

**STATE OF LOUISIANA
COURT OF APPEAL, THIRD CIRCUIT**

22-665

STATE OF LOUISIANA

VERSUS

KAYLA JEAN GILES COUTEE

APPEAL FROM THE
NINTH JUDICIAL DISTRICT COURT
PARISH OF RAPIDES, NO. 345,209
HONORABLE GREG BEARD, DISTRICT JUDGE

**SHANNON J. GREMILLION
JUDGE**

Court composed of Shannon J. Gremillion, Van H. Kyzar, and Sharon Darville Wilson, Judges.

CONVICTION AND SENTENCE AFFIRMED.

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GREMILLION, Judge.

This matter comes before the court on remand from the Louisiana Supreme Court to consider whether the evidence sufficiently supports Defendant's conviction for obstruction of justice and, if so, whether her thirty-year sentence is excessive. *State v. Coutee*, 23-1549 (La. 6/27/25), 413 So.3d 408. For the reasons that follow, we affirm Defendant's conviction and sentence.

FACTS

On September 8, 2018, Defendant shot her estranged husband during a child custody exchange in the parking lot of a Wal-Mart in Alexandria, Louisiana. After the shooting, Defendant remained at the scene and spoke with the police. She was taken into custody and gave a recorded statement in which she expressed that she was in fear for her life when she shot her ex-husband.

Approximately two weeks before the shooting, Defendant had taken her laptop in a flower-print bag to her sister, Jessica Austin, at Ms. Austin's workplace. Defendant texted her sister that she was going to retrieve the laptop on September 7, 2018. Ms. Austin testified that she was supposed to bring the laptop to Defendant, but she forgot to do so.

After her arrest, Defendant made calls from the jail. Among them was a call to Ms. Austin, during which Ms. Austin asked Defendant if someone could take "the flowered thing" from her. Defendant told Ms. Austin that no one was searching for it and that "it doesn't exist." Ms. Austin told Defendant she was worried about herself, and Defendant told her, "Give it to Jennifer. Give it to Jennifer."

Ms. Austin passed the computer to Defendant's friend, Jennifer Dennis, who resided in Ouachita Parish. Defendant did not ask Ms. Austin or Ms. Dennis to damage the computer or delete files from it. Ms. Dennis testified that she never

deleted anything from the laptop and simply used it to manage e-mails and banking matters for Defendant.

During their investigation, the police became aware of the existence of the laptop. Detective Curtis Gunter of the Rapides Parish Sheriff's Office obtained the laptop, from which he retrieved a self-defense insurance contract dated September 1, 2018; research on self-defense law dated September 4, 2018; a "Notice of Intent to Relocate with Child," created on September 4, 2018; and an August 2018 message from Defendant stating that she might make the news and might need a fundraiser for bail money. This message also stated that Defendant had deleted her social media accounts.

Defendant was indicted for second degree murder, a violation of La.R.S. 14:30.1, and obstruction of justice, a violation of La.R.S. 14:130.1. A jury convicted Defendant on both charges. This court affirmed Defendant's convictions and her life sentence for second degree murder and thirty-year sentence for obstruction of justice. *State v. Coutee*, 22-665 (La.App. 3 Cir. 10/25/23), 373 So.3d 486. Defendant sought writs, and the Louisiana Supreme Court reversed. *Coutee*, 413 So.3d 408.

The supreme court found that a jury instruction on the aggressor doctrine was not warranted by the evidence and that Defendant was entitled to a presumption that she reasonably believed that deadly force was necessary to prevent Thomas from unlawfully entering her vehicle, pursuant to La.R.S. 14:20(A)(4)(a) and (B). Defendant's conviction for second degree murder was vacated. The supreme court also remanded the matter to this court, finding that this court did not analyze Defendant's assignment of error urging that the evidence was insufficient to support her conviction on the charge of obstruction of justice. We were further ordered to

reconsider the “unaddressed assignment of error that the 30-year sentence was excessive.” *Coutee*, 413 So.3d at 414.

