Supreme Court of Louisiana

FOR IMMEDIATE NEWS RELEASE NEWS RELEASE #051

FROM: CLERK OF SUPREME COURT OF LOUISIANA

The Opinions handed down on the **30th day of October, 2026** are as follows:

BY Griffin, J.:

2025-K-01019 STATE OF LOUISIANA VS. MARDEONTAE J. LEE (Parish of Washington)

REVERSED. SEE OPINION.

Weimer, C.J., concurs and assigns reasons.
McCallum, J., dissents in part for the reasons assigned by Justice Burris.
Cole, J., dissents in part for the reasons assigned by Justice Burris.
Burris, J., dissents in part and assigns reasons.

SUPREME COURT OF LOUISIANA

No. 2025-K-01019

STATE OF LOUISIANA

VS.

MARDEONTAE J. LEE

On Writ of Certiorari to the Court of Appeal, First Circuit, Parish of Washington

GRIFFIN, J.

We granted this writ to determine whether there was sufficient evidence to support the defendant's convictions. Finding the evidence insufficient for the crimes charged – or any statutorily authorized lesser included and responsive verdicts – we enter judgments of acquittal and remand to the trial court with instructions to discharge the defendant.

FACTS AND PROCEDURAL HISTORY

On June 3, 2020, Franklinton Police Department officers were dispatched to the home of Ms. Annie Grace, after Ms. Grace and her adult daughter saw two individuals on their home alert system. A minor was also in the home. The surveillance footage showed one male individual carrying a gas can and pouring gas onto the grass around the home. Another young man can be seen alongside the first individual. An officer approached the home and smelled gasoline and noticed a flicker of light near the driveway. He found a burnt paper bag. There was no damage to the home or any structure near it.

Officers received an anonymous tip that the second individual on the footage was a juvenile, R.M., whose interrogation led police to the defendant in this matter, Mardeontae Lee, as being the individual in the footage pouring the gasoline.

In a recorded statement, defendant admitted to pouring the gasoline and provided further details. Kadrick Thompson, who is R.M.'s older brother, told the

defendant that someone known to him as "Little Pokey" had paid them to burn Ms. Grace's home while she was inside. This plan was in retaliation for the recent murder of Little Pokey's mother, which had been committed by Ms. Grace's son. Thompson told the defendant that he had to follow through because Little Pokey had already paid Thompson. Defendant was never paid any money for the events. Thompson gave defendant gasoline the day before the incident. Defendant agreed to participate because he felt his life was under threat from Little Pokey and Thompson if he did not comply. Defendant admitted that he and Thompson were members of a gang, of which Thompson is the leader. He also admitted to lighting the paper bag. Defendant maintains that it was never his intent to kill anyone, but just to make it appear as though he tried in order to placate "Little Pokey" and Thompson and avoid being killed for refusing.

The defendant was charged by bill of information for one count of aggravated arson in violation of La. R.S. 14:51 and three counts of attempted first degree murder in violation of La. R.S. 14:30 and La. R.S. 14:27. He was found guilty on all counts. The defendant appealed his convictions to the First Circuit, which affirmed. *State v. Lee*, 24-468 (La. App. 1 Cir. 7/11/25), 2025 WL 1913565.

Defendant's writ application to this Court followed, which we granted. *State v. Lee*, 25-1019 (La. 3/3/26), 429 So. 3d 168.

DISCUSSION

The issue presented is whether there was sufficient evidence to convict the defendant of aggravated arson and attempted first degree murder. Under the Louisiana and Federal Due Process clauses, a reviewing court may reverse a conviction for insufficient evidence if it finds that no rational trier of fact, viewing the evidence in light most favorable to the prosecution, could have reached a guilty verdict. U.S. const. amend. XIV, *Jackson v. Virginia*, 443 U.S. 307 (1979); La. Const. art. I § 2; *State v. Captville*, 448 So. 2d 676, 678 (La. 1984); La. C. Cr.P. art.

821. Statutory interpretations are legal issues, to which *de novo* review applies. *Louisiana Mun. Ass'n v. State*, 04-227, p. 35 (La. 1/19/05), 893 So.2d 809, 836.

AGGRAVATED ARSON

The defendant first claims that there was insufficient evidence to convict him of aggravated arson under La. R.S. 14:51(A), which prohibits the "intentional damaging by any explosive substance or the setting fire to any structure, watercraft, or movable whereby it is foreseeable that human life might be endangered."

