STATE OF LOUISIANA
COURT OF APPEAL, THIRD CIRCUIT

25-341

STATE OF LOUISIANA

VERSUS

RON CLEON JOHNSON

****

APPEAL FROM THE
TENTH JUDICIAL DISTRICT COURT
PARISH OF NATCHITOCHES, NUMBER C32761
HONORABLE DESIREE DYESS DUHON, DISTRICT JUDGE

****

SHARON DARVILLE WILSON
JUDGE

****

Court composed of Sharon Darville Wilson, Charles G. Fitzgerald, and Clayton Davis, Judges.

AFFIRMED.

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WILSON, Judge.

Defendant, Ron Cleon Johnson, was convicted by a jury of three counts of violation of a protective order, second offense. The trial court originally sentenced Mr. Johnson to consecutive sentences of two years in the Department of Corrections without benefits on each count. Subsequently, the trial court adjudicated Mr. Johnson a fourth habitual offender, vacated the original sentence and imposed a single sentence of twenty years. This court affirmed Mr. Johnson's convictions but vacated the habitual offender sentence as indeterminate, remanding the case for resentencing with instructions. *State v. Johnson*, 23-510 (La.App. 3 Cir. 3/27/24), 413 So.3d 1080, *writ denied*, 24-483 (La. 11/6/24); 395 So.3d 873. Mr. Johnson was resentenced to two years in the Department of Corrections without benefits and a fine of $1,000 on each of the first two counts, and twenty years at hard labor without benefits on count three, to run consecutively to counts one and two. Mr. Johnson now appeals. For the following reasons, we affirm the convictions and sentences.

I.

ISSUES

In his attorney-filed brief, Mr. Johnson asserts a single assignment of error:

> (1) the trial court erred imposing consecutive sentences for one offense. The three counts were only violated by the single act of a phone call, and consecutive sentences were excessive.

Additionally, in his pro-se filed brief, Mr. Johnson asserts the following assignments of error:

> (1) the trial court erred in imposing the twenty-year hard labor habitual offender sentence because the "no contact" bail order did not contain the name of the victim;

(2) the trial court erred in staying Defendant's motion to correct illegal sentence;

(3) the trial court erred when it allowed Defendant's former court appointed public defender to represent him at his resentencing;

(4) the trial court erred in denying Defendant's motion to quash his predicate convictions; and

(5) the trial court erred when it disobeyed this court's finding that the protective orders in counts one and two were improperly issued.

II.

FACTS AND PROCEDURAL HISTORY

Following three separate arrests, three protective orders were issued prohibiting Mr. Johnson from contacting Sabrina Johnson. On March 22, 2022, Mr. Johnson made a phone call from jail to Sabrina. All three protective orders were in effect at the time of this phone call. On November 15, 2022, Mr. Johnson was convicted of three counts of violation of a protective order, second offense, violations of La.R.S. 14:79(B)(2). Although the trial court originally sentenced Mr. Johnson to consecutive sentences of two years in DOC custody without benefits on each count, the trial court subsequently adjudicated Mr. Johnson a fourth habitual offender, vacated the original sentence, and imposed a single sentence of twenty years in DOC custody.

After sentencing, Mr. Johnson filed a pro se motion for concurrent sentences and a motion to vacate and set aside illegal sentence. The trial court denied both motions. Subsequently, Mr. Johnson filed a pro se motion for out of time appeal which was granted. He then filed a writ application seeking supervisory review of the denial of his motion to correct illegal sentence. The writ application and appeal were consolidated. This court vacated the habitual offender sentence as indeterminate, remanded the case for resentencing, and instructed the trial court to

specify which of the original sentences were vacated. This court further instructed the trial court that for each vacated sentence, the trial court was to impose a separate sentence and specify whether the sentence was being enhanced pursuant to the habitual offender adjudication. Additionally, the trial court was instructed that at least fourteen days of the sentences imposed upon Mr. Johnson, whether enhanced as a habitual offender or not, must be served without benefit of parole, probation, or suspension of sentence.

