelevant to the guilt or innocence of the accused.

The jury was then removed from the courtroom to allow for argument on the state's objection. The state considered the allegations contained within the petition irrelevant; they were nothing more than unproven allegations. The court agreed, finding the allegations irrelevant, as well as likely inadmissible hearsay. The defense argued because the petition had been filed into the record, it should be admissible, but the trial court disagreed, stating while the petition had been filed, it was not in the trial record, nor was it an exhibit.

When the jury returned, defense counsel wrapped up his opening remarks, acknowledging Adaway battered Young, but claiming he did not intend to kill or inflict great bodily harm. Counsel blamed the Shreveport City Jail and its personnel for Young's death.

Joe Smith, the superintendent at Shreveport City Jail in June 2022, was the state's first witness. Smith described the layout of the jail, the various intake cells, the general population dorm cells, the setup of main

control, and booking procedures, as well as surveillance showing Young and Adaway being booked into the jail. Smith also discussed the portion of the jail surveillance showing Adaway's attack of Young and the response by jailers, which video was entered into evidence without objection.

On cross-examination, Smith agreed policies and procedures were in place to keep inmates, jail staff, and the general public safe. Counsel then asked: "On June 3, 2022, isn't it true that the jail staff failed to follow the safety policies and procedures?" The state objected, and the court sustained its objection, stating: "That is so irrelevant and has nothing to do with it. SPD is not on trial. Your client is." After a few more questions, defense counsel asked Smith if he believed the responding jail employee made the correct decision to place Adaway in the same cell with Young. The state objected, and the court sustained the objection, stating: "He has no foundation. He cannot testify to what she thought or what – you know, what she did." Shortly thereafter, defense counsel asked Smith essentially the same question again. The state objected, and the court sustained, stating: "That is totally irrelevant. I mean, I just don't know where you are going with this. I mean, whether it was right or wrong, it doesn't matter. And his opinion, he's not an expert."

Robert Joel Broussard, an employee of the Caddo Parish Coroner in 2022, authenticated photographs of Young taken after his death, which were entered into evidence without objection.

Dr. Jonathan Eaton, an employee of LSU Health Sciences Center who treated Young in the hospital after the attack, testified Young was admitted with bilateral subdural brain hematomas, which caused compression on the brain tissue when they continued to expand. Dr. Eaton testified surgical

intervention to relieve the pressure on Young's brain was attempted, but the bilateral craniotomies performed were ultimately unsuccessful.

Dr. James Traylor performed Young's autopsy. He was accepted as an expert in forensic pathology without objection. Dr. Traylor testified the manner of death in Young's case was homicide, and the cause of death was blunt force closed head injury. He testified Young had injuries to both sides of his skull, with more hemorrhage on the left side of his skull than the right, and he testified repeated head trauma could cause the level of brain swelling seen in Young's case. He also stated the laceration on the right side of Young's face was not the result of repetitious head trauma like what caused the brain swelling Young experienced. Dr. Traylor's autopsy report was entered into evidence without objection.

Brandon Davenport, a police officer with Shreveport Police Department ("SPD") in June 2022, testified he arrested Adaway on June 3 at the Food Mart for entry and remaining after being forbidden and simple assault. Though he arrested him in part for making threats of violence to employees of the Food Mart, Ofc. Davenport testified Adaway was compliant with his commands and did not resist arrest.

Symphany Mays, a jailer at Shreveport City Jail, was the booking officer on the night of the incident. Mays testified while Adaway expressed to her he did not want to go into the cell with Young, he was nevertheless cooperative and followed her commands. Almost immediately after placing him in the group cell with Young, Mays heard a loud noise, and she looked into the cell to see Adaway attacking Young. She went to main control and relieved another jail employee, Jonah Johnson, who responded to the intake cell. When asked why she went to get Johnson, Mays stated typically male

employees responded to incidents involving male inmates. She testified placing Adaway and Young in the same cell did not violate any of the city jail's policies.

Johnson testified he was working as a jailer on June 3, when Mays came to relieve him in main control so he could respond to an incident in the group intake cell. Johnson stated Adaway was striking Young repeatedly, but when Johnson told him to come out of the cell, Adaway complied. Johnson cuffed Adaway and secured him in another cell before returning to tend to Young. He then called EMS, who transported Young to the hospital. When asked why he secured Adaway before checking on Young, Johnson stated because Adaway posed a physical threat, he had to be secured before Young's condition could be assessed.

Taurin Wallace, Young's son, testified he saw his father the day before he was hospitalized; his father's physical appearance was normal, as was their conversation. A photograph of Young taken prior to the beating was entered into evidence without objection.