No structure or watercraft was burned or exploded in this matter. The legality of defendant's conviction rests on whether his lighting a paper bag counts as setting fire to a "movable" for purposes of aggravated arson. Louisiana Revised Statute 14:51(A) does not define "movable." There are two possible definitions. The State argues that the term "movable" has the same definition as that found in La. C.C. art. 471: "things, whether animate or inanimate that normally move or can be moved from one place to another." The defendant counters that the Court should adopt the definition of "movable" used in the Fire Marshall part of the Revised Statutes. That part defines a movable as "any movable facility or enclosure in which fifty or more people may assemble." La. R.S. 40:1573 (1). We agree with the defendant.

The term "movable" used in the aggravated arson context in La. R.S. 14:51(A) has the same meaning as the term in the Fire Marshall context. Because both provisions concern protecting the public from fire damage, as well as both investigating and arresting suspect arsonists, the two provisions must be interpreted together. La. C.C. art. 13, La. R.S. 40:1568 (C) (authorizing Fire Marshall to investigate and arrest suspected arsonists). Further, under the rule of lenity, where courts are confronted with multiple possible interpretations of a criminal statute, due process requires adoption of the narrower definition in favor of the criminal defendant. *State v. Carr*, 99-2209, 4-5 (La. 5/26/00), 761 So. 2d 1271, 1274. Here,

it is undisputed that the Fire Marshall definition is narrower.[1] In this matter, the State offered evidence that a paper bag was set on fire. No evidence supports the conclusion that a movable facility or enclosure in which fifty or more people may assemble was ignited. La. R.S. 14:51(A) and La. R.S. 40:1573. Thus, no evidence was offered as to the first element of the crime of aggravated arson. The conviction must be reversed.[2]

When an appellate court reverses a conviction based on insufficient evidence, it must enter a statutorily authorized and lesser included responsive verdict. *State v. Byrd*, 385 So.2d 248, 251 (La. 1980). If the only such verdict is not guilty, the court must enter a judgment of acquittal and remand to the trial court to issue orders accordingly. *Id*; *see also State v. Allien*, 366 So. 2d 1308, 1312 (La. 1978) (citing *Burks v. United States*, 437 U.S. 1 (1978)). Pursuant to La. C.Cr.P. art. 814 (A)(36), the only responsive verdicts for the crime of aggravated arson are: (1) guilty; (2) guilty of simple arson where the damage amounted to five hundred dollars or more; (3) guilty of simple arson where the damage amounted to less than five hundred dollars; and (4) not guilty. The simple arson verdicts are only responsive if the words "belonging to another and with the damage amounting to [a specified amount of] dollars" are included in the indictment. *Id*. That did not occur here. Attempted aggravated arson is not a responsive verdict, and the State did not charge the

[1] We acknowledge that La. R.S. 40:1573 states that the Fire Marshall definitions are for the purposes of that part of the law. However, it does not include the word "only." Further, the Fire Marshall's authority to investigate and arrest for aggravated arson is also contained in that part of the Revised Statutes. La. R.S. 40:1568 (C). The Fire Marshall part does not include a separate definition of arson, meaning the legislature intended there to be interplay between the two statutes. While the Fire Marshall definition is more technical, such meanings trump generally prevailing meanings when, as here, the court determines a more technical meaning was intended. La. C.C. art. 11.

[2] Because we grant relief to the defendant on the first element of aggravated arson, we do not address whether the State needed to prove damage to the property of another. Neither do we address whether the State failed to offer sufficient evidence as to foreseeability that human life might have been endangered.

defendant with that crime. As such, the only response verdict is "not guilty." We therefore enter judgment of acquittal as to the aggravated arson charge.

ATTEMPTED FIRST DEGREE MURDER

The defendant next argues that there was insufficient evidence to convict him of the three counts of attempted first degree murder. Attempted first degree murder requires the State to prove that the defendant: (1) had the specific intent to kill the victim; and (2) did or omitted an act tending directly toward the accomplishment of the victim's death. *See* La. R.S. 14:27; La. R.S. 14:30(A)(3) and (5); specific intent to cause great bodily harm is not sufficient for charges of attempted first degree murder. *State v. Butler*, 322 So. 2d 189, 192 (La. 1975).

Specific intent is the state of mind that exists when the circumstances indicate that the offender actively desired the prescribed consequences to follow from his actions or failure to act. La. R.S. 14:10 (1). Such intent may be inferred from the circumstances of the offense and the defendant's conduct. *State v. Bishop*, 01-2548, p. 4 (La. 1/14/03), 835 So. 2d 434, 437. The State argues that the jury was free to infer guilt by the evidence presented to it. The defendant counters that this is insufficient because it does not exclude his reasonable hypothesis of innocence that he never intended to kill anyone. We agree with the defendant.