A hearing was held February 20, 2025, and the trial court repeated for the record the originally imposed sentences:

> Count one Violation of Protective Order, second offense, two years with the Louisiana Department of Corrections, all of which sentence be served without benefit of probation, parole or suspension of sentence and a $1,000 dollar fine and credit for time served. Count two, Violation of Protective Order, second offense, two years with the Louisiana Department of Corrections, all of which sentences to be served without benefit of probation, parole or suspension of sentence and a $1,000 dollar fine. This sentence is to run consecutive with count one. And count three, Violation of Protective Order, second offense, two years with the Louisiana Department of Corrections, all of which is to be served without the benefit of probation, parole or suspension of sentence and a $1,000 dollar fine. This sentence is to run consecutively to count two.

The trial court also repeated that all the sentences were ordered to run consecutively to any other sentences being served by Mr. Johnson.

Noting that it had previously adjudicated Mr. Johnson a fourth habitual offender, the trial court asked the State which conviction it sought to enhance, and the State informed the trial court that it was seeking enhancement of count number three. The trial court vacated the sentence on count three and resentenced Mr. Johnson to an enhanced sentence of twenty years at hard labor, all of which was to be served without benefit of probation, parole, or suspension of sentence. The trial court ordered the sentence to run consecutively to the sentences on counts one and two. The trial court then reiterated the continued effectiveness of the protective

order prohibiting Mr. Johnson from contacting Sabrina Johnson in any manner for the duration of the sentences imposed.

Defense counsel objected to the excessiveness of the sentence and to it running consecutively, noting that he thought "it should run concurrent or be a flat 20." The trial court gave reasons for imposing consecutive sentences and noted the objection for the record. The trial court also filed Written Reasons for Habitual Offender Re-Sentencing. On March 7, 2025, Mr. Johnson filed a pro se motion to reconsider sentence which the trial court denied. On March 5, 2025, Mr. Johnson filed a pro se Notice of Intent to Apply For and to Seek Supervisory Writ of Review, which the trial court treated as a request to appeal his habitual offender resentencing and granted.

III.

LAW AND DISCUSSION

ERRORS PATENT

In accordance with La.Code Crim.P. art. 920, all appeals are reviewed for errors patent on the face of the record. After reviewing the record, we find no errors patent.

COUNSEL FILED ASSIGNMENT OF ERROR

In his sole assignment of error, Mr. Johnson's counsel contends the trial court erred in imposing consecutive sentences when the three counts for which Mr. Johnson was convicted were violated by the single act of a phone call. Louisiana Code of Criminal Procedure Article 883 provides, in relevant part, that "[i]f 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." In *State v. Walker*, 00-3200, p.1 (La. 10/12/01), 799 So.2d 461, 461–62, the supreme court noted:

> Although La.C.Cr.P. art. 883 favors imposition of concurrent sentences for crimes committed as part of the same transaction or series of transactions, a trial court retains the discretion to impose consecutive penalties in cases in which the offender's past criminality or other circumstances in his background or in the commission of the crimes justify treating him as a grave risk to the safety of the community.

"[C]onsecutive sentences are not prohibited; rather, the trial court must specifically justify its imposition of consecutive sentences." *State v. Massey*, 08-839, p. 6 (La.App. 3 Cir. 12/10/08), 999 So.2d 343, 348. "The factors to consider when imposing consecutive sentences include defendant's criminal record, the severity or violent nature of the offenses, or the danger the defendant poses to the public." *State v. Wallace*, 11-1258, p. 14 (La.App. 3 Cir. 5/30/12), 92 So.3d 592, 602, *writs denied*, 12-1861, 12-1865 (La. 3/8/13), 109 So.3d 355.

In the present case, the trial court stated the following regarding its decision to impose consecutive sentences:

> When I took a recess there was a question about the fact that the Court indicated that the sentence shall be served consecutively with the sentences previously imposed on counts one and two of this docket number. The Court reiterates that the sentence shall be served consecutively with the sentences previously imposed on counts one and two of this docket number. The Court finds that Mr. Ron Cleon Johnson poses an unusual and undue high risk to the public and public safety is [sic] previously stated. The Court also takes note of Code of Criminal Procedure article 883 and State versus Brown which is a Third Circuit case 299 Southern 3rd 661. It's Louisiana Appellate Third Circuit 617, 2020. Mr. Johnson has a prolific risk of criminal activity as previously stated in the criminal reasons on December 15th, 2022 sentencing. The collective term of imprisonment from his convictions alone amount to more years than the term of years Mr. Johnson has been alive. At that time, it was 65.25 years in criminal sentencing to a man at that time that was only 53 years old. The Court takes note that Mr. Johnson's considerable misdemeanor convictions are also considerable, and his considerable pending charges in Natchitoches Parish, as well as Rapides, and Caddo Parish. At the time of the sentencing hearing, the State of Louisiana had classified Mr. Johnson as a 10th felony offender, the designation heretofore unheard in this judicial district to the Court's understanding. That designation