ANALYSIS

Sufficiency of the Evidence

In reviewing the sufficiency of the evidence, this court must determine “whether, viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime proven beyond a reasonable doubt.” *State v. Kennerson*, 96-1518, p. 5 (La.App. 3 Cir. 5/7/97), 695 So.2d 1367, 1371. At the time of the offense, La.R.S. 14:130.1(A) provided in pertinent part:

The crime of obstruction of justice is any of the following when committed with the knowledge that such act has, reasonably may, or will affect an actual or potential present, past, or future criminal proceeding as described in this Section:

(1) Tampering with evidence with the specific intent of distorting the results of any criminal investigation or proceeding which may reasonably prove relevant to a criminal investigation or proceeding. Tampering with evidence shall include the intentional alteration, movement, removal, or addition of any object or substance either:

(a) At the location of any incident which the perpetrator knows or has good reason to believe will be the subject of any investigation by state, local, or United States law enforcement officers; or

(b) At the location of storage, transfer, or place of review of any such evidence.

In addition to evidence proving the facts stated above, the State introduced audio exhibit S-27, which contains a set of recordings of telephone calls that Defendant made from jail. One conversation between Defendant and her sister suggested that Defendant wanted to keep the laptop concealed. When Ms. Austin expressed a desire to get the laptop “away from me,” Defendant told her the police

were not searching for it and “it doesn’t exist.” Later, Defendant told Ms. Austin to “give it to Jennifer” but to be sure to tell anyone asking her questions that Jennifer “had nothing to say.”

Defendant suggests in brief that there are innocent explanations for the gun-related documents found on the laptop. Researching self-defense law and insurance could be the logical actions of a responsible gun owner. However, the dates associated with documents at issue, so close to September 18, the date of the shooting, could reasonably and logically suggest planning on Defendant’s part.

Also, the record contained allegations that Defendant had misused funds from the victim’s account before his death. Pursuant to the divorce process, a civil court had ordered a hearing on the victim’s motion for new trial and his claims for reimbursement of funds allegedly owed. Defendant received service of the motion the day before the shooting. More strongly, there was the uncontested fact that Defendant shot and killed her estranged husband. With all this information before it, the jury could rationally have concluded that the self-defense-related documents on Defendant’s laptop signified sinister intent, that she did not want investigators to find the documents, and that she tried to conceal the laptop by having her sister and her friend keep it.

Viewed in the light most favorable to the prosecution, the evidence shows that Defendant tried to conceal evidence of premeditation in a case in which she claimed self-defense. Defendant’s challenge to her conviction for obstruction of justice lacks merit.

Excessive Sentence

We addressed Defendant's claim that the thirty-year sentence was excessive in *Coutee*, 373 So.3d at 501–03, wherein we quoted the trial court's discussion at sentencing in which it discussed the factors it considered:

As for the nature of the offender, the district court considered a number of aggravating and mitigating factors:

For second degree murder when there is a mandatory sentence, one that is legally required to be imposed, the Court need not justify the sentence under Louisiana Code of Criminal Procedure Article 894.1 for aggravating and mitigating circumstances. However, for the obstruction of justice, the Court must take into consideration the mitigating and aggravating circumstances in the sentencing guidelines which are under Article 894.1(A). When a defendant has been convicted of a felony or misdemeanor, the court should impose a sentence of imprisonment if any of the following occurs: (1) There is an undue risk that during the period of a suspended sentence or probation the defendant will commit another crime. This is the finding of the Court. (2) The defendant is in need of correctional treatment or a custodial environment that can be provided most effectively by her commitment to an institution. This is a finding of the Court. (3) A lesser sentence will deprecate the seriousness of the defendant's crime. This is a finding of the Court. The aggravating and mitigating factors. This Court has looked at the aggravating factors contained in Article 941.1(B) and finds these to be applicable in this case: Number four (4) the offender used her position or status to facilitate a commission of an offense, that being she's asking her sister to hide an important piece of evidence, that being the computer. Eight (8), the offender committed the offense in order to facilitate or conceal the commission of another offense. That again, hiding the computer. Actually, the defense's Sentencing Memorandum refers that, agreeing to this factor as aggravation. Number eleven (11), the offense involved multiple incidents for which separate sentences have not been imposed. Here there is a murder sentence and then there will be an obstruction of justice sentence. Number twenty-one (21), any other relevant aggravating circumstances which would serve for a more severe sentence. In February twenty-twenty, the Court granted permission to the defendant to leave the State of Louisiana to visit her son and his father in