When addressing claims of insufficient evidence, courts review the evidence in the light most favorable to the State and will not overturn a conviction unless they find that no rational trier of fact could have found the defendant guilty; but they must look at the totality of the evidence, not simply the evidence favorable to the prosecution. *State v. Mussall*, 523 So. 2d 1305, 1308-10 (La. 1988). Where the State provides only circumstantial evidence as to an element of a crime, that evidence must exclude every reasonable hypothesis of innocence. La. R.S. 15:438.

The State has only circumstantial evidence as to intent – the video evidence of the defendant pouring gasoline and his statement at the police station that he lit

the paper bag. The defendant's contrary direct evidence is his recorded statement that he never intended to kill anyone. Rather, he asserts that he only intended to make it look as if he were committing arson. According to the defendant, he only agreed to comply with the plan out of fear for his life and that he had decided prior to the incident to simply make it look as if he were complying with Thompson's demands. These assertions are supported by other evidence: the defendant's distraught nature in his interrogation; the undisputed fact that he never received any money in exchange for attempting to carry out the arson; his continued statements that he did not want to commit the arson or kill anyone; his assertion that his lack of intent is why he dropped the lit paper so that it would not ignite the victim's home; and the undisputed fact that the property was not damaged. Neither does the State dispute that the defendant was in fear for his life. Rather, it argued that this does not matter because he voluntarily joined the gang that threatened his life.

When viewing the totality of evidence, we find the State's circumstantial evidence failed to exclude the reasonable hypothesis that the defendant never had the specific intent to kill. Thus, there was insufficient evidence to prove the defendant's guilt as to attempted first degree murder.[3]

Having reversed the defendant's conviction for attempted first degree murder, we must determine which responsive verdict to enter. *Allien*, 366 So. 2d at 1312. The legislatively authorized responsive verdicts for an attempted first degree murder charge are: (1) guilty; (2) guilty of attempted second degree murder; (3) guilty of attempted manslaughter; (4) guilty of aggravated battery; (5) guilty of aggravated assaulted with a firearm; or (6) not guilty. La. C.Cr.P. art. 814(A)(2). There is no proof of battery or assault with a firearm in this matter. Attempted second degree and attempted manslaughter, like attempted first degree murder, murder require

[3] Because we find the State failed to offer sufficient evidence that the defendant ever had the specific intent to kill, we do not consider the alternative argument that he had such intent and then withdrew it.

specific intent to kill, which we have already concluded was lacking in this matter. Specific intent to cause great bodily harm is insufficient. *See e.g., State v. Hongo,* 96-2060, pp. 2-3 (La. 12/02/97), 706 So. 2d 419, 420; *See State v. Ducksworth*, 17-0035, pp. 7–8 (La. App. 5 Cir. 12/13/17), 234 So.3d 225, 231; *State v. Glover*, 47,311, p. 5 (La. App. 2 Cir. 10/10/12), 106 So.3d 129, 135; *State v. Taylor*, 96-0320, p. 9 (La. App. 3 Cir. 11/6/96), 683 So.2d 1309, 1314. Because the only possible responsive verdict in this matter is not guilty, we must enter a judgment of acquittal. *Byrd*, 385 So.2d at 251 (La.1980).

Having entered judgments of acquittal as to all the defendant's convictions, we must remand with instructions to the trial court to discharge the defendant. *State v. Jones*, 426 So. 2d 1323, 1326 (La. 1983) (quoting *Byrd*, 385 So. 2d 251).[4]

DECREE

For the foregoing reasons, we enter judgments of acquittal as to the defendant's charges and remand to the trial court with instructions to discharge the defendant.

REVERSED

[4] This holding affords complete relief to the defendant. Where complete relief can be granted to a criminal defendant by multiple sets of legal reasoning, the Court takes the narrowest option to avoid issuing advisory opinions. *Alexander v. St. James Par*., 25-0866, p. 10 (La. 3/6/26), 429 So. 3d 255, 262 - 63. As such we do not determine the merits of the defendant's remaining assignments of error or the remaining issues addressed by the court of appeal. We do not consider whether the plebiscite on crime – asking the jury to convict the defendant based on concerns for public safety and future conduct and to warn future actors against such conduct – used by the prosecutor requires reversal. However, we warn the prosecutor not to make such closing arguments again. *See* La. C. Cr. P. art. 774; *State v. Sugar*, 408 So. 2d 1329, 1331 (La. 1982). The defendant also argued that his sentences were excessive under La. Const. art. I § 20. We need not address his arguments here, other than to say the court of appeal erred in stating that prior sentences are irrelevant to an excessive sentencing analysis. *See State v. Mangrum*, 23-1609, pp. 4-5 (La. 10/25/24), 395 So. 3d 765, 768. We also pretermit the defendant's arguments as to a fatal variance, double jeopardy, and ineffective assistance of counsel.