> notwithstanding, and as underscored by the testimony adduced at the sentencing hearing, Mr. Johnson has been convicted of not less than 18 felonies in his criminal career, that Mr. Johnson has been on probation or good time parole approximately 16 times. Mr. Johnson has been given second chances multiple times. This Court is commanded to consider society's right to be protected from those who cause its member's [sic] harm. And again, I believe that he poses an unusual and undue high risk to public and public safety. The Court further has noted previously that Mr. Johnson has shown no sense of individual responsibility or the ability to follow court orders as exhibited by the repeated telephone calls made from jail to his victim and the incessant criminal activity, noting that the facts of the violation of the protective orders that were induced at trial and also made part of the original reasons for sentencing. Therefore, as I said, the sentence shall be served consecutively with the sentences previously imposed under counts one and two of this docket number.

At Mr. Johnson's initial sentencing proceeding, the trial court noted that Mr. Johnson had contacted Sabrina Johnson via cell phone "on 71 occasions while incarcerated . . . and while under active protective orders of protection against him for the benefit of Sabrina Johnson." The trial court stated that it had carefully reviewed the record and the Presentence Investigation (PSI) report for sentencing. At the initial sentencing hearing, the trial court summarized Mr. Johnson's criminal history as follows:

> This Court has taken notice and has weighed in its decision today your social history and your considerable prior criminal record, which includes multiple convictions on the following felonies covering multiple parishes in the state. Forgery, five convictions, some involving multiple counts. Unauthorized use of a credit card over $500, one conviction. Issuing worthless checks, five convictions. Felony grade theft, two convictions. Bank fraud, three convictions. Monetary instrument abuse, two convictions. On those convictions alone, you were sentenced to more years than you have been on this earth, a total of 65, and a quarter years of criminal sentences, and you are only 53 years old. This Court also notes your considerable misdemeanor convictions and your considerable pending charges in this parish, as well as Rapides and Caddo parishes. The State of Louisiana has classified you as a 10th felony offender, notwithstanding being convicted of no less than 22 times on felony charges.

As for the appropriateness of probation and parole, the trial court noted that Mr. Johnson had shown no appreciation for such privileges and had not learned to

refrain from criminal conduct. The trial court also noted that Mr. Johnson had no sense of individual responsibility and had actually blamed the victim in one of the recorded conversations played at trial. According to the trial court, the telephone recording was a "textbook example of manipulation of domestic violence victims by their abuser."

We find that the reasons articulated by the trial court at the resentencing as well as the record on appeal show that the trial court properly complied with La.Code Crim.P. art. 883 and gave sufficient, particularized reasons, beyond the standard sentencing guidelines, for its imposition of consecutive sentences. The trial court considered Mr. Johnson's extensive criminal history, his failure to be rehabilitated despite numerous periods of parole and probation, the unusual and undue risk he posed to the public's safety, his failure to take individual responsibility for his actions, and his failure to follow court orders. Considering the reasons articulated by the trial court in this case, we find that the trial court did not abuse its discretion by imposing consecutive sentences, and this assignment of error lacks merit.

PRO SE ASSIGNMENT OF ERROR NO. 1

In his first pro se assignment of error, Mr. Johnson contends the trial court erred in imposing the habitual offender sentence because the conviction was based on an invalid "no contact" order. Mr. Johnson claims the "no contact" order is invalid because it does not name a victim. Since Mr. Johnson's convictions have already been affirmed on appeal, this claim is not properly before this court. *Johnson*, 413 So.3d 1080.

PRO SE ASSIGNMENT OF ERROR NO. 2

In his second pro se assignment of error, Mr. Johnson contends the trial court erred in staying a motion to correct illegal sentence filed by him on June 11, 2025. Citing La.Code Crim.P. art. 916(3), Mr. Johnson claims the trial court retained

jurisdiction to correct an illegal sentence. In the motion, Mr. Johnson claimed his twenty-year sentence is illegal because this court found the protective orders in counts one and two were improperly issued. Mr. Johnson also alleged that his sentence was illegal because he was improperly represented by the court appointed public defender at his resentencing. Mr. Johnson claims that the trial court should have issued a signed written order appointing the Natchitoches Parish Public Defender's Office.