Oklahoma. This permission did not include visiting one of her daughters in Oklahoma. At a bond revocation hearing, the Court found that this was made under a false pretense and for possibility to intimidate her daughter, the witness who testified in trial. For this, the defendant was sentenced to thirty days in jail. Again, even though the defendant did not have a criminal record prior to her incarceration in this matter, she has since been arrested for alleged crimes for identity theft, government benefits fraud, criminal conspiracy, and money laundering, all yet to be prosecuted in East Baton Rouge Parish. These all being considered aggravating circumstances. Also the Court has to look to the mitigating factors contained in Article 941.1(B) and finds the following to be applicable to the conviction of obstruction of justice. Defense Sentencing Memorandum refers to number twenty-two (22), the defendant's criminal conduct neither caused nor threatened serious harm. These deal with Kayla and her sister's conversations. Twenty-three (23), the defendant did not contemplate that her criminal conduct would cause or threaten serious harm. Twenty-nine (29), the defendant's criminal conduct was the result of circumstances unlikely to recur. Most likely that if the defendant is sentenced to life imprisonment, this could possibly not reoccur again. The defendant is particularly likely to respond affirmatively to probationary treatment. With a life sentence, there is no possibility of a probation treatment. The imprisonment of the defendant would entail excessive hardship to herself or her dependents. That, the Court could possibly find given that she has small children that she was taking care of. Any other relevant mitigation circumstances for a less severe sentence. The defendant had a good work history. Employed by the federal government through the Veteran's Administration and even at one time with the Social Security Administration. The defendant has lived an almost completely law abiding life but for the expunged burglary charge in the past. Other mitigating circumstance is that the defendant has been responsible to her family obligations, has taken care of her children. The defendant's military record. Three years of active duty service. Army Reserves. Honorable discharge. The Court finds that those are mitigating in this matter.

In *State v. Harvey*, 21-730 (La.App. 4 Cir. 5/25/22), 345 So.3d 1043, *writ denied*, 22-953 (La. 9/20/22), 346 So.3d 803, the defendant was convicted of aggravated battery as a result of voluntarily firing a gun in the victim's direction,

acquitted of second degree murder of a second victim, and convicted of obstruction of justice for disposing of the gun. For the obstruction of justice conviction, defendant was sentenced to forty years. This sentence withstood Eighth Amendment and Article 1, § 20 challenges:

“The excessiveness of a sentence is a question of law, and a reviewing court will not set aside a sentence [for excessiveness] absent a manifest abuse of discretion by the trial [judge].” *State v. Alridge*, 17-0231, p. 39 (La. App. 4 Cir. 5/23/18), 249 So.3d 260, 288 (citation omitted). “The trial judge is afforded wide discretion in determining sentences, and the court of appeal will not set aside a sentence for excessiveness if the record supports the sentence imposed.” *State v. Bradley*, 18-0734, p. 8 (La. App. 4 Cir. 5/15/19), 272 So.3d 94, 99-100 (quoting *State v. Williams*, 15-0866, pp. 12-13 (La. App. 4 Cir. 1/20/16), 186 So.3d 242, 250). A sentence within the applicable statutory range can amount to unconstitutional excessiveness if the reviewing court determines that the sentence does not serve to complete the acceptable goals of punishment, constitutes purposeful imposition of pain and suffering, and is disproportionate to the severity of the offense committed. See *State v. Kennon*, 19-0998, p. 10 (La. 9/1/20), 340 So.3d 881, 887-88 (citing *State v. Dorthey*, 623 So.2d 1276, 1280 (La. 1993); *State v. Johnson*, 97-1906 (La. 3/4/98), 709 So.2d 672, 674). Thus, “[t]he relevant question is whether the trial court abused its broad sentencing discretion, not whether another sentence might have been more appropriate.” *State v. Mathieu*, 18-964, p. 4 (La. App. 3 Cir. 11/6/19), 283 So.3d 1041, 1045 (citing *State v. Cook*, 95-2784, p. 3 (La. 5/31/96), 674 So.2d 957, 959).