SUPREME COURT OF LOUISIANA

No. 2025-K-01019

STATE OF LOUISIANA

VERSUS

MARDEONTAE J. LEE

On Writ of Certiorari to the Court of Appeal, First Circuit,
Parish of Washington

WEIMER, C.J., concurring.

I agree with the majority that the defendant must be acquitted. Undoubtedly, the defendant engaged in criminal behavior; however, this court's role is to evaluate the crimes with which the defendant was charged. He cannot be convicted of crimes that were not charged nor tried. The objective evidence submitted at the trial is insufficient to support the convictions of attempted aggravated arson and attempted first degree murder, the crimes with which the defendant was charged. No matter how nefarious one's behavior, a conviction cannot be upheld unless the defendant actually commits the act with the mental state required by law. There were other crimes with which the defendant could have been charged, but the fact remains he was not charged with those crimes.

Louisiana R.S. 14:51(A) defines aggravated arson as "the intentional damaging by any explosive substance or the setting fire to any structure, watercraft, or movable whereby it is foreseeable that human life might be endangered." Defendant's lighting of a paper bag was not sufficient to convict defendant of aggravated arson. The Latin phrase *ejusdem generis*, meaning "of the same kind," aids in interpreting the word "movable" as it appears in La. R.S. 14:51(A). The burnt piece of paper found at the scene of the crime is not "of the same kind" of movable as defined in La. R.S.

40:1573(1), defining "movable" as "any movable facility or enclosure in which fifty or more people may assemble" within the provisions addressing fire marshal investigations. Instead, the reference to "movable" in La. R.S. 14:51(A), when considered along with "structure" and "watercraft," clearly refers to that which can be occupied by individuals, such as vehicles, motorhomes, or mobile homes. A piece of paper is not "of the same kind" or class or nature as a structure, watercraft, or moveable, based on the statutory language of La. R.S. 14:51(A).[1]

Further, there was objective evidence demonstrating the defendant did not have the intent to burn the victim's home or harm and kill the occupants: the defendant never touched the burning paper bag to the gasoline and the ignited paper was never applied to a combustible substance. The paper in evidence is only slightly charred, according to a photograph entered into evidence. According to the video evidence, which is the only evidence of how the gasoline was spread, the defendant dribbled[2] the gasoline near the victim's home, which reflects that he did not intend to pour an amount of gasoline sufficient to ignite the victim's home. It is this objective evidence that supports the defendant's own unrebutted statements that he did not intend to burn the home and did not intend to kill the individuals in the home.

This court explained in **State v. Chapman Dodge Center, Inc.**, 428 So.2d 413, 417 (La. 1983):

---

[1] The state turns to the Louisiana Civil Code for the definition of "movable" and claims the burning of the paper was the burning of a movable. That effort to utilize the Civil Code is thwarted by the rule of lenity. The rule of lenity "directs that a court construe a criminal statute in favor of the most narrow application when there are serious doubts concerning the meaning of the term." **State v. Turner**, 18-0780, p. 3 (La. 5/8/19), 283 So.3d 997, 999 (quoting **State v. Ritchie**, 590 So.2d 1139, 1149 n.6 (La. 1991)). The state's effort is also thwarted by the fact that the paper bag is clearly not of the same kind as a "structure" or a "watercraft," which can be occupied by individuals.

[2] According to the Merriam-Webster Dictionary, one definition of "dribble" is "to let or cause to fall in drops little by little." https://www.merriam-webster.com/dictionary/dribble (last viewed 9/30/26).