On June 12, 2025, the trial court stayed the motion until several matters pending in this court became final. Regardless of whether the trial court retained jurisdiction to rule on Mr. Johnson's motion, the trial court's stay of the motion is not an appealable judgment. According to La.Code Crim.P. art. 912(A), "[o]nly a final judgment or ruling is appealable." To seek review of other rulings, Mr. Johnson must file a supervisory writ application. La.Code Crim.P. art. 912(C)(1). Accordingly, this assignment of error is not properly before this court.

PRO SE ASSIGNMENT OF ERROR NO. 3

In his third pro se assignment of error, Mr. Johnson contends that the trial court erred by resentencing him when there was no court order appointing the attorney who represented him. As discussed in the previous assignment of error, this claim was raised in the motion to correct illegal sentence that was stayed by the trial court. Thus, for the same reasons discussed in Pro Se Assignment of Error No. 2, this claim is also not properly before this court.

PRO SE ASSIGNMENT OF ERROR NO. 4

In his fourth pro se assignment of error, Mr. Johnson claims the trial court erred in denying his pro se motion to quash the predicate convictions in his habitual offender bill. That motion alleged that two of his predicate convictions were improperly used since the minutes indicated he was not represented by counsel, and

the other predicate conviction was improperly used because it was improperly charged.

At the resentencing hearing, the trial court noted that Mr. Johnosn had filed a motion to quash on February 4, 2025. Noting that Mr. Johnson filed the motion pro se, defense counsel stated that he was willing to adopt the motion. Mr. Johnson's counsel further contended that because Mr. Johnson had not been sentenced, the trial court could hear the motion. The State disagreed, arguing the following:

> Your Honor, the State disagrees that this is not something that can be re-heard. Those grounds should have been alleged at the time we had the habitual offender bill of information and the hearing on that. The matter was then appealed both pro se and through indigent appellate counsel. None of the issues presented in the Motion to Quash were presented to the Third Circuit. And as such, they are precluded to be re-raised again. The Third Circuit simply remanded the matter with the instructions . . . . ["]The trial court is instructed to specify which of the original sentences were vacated. For each sentence that was vacated, the trial court is instructed to impose a separate sentence specifying whether the sentence is being enhanced pursuant to the habitual offender adjudication. Furthermore, the trial court is instructed that at least 14 days of the sentences imposed upon defendant, whether enhanced as an habitual offender or not, must be served without benefit of parole as well as benefit of probation or suspension of sentence." So, Your Honor, the State is asking that count three, that sentence be vacated and he be sentenced as an habitual offender under count three, Your Honor.

The trial court ruled as follows:

> So, with all that being said, the Court has read the Motion to Quash and researched it thoroughly. And the Court denies the motion, finding that all the substantive claims made have already been rejected by the Third Circuit Court of Appeal thoroughly on direct appeal or that you failed to raise such issues in your lengthy appellate process. All of your appeals have been exhausted and all judgments of all of your convictions have become final. I have in my hand the opinion of the Louisiana Third Circuit Court of Appeal denying your substantive claims as well as the dispositions of the Louisiana Supreme Court denying your appeal as well as your Motions for Reconsideration. The Third Circuit Court of Appeal states in the last paragraph of its 40-page opinion, "Considering the above, defendant's convictions are affirmed." Therefore, we are here today only on the order of remand for re-sentencing only. The Third Circuit order was direct, express, and explicit in its directions. All other claims are untimely and are already raised, waived, or rejected on appeal. Additionally, Louisiana Revised

> Statute title 15 section 529.1 the habitual offender law of this states [sic] that "The presumption of regularity of judgment shall be sufficient to meet the original burden of proof. If a person claims that any conviction alleged is invalid he should file a written response to the information." However, the time for you to have raised these issues was in 2023 and the appeals you pursued concluded and have become final.