In the case *sub judice*, after reviewing the record and applicable law, we find that based on the egregious nature of the underlying crime and the steps taken by Defendant in an attempt to thwart the NOPD’s investigation, the district court did not abuse its broad sentencing discretion in imposing the maximum sentence for obstruction of justice.

Id. at 1053 (alteration in original). The *Harvey* court cited *State v. Duckett*, 19-319 (La.App. 4 Cir. 12/18/19), 288 So.3d 167, *writ denied*, 20-135 (La. 7/24/20), 299 So.3d 73, in which the defendant was convicted of obstruction of justice for blaming someone else for two murders when that person was incarcerated at the time of the offenses and could not possibly have committed them. The court upheld that defendant’s maximum sentence.

In *Coutee*, 373 So.3d at 503–04, we further noted:

Defendant cites *State v. Yelverton*, 12-745 (La. App. 5 Cir. 2/21/13), 156 So.3d 53, *writ denied*, 13-629 (La. 10/11/13), 123 So.3d 1217, in which the defendant received a forty-year sentence for manslaughter and a consecutive sentence of ten years for obstruction of justice; and *State v. Ray*, 10-1126 (La.App. 4 Cir. 6/29/11), 70 So.3d 998, in which the defendant received thirty years for manslaughter and twenty years for obstruction. She also cites the obstruction sentence in *State v. King*, 11-767 (La.App. 5 Cir. 2/28/12), 88 So.3d 1147, *writ denied*, 12-660 (La. 9/14/12), 99 So.3d 35, but it does not appear that Defendant raised an excessiveness claim in that case.

Defendant also surveys three cases cited by the district court: *State v. Dungan*, 54,031 (La.App. 2 Cir. 9/22/21), 327 So.3d 634, *writ denied*, 21-1679 (La. 1/26/22), 332 So.3d 82; *State v. Calloway*, 19-335 (La.App. 5 Cir. 12/30/19), 286 So.3d 1275, *writ denied*, 20-266 (La. 7/24/20), 299 So.3d 69; and *State v. Cawthorne*, 18-155 (La.App. 3 Cir. 10/3/18), 257 So.3d 717, *writ denied*, 18-1899 (La. 4/8/19), 267 So.3d 607. The State also discusses *Calloway* and *Cawthorne*.

The sentence in *Dungan* resulted from a plea bargain and is not instructive.

In *Calloway*, the defendant was convicted of second degree murder and obstruction of justice from a 2016 homicide in Jefferson Parish. A burned vehicle from which all four wheels had been removed was located in Lafourche Parish and was identified as belonging to the Jefferson Parish victim. Investigators found a black muscle shirt and a RaceTrac drink cup in the vehicle. Surveillance video from a RaceTrac in Houma, Louisiana, where the defendant lived, showed the defendant wearing the shirt and holding a drink cup. A search of the defendant's home recovered a gas can and lug nuts of the same size as the burned car. The defendant's girlfriend pleaded guilty to manslaughter in exchange for her testimony, which indicated that the defendant burned the vehicle to erase evidence of his involvement in the crime. Even though the murder and obstruction of justice arose from the same act or transaction, the trial court ordered the life sentence and the forty-year sentence for obstruction of justice to be served consecutively. The court of appeal affirmed the sentences and the consecutive service based upon the nature of the crimes. Given that the defendant had been sentenced to life, the imposition of a forty-year sentence for obstruction to be served consecutively had no practical effect, and "a remand for resentencing would be 'an academic exercise which has no practical benefit to anyone.'" *Calloway*, 286 So.3d at 1280 (quoting *State v. Funes*, 11-120 (La. App. 5 Cir. 12/28/11), 88 So.3d 490, 510, *writ denied*, 12-290 (La. 5/25/12), 90 So.3d 408).