> Criminal liability in our system of justice has always been founded upon the **simultaneous existence** of two distinct elements namely: (1) *actus reus*, and (2) *mens rea*. The existence of only one of these elements does not make one criminally liable. Both must be present to invoke the sanctions society has placed on what is termed "criminal conduct." Certainly one cannot be held criminally liable for simply thinking of a criminal act without the act occurring. A somewhat more difficult, but logically consistent idea, is that an act, committed without the required criminal intent or *mens rea*, is not criminally punishable. We do not criminally punish those that do not know what they are doing–such as the insane. Neither do we punish those who, while aware of what they are doing, have no control over their actions–the victims of threats or coercion. We do not impose criminal liability on those who act without criminal intent for the simple reason that such an imposition would not achieve the main goal of our criminal law: deterrence. [Internal citations removed; emphasis added.]

Chapman Dodge supports the principle that although one has the intent to commit a crime–the *mens rea*–without any act toward the commission or completion of that crime–the *actus reus*–no crime has been committed. In the present case, the video in evidence shows the defendant dribbling a small amount of gasoline near the home. The defendant never made contact between the lit piece of paper, described as a donut bag, and the gasoline; in fact, the defendant dropped the piece of paper some feet away from where the gasoline was placed, and there is no evidence the gasoline was ignited. Neither the lit paper nor the gasoline could have individually set the victim's home on fire, just as a bullet alone or an unloaded gun alone cannot be used to shoot someone.

It would have taken the overt act by the defendant of combining the lit paper and the gasoline to set the victim's home on fire. Regardless of what the defendant's intent may have been, he never committed the act of igniting the gasoline to set the victim's home on fire. Without this *actus reus* being committed in concert with the defendant's *mens rea*, the defendant could not commit the offense of aggravated arson. The defendant would certainly have created a dangerous situation for the

victim by pouring gasoline near her home, but since the defendant was charged only with aggravated arson and no responsive verdicts were available to the jury, the majority correctly and unanimously concludes that the defendant must be acquitted of aggravated arson.

The same principle applies to the defendant's attempted first-degree murder charge. Because the defendant never accomplished the act of putting the lit paper to the gasoline, it was not possible to ignite a fire to kill the occupants inside the victim's home. Although intent can be formed in an instant, as this court held in **Chapman Dodge** quoted above, there must be a "simultaneous existence" of the act and the mental intent. Such a simultaneous existence did not occur in this case, to hold the defendant criminally responsible for the crimes with which he was charged. Again, regardless of what the defendant's *mens rea* may have been, it was not accompanied by the required *actus reus* in this case. Gasoline placed near the victim's home could not kill the occupants of the victim's home. The burning piece of paper could not kill the occupants of the victim's home. The combination of the two would have the potential to kill the occupants, but the defendant did not commit the act of igniting the gasoline. Although the defendant's actions were nefarious and unacceptable, he did not commit the crimes with which he was charged.

To analogize, the present case is similar to a scenario where a person points a loaded gun at another person, but then fires the bullet into the ground where it would have no chance of harming the intended victim. The gunman may have begun with the intent to kill the victim, and the victim would have probably been in fear for his life; but if, for whatever reason, the gunman fires into the ground where the victim cannot be harmed, the gunman has not committed attempted murder because his action could not meet the element of "specific intent to kill or inflict great bodily

harm" in La. R.S. 14:30(A)(1) defining first degree murder. The pointing of the gun at another person is a different crime–aggravated assault[3]–but it is not attempted murder.

In the present case, although the defendant may have brought all the necessary ingredients to set the victim's home on fire, he never combined them and, therefore, the victim and the other occupants of the house were never put in danger of losing their lives. The defendant's acts were reckless, irresponsible, and criminal; however, those acts do not satisfy the elements of aggravated arson and attempted first degree murder.[4] Since the jury was not provided with any responsive verdicts other than "not guilty" for both charges, acquittal is the only option available to this court as a result of the charging decision by the state. Thus, I respectfully concur.

---

[3] See La. R.S. 14:37.

[4] The state could have but did not charge the defendant with a multitude of different crimes based on his actions: attempted aggravated arson, in violation of La. R.S. 14:27 and 14:51 (the attempt to intentionally damage a structure, watercraft, or moveable by any explosive substance or setting fire thereto); attempted simple arson, in violation of La. R.S. 14:27 and 14:52 (the attempt to intentionally damage by any explosive substance or setting fire thereto any property of another, without the consent of the owner); criminal mischief, in violation of 14:59 (tampering with any property of another, without the consent of the owner); and criminal trespass, in violation of La. R.S. 14:63(B)(1) (entering upon immovable property owned by another without express, legal, or implied authorization).

SUPREME COURT OF LOUISIANA

No. 2025-K-01019

STATE OF LOUISIANA

VS.