In his initial appeal, Mr. Johnson did not allege any assigned errors as to his habitual offender adjudication. This court affirmed Mr. Johnson's convictions but found in its error patent review that his habitual offender sentence was indeterminate. This court vacated the sentence as indeterminate and remanded with specific resentencing instructions, none of which included re-adjudication of his habitual offender status. *Johnson*, 413 So.3d 1080. In a comparable resentencing situation, the supreme court found the trial court improperly revisited the defendant's habitual offender status:

> Given the post-conviction status of respondent's original application, filed many years after finality of his direct appeal in which he did *not* challenge his multiple offender adjudication and sentence, *State v. Daniels,* 473 So.2d 873 (La.App. 4th Cir.1985), *writ denied,* 478 So.2d 1233 (La.1985), respondent was not entitled to any relief based on his claim that the court erroneously enhanced both armed robbery counts when it adjudicated him an habitual offender. La.C.Cr.P. art. 930.3; *State ex rel. Melinie v. State,* 93-1380 (La.1/12/96), 665 So.2d 1172. However, because the state did not seek direct review in this Court of the Fourth Circuit's writ grant vacating respondent's adjudications and sentences as a multiple offender and ordering the court to resentence respondent on both counts, "with adjudication and sentencing as a habitual offender on only one count," *State v. Daniels,* 98-2367 (La.App. 4th Cir.11/13/98), --- So.2d ---- (unpub'd), the district court properly complied with that order and resentenced respondent. However, the court erred in holding a second hearing at which it required the state to prove defendant's multiple offender status on the basis of documents submitted at the initial multiple hearing conducted in 1984. The net effect of that proceeding was to grant respondent a windfall out-of-time appeal on sentencing issues he did not raise in his original direct appeal. Instead, the court of appeal's remand order required nothing more of the court than a ministerial correction of the record to indicate which count of armed robbery served as the predicate conviction for respondent's multiple offender adjudication, as the basis for resentencing respondent in accord with this Court's decision in *State ex rel. Porter v. Butler,* 573 So.2d 1106, 1109 (La.1991).

State v. Daniels, 00-3369, pp. 1–2 (La. 11/2/01), 800 So.2d 770, 771 (per curiam).

Likewise, this court finds that the only issue before the trial court on remand was resentencing Mr. Johnson pursuant to the instructions given by this court. Accordingly, the trial court properly denied the claims raised in Mr. Johnson's motion to quash as being improperly before the court.

Additionally, Mr. Johnson asserts the trial court failed to confirm whether he was a second, third, or fourth habitual offender when the case was remanded for resentencing. We note that the trial court specifically stated at the resentencing hearing that, for the same reasons stated at the original habitual offender hearing, Mr. Johnson was "hereby adjudicated as a fourth habitual offender."

For the foregoing reasons, we find that this assignment of error lacks merit.

PRO SE ASSIGNMENT OF ERROR NO. 5

In his final pro se assignment of error, Mr. Johnson contends the trial court ignored this court's finding that the protective orders in counts one and two were improperly issued. Mr. Johnson focuses on the language used by this court in resolving the writ application that was consolidated with his appeal. *State v. Johnson*, 23-368 (La.App. 3 Cir. 3/27/24) (unpublished opinion). In the writ application, Mr. Johnson sought review of the trial court's April 17, 2023 denial of his motion to correct illegal sentence. This court found that Mr. Johnson's motion was, in fact, an application for post-conviction relief. *Johnson*, 23-368, pp. 2–3. Since Mr. Johnson's motion for out-of-time appeal had already been granted, this court found that the trial court did not have jurisdiction to rule on his application for post-conviction relief. *Id.* at 3. For the sake of judicial economy, the panel denied one of Mr. Johnson's claims in his writ application for the reasons stated in this court's appellate opinion. *Id.* Mr. Johnson's other claim was that the trial court did not follow the proper procedure when it issued the protective orders in counts one

and two. Because the trial court had no jurisdiction to deny that claim, this court granted the writ application, in part, and remanded for the trial court to issue a ruling when it regained jurisdiction to do so.

Considering the above, Mr. Johnson's current claim that this court's "grant" of his writ application meant that this court found merit to his claim is a misinterpretation of this court's ruling. Accordingly, we find that this assignment of error lacks merit.

IV.

CONCLUSION

For the foregoing reasons, the convictions and sentences of Defendant, Ron Cleon Johnson, are affirmed.

AFFIRMED.