Young's normal physical and mental condition prior to the attack was confirmed by SPD Detective Jeremy Blanchard, the lead investigator. Det. Blanchard testified he first encountered Young at his residence shortly after 6:00 a.m. on June 3, just prior to his arrest by narcotics officers. Det. Blanchard said Young appeared to be physically and mentally healthy at the time of his arrest. Det. Blanchard testified when Young was attacked by Adaway, who used his right hand to punch Young repeatedly on the left side of his head, Young's arms were inside his shirt. Det. Blanchard said the left side of Young's face sustained most of the trauma, but pointed out every

time Adaway punched Young in the left side of his face, the right side of Young's head hit the wall or steel bench.

On cross-examination, Det. Blanchard acknowledged the jail's policy dictated inmates were to be moved out of intake within 30 minutes of being booked, if at all possible. He also confirmed Young was booked into the city jail at approximately 7:30 a.m., and remained in the intake cell until he was attacked by Adaway at around 12:40 p.m. On redirect, Det. Blanchard confirmed his investigation of Young's homicide revealed the only head trauma sustained by Young was caused by Adaway; no other source of head trauma was discovered.

After the state rested, the defense chose to present no evidence. At closing, the state argued the evidence presented showed Adaway intended to kill or inflict great bodily harm upon Young, while the defense waived its closing arguments and submitted to the jury on the evidence adduced at trial. Neither side objected to the jury charges, and the jury found Adaway guilty of second degree murder.

Prior to sentencing, the court denied motions for new trial and post-verdict judgment of acquittal, both of which argued the state presented insufficient evidence to sustain a conviction for second degree murder. The defense objected to those denials. The trial court imposed the mandatory sentence of life in prison at hard labor without the benefit of probation, parole, or suspension of sentence, to which the defense objected. This appeal followed.

DISCUSSION

Adaway argues the trial court's commentary as to the admissibility and relevance of the allegations contained within the civil petition, as well as

its rulings on some of the defense's questions on cross-examination, were impermissible under La. C. Cr. P. art. 772. The language used by the trial court, he argues, was so prejudicial, the jury could not remain impartial. Adaway contends lack of causation and lack of a specific intent to kill or inflict great bodily harm were legitimate defenses he intended to raise before the trial court. He argues the city jail employees' failure to act and follow policy caused Young's death, but argues when the trial court deemed the contents of civil petition irrelevant and "mocked" his proposed causation defense, he was prevented from presenting it. This eased the state's burden to prove Young's death was the result of Adaway's conduct. The allegations contained in the Young family's civil petition were critical to proving those defenses and refuting the state's theory of causation, and the trial court erred in finding the unproven allegations were irrelevant to his defense. The trial court also erred in finding the allegations in the civil petition inadmissible as hearsay.

Additionally, Adaway argues when the trial court prevented him from presenting a defense, it also rendered him unable to make a claim of insufficient evidence to this court on appeal. Despite this argument, Adaway challenges the sufficiency of the evidence presented, arguing his conviction can be upheld only if evidence suggests no other cause of death which cannot be attributed to his own conduct, and claiming the state failed to prove he caused Young's death beyond a reasonable doubt. Any injuries he may have caused were nonfatal and treatable until the jailers' negligence intervened. The delay in Young's treatment, caused by the jail employees' failure to act in accordance with policy, exacerbated Young's brain swelling and ultimately caused his death.

As to the lack of objections made to preserve the issues he now places before this court for appeal, Adaway contends his counsel's failure to object to the trial court's evidentiary rulings, which include biased comments regarding the evidence at issue, does not prevent this court from considering his arguments on appeal.

We agree with the state's argument: when he failed to raise contemporaneous objections to the trial court's evidentiary rulings or file a motion for mistrial, Adaway failed to preserve for appeal any and all of the issues he raised in his brief. A contemporaneous objection is necessary to preserve an error for appellate review. La. C. Cr. P. art. 841; *State v. Ford*, 55,482 (La. App. 2 Cir. 7/17/24), 399 So. 3d 61. There are two purposes to the contemporaneous error rule: to put the trial court on notice of the alleged irregularity or error so that the court can cure the error, and to prevent a party from taking a chance on a favorable outcome and then appealing when the outcome is not as hoped and urging an error that easily could have been addressed by an objection. *State v. Santiago*, 23-00501, p. 5 (La. 5/10/24), 384 So. 3d 879, 882; *State v. Lanclos*, 07-0082, p. 6 (La. 4/8/08), 980 So. 2d 643, 648. While there are some exceptions for errors patent, those exceptions are inapplicable to this case.

Even if the issues Adaway presents for this court's review had been properly preserved for appeal, there is no support in the record to show the trial court abused its discretion and violated his constitutional right to present a defense.