The eighteen-year-old defendant in *Cawthorne* also burned his murder victim's car after ambushing the victim in his own home, tying and duck taping the victim's hands and feet, and shooting the victim. The defendant then robbed the victim's home of a safe using one of the victim's vehicles, which he burned along with the various tools and clothing used in the robbery after retrieving gold coins and paperwork from the safe. The safe was dumped in a river. The defendant was convicted of second degree murder and obstruction of justice. He was sentenced to life imprisonment for murder and the maximum of forty years for obstruction of justice. The trial court justified its sentence on the nature and severity of the offence and the defendant's refusal to admit any fault. The sentences were upheld.

In *Yelverton*, the defendant shot his victim with no provocation, left the victim in the street to die, disposed of evidence, and cleaned the car in which the victim had been shot. A jury convicted the defendant of manslaughter and obstruction of justice. He was sentenced to forty years at hard labor for manslaughter and ten years for obstruction of justice, to be served consecutively. On appeal, the defendant maintained that the sentences were excessive. The trial court determined that the murder and obstruction were two separate acts; therefore, it imposed consecutive sentences. The fifth circuit found that this did not represent an abuse of the trial court's discretion.

In the present matter, Defendant turned her laptop over to her sister for keeping before the shooting. After the shooting, Defendant's sister told her she was uncomfortable keeping it, and Defendant told her to give it to Ms. Dennis. The secreting of the laptop formed the basis of the charge of obstruction of justice. Without evidence procured from that laptop, the State would have been hampered significantly in investigating and prosecuting the case.

We affirmed the sentence because it was warranted by the totality of the circumstances. *Id.*

Louisiana Revised Statutes 14:130.1(B) provides, in pertinent part:

Whoever commits the crime of obstruction of justice shall be subject to the following penalties:

(1) When the obstruction of justice involves a criminal proceeding in which a sentence of death or life imprisonment may be imposed, the offender shall be fined not more than one hundred thousand dollars, imprisoned for not more than forty years at hard labor, or both.

Because Defendant was tried for second degree murder and obstruction of justice, her trial involved a criminal proceeding in which life imprisonment was mandated. *See* La.R.S. 14:30.1(B). She faced the possibility of serving forty years for obstruction of justice. When a sentence falls within the statutory sentencing range, the sentence is reviewed for constitutional excessiveness. *State v. Sepulvado*, 367 So.2d 762 (La.1979). Thus, “the reviewing court must find the penalty so grossly disproportionate to the severity of the crime as to shock our sense of justice or that the sentence makes no measurable contribution to acceptable penal goals and is, therefore, nothing more than a needless imposition of pain and suffering.” *State v. Barling*, 00-1241, p. 12 (La.App. 3 Cir. 1/31/01), 779 So.2d 1035, 1042, *writ denied*, 01-838 (La. 2/1/02), 808 So.2d 331. We find that the sentence does not shock one’s sense of justice. The trial court exhaustively enumerated each factor it considered in rendering its sentence. Those factors are persuasive. Thus, for the reasons stated in *State v. Coutee*, 22-665 (La.App. 3 Cir. 10/25/23), 373 So.3d 486, *rev’d. on other grounds*, 23-1549 (La. 6/27/25), 413 So.3d 408, we affirm Defendant’s sentence.

CONVICTION AND SENTENCE AFFIRMED.