Adaway argued the allegations contained in the civil petition filed by Young's family were erroneously excluded as irrelevant. To be admissible, evidence a party is seeking to introduce must be relevant to an issue material

in the case. A material issue is one which is of consequence or importance to the case. Relevant evidence is that tending to show the commission of the offense and the intent, or tending to negate the commission of the offense and the intent. La. C.E. arts. 401, 402. A trial judge's determination of the relevancy of testimony is afforded great weight and will not be disturbed absent an abuse of discretion. *State v. Dyas*, 53,597 (La. App. 2 Cir. 1/13/21), 309 So. 3d 955, *writ denied*, 21-00256 (La. 5/4/21), 315 So. 3d 222.

The Young family's unproven allegations as to what caused the death of their family member do not tend to show whether Adaway's actions resulted in Young's death, nor do those unproven allegations disprove any of the evidence offered by the state. As such, we cannot find any support for Adaway's argument the trial court abused its discretion in finding the unproven allegations contained in the civil petition irrelevant to the jury's determination of Adaway's guilt or innocence.

Adaway's argument the trial court erred in determining the allegations in the civil petition were hearsay is similarly flawed. Hearsay is defined as a statement, other than one made by the declarant while testifying at the present trial or hearing, offered in evidence to prove the truth of the matter asserted. La. C.E. art. 801(C). While there are several exceptions to the hearsay rule, a civil petition for damages and the unproven allegations contained therein plainly meet the definition for hearsay, and they do not fit within any of the exceptions to hearsay rule set out in La. C.E. art. 803.

Similarly, there is no support in the record for Adaway's claim the trial court's "commentary" following its evidentiary rulings violated La. C. Cr. P. art. 772, which he claims prevented him from presenting a defense to

the state's theory of causation. La. C. Cr. P. art. 772, often referred to as the "no-judge-comment rule," prohibits a judge in the presence of the jury from commenting upon the facts of the case, either by commenting upon or recapitulating the evidence, repeating the testimony of any witness, or giving an opinion as to what has been proved, not proved, or refuted. The purpose of the no-judge-comment rule is to safeguard the role of the jury as the sole judge of the facts on the issue of guilt or innocence. *State v. Broome*, 49,004 (La. App. 2 Cir. 4/9/14), 136 So. 3d 979, *writ denied*, 14-0990 (La. 1/16/15), 157 So. 3d 1127. La. C. Cr. P. art. 772 is not applicable to the trial judge's reasons for ruling on objections relating to the admission or exclusion of evidence, provided the judge's remarks are not unfair or prejudicial to defendant. If a trial judge's remarks appear to be a permissible explanation in support of a ruling on the admissibility of evidence, then those remarks are not prohibited. *State v. Nightengale*, 35,805 (La. App. 2 Cir. 5/8/02), 818 So. 2d 819, *writ denied*, 02-1685 (La. 12/19/02), 833 So. 2d 329.

A thorough review of the trial transcripts reveals no judicial commentary in violation of La. C. Cr. P. art. 772. While the trial court did deem the contents of the Young family's civil petition "completely irrelevant," those comments were limited to rulings on the admissibility of the allegations contained within the civil petition and objections to certain questions asked by counsel. The trial court did not comment upon the facts of the case. The trial court did not "mock" any defenses or prevent Adaway from developing legitimate defenses. Adaway was not prohibited from challenging the expert testimony given as to the cause and manner of Young's death, nor was he prohibited from cross-examining the state's experts or presenting competing expert testimony. The trial court made

appropriate rulings on whether select pieces of proposed evidence were admissible; those rulings placed no prohibition on Adaway presenting a defense challenging causation. Any argument to the contrary lacks merit and ignores the transcripts contained in this record.

As to Adaway's argument the state failed to prove he was guilty of second degree murder, we find the evidence presented overwhelmingly supports the jury's unanimous verdict. Surveillance showed Adaway entering the intake cell and intentionally striking Young in the head at least 12 times with no apparent provocation. Each time Adaway struck the left side of Young's head, the right side of Young's head appeared to hit the wall or the metal bench. Young was taken to the hospital almost immediately, and within hours was unconscious due to brain swelling. Expert testimony established Young died due to repeated blunt force trauma to his head, which caused bleeding and extreme swelling on both sides of his brain. Adaway offered no evidence to rebut any of the state's evidence, nor did he object to any of the state's witnesses or exhibits.

While Adaway may or may not have intended to kill Young, specific intent to kill is not required for a second degree murder conviction; intent to inflict great bodily harm upon the victim is sufficient for a conviction. Based on the evidence presented, there can be no doubt Adaway intended to inflict great bodily harm upon Young when he punched him in the head no less than 12 times in quick succession. As such, we find Adaway's implied claim of insufficient evidence lacks merit.

While Adaway does not challenge his sentence, we note second degree murder carries a mandatory sentence of life in prison at hard labor without the benefit of parole, probation, or suspension of sentence. Finding

nothing in the record so mitigating as to warrant a downward deviation from this required life sentence, we affirm Adaway's mandatory life sentence.

CONCLUSION

The conviction and sentence of Andrew Adaway are affirmed.

AFFIRMED.