MARDEONTAE J. LEE

On Writ of Certiorari to the Court of Appeal, First Circuit, Parish of Washington

BURRIS, J., dissents in part and assigns reasons.

I agree with the majority's holding regarding the charge of aggravated arson. However, I dissent from the finding that there is insufficient evidence to convict Defendant of attempted first degree murder.

Louisiana Revised Statutes 14:30(A) provides, in relevant part, that first degree murder is the killing of a human being:

> (3) When the offender has a specific intent to kill or to inflict great bodily harm upon more than one person.
>
> . . .
>
> (5) When the offender has the specific intent to kill or to inflict great bodily harm upon a victim who is under the age of twelve or sixty-five years of age or older.

An attempt to commit an offense occurs when any person who, having a specific intent to commit a crime, does or omits an act for the purpose of and tending directly toward the accomplishing of his object, and it shall be immaterial whether, under the circumstances, he would have actually accomplished his purpose. La. R.S. 14:27(A).

The majority acknowledges that specific intent "may be inferred from the circumstances of the offense and the defendant's conduct."[1] It further observes that courts must "review evidence in the light most favorable to the State," and that a conviction cannot be overturned unless a finding is made "that no rational trier of

---

[1] Slip Op. p. 5, citing *State v. Bishop*, 01-2548, p. 4 (La. 1/14/03), 835 So. 2d 434, 437).

fact could have found the defendant guilty."[2] Despite these acknowledgments, the majority substitutes its own credibility determinations and view of the evidence without following the standard set forth by this court: "When a case involves circumstantial evidence, and the jury reasonably rejects the hypothesis of innocence presented by the defendant's own testimony, that hypothesis falls, and the defendant is guilty unless there is another hypothesis which raises a reasonable doubt." *State v. Captville*, 448 So.2d 676, 680 (La. 1984). The reviewing court "does *not* determine whether another *possible* hypothesis has been suggested by defendant which *could* explain the events in an exculpatory fashion; rather, the reviewing court evaluates the evidence in the light most favorable to the prosecution and determines whether the alternative hypothesis is sufficiently reasonable that a rational factfinder could not 'have found proof of guilt beyond a reasonable doubt.'" *Id.*; *see also State v. Jones*, 2016-1502 (La. 1/30/18), 318 So.3d 678, 682.

The jury saw the surveillance video that shows Defendant pouring gasoline around the perimeter of the victim's house which he knew was occupied by an elderly person. The jury heard a confession by Defendant that he lit a paper bag within a foot of the house. And the jury considered a statement made by Defendant that he did not intend to kill anyone; he was merely trying to make it appear that he was complying with Thompson's demands. Weighing all of this evidence, the jury reasonably rejected the hypothesis of innocence presented by Defendant.

Nevertheless, the majority, ignoring common sense and relying solely on the self-serving exculpatory explanation offered by Defendant, overturns three attempted first-degree murder convictions. To support its holding, the majority highlights Defendant's "distraught nature in his interrogation;" the fact that he personally did not receive money; his "continued statements that he did not want to

[2] Slip Op., p. 5, citing *State v. Mussall*, 523 So. 2d 1305, 1308-10 (La. 1988).

commit the arson or kill anyone;" that he dropped the lit paper in such a manner that he did not ignite the victim's home; and the lack of damage to the property.[3] The majority, though, ignores the fact that: (1) Defendant voluntarily entered into a gang that promotes violence and retaliation; (2) Defendant went to the victim's house pursuant to an instruction to kill the victim by setting her house on fire; (3) Defendant doused the border of that home with gasoline, when he knew the home was occupied, at a minimum, by the intended victim, an elderly person; (4)Defendant lit an object on fire, however "slight"–which has the naturally occurring consequence of igniting anything near it that contains an accelerant;[4] and (5) Defendant's actions created a foreseeable risk that human life might be endangered. To judge Defendant's intent by what did *not* happen (*i.e.*, the house did not catch fire, property was not damaged, and life was not destroyed) is not the proper measure and ignores the statutory definition of "attempt." The affirmative actions (acting pursuant to an instruction to kill someone by arson of a house, going to that house and pouring gasoline in furtherance of that instruction, and actually lighting a flame near the accelerant) are evidence of specific intent to kill and were reasonably relied on by the jury to infer such intent.

This remains true even if Defendant felt conflicted at the time, experienced remorse after the fact, or presented as "distraught" during his interrogation. To find specific intent, a jury need only find for a moment in time Defendant possessed an intent to kill. Specific intent can be formed in an instant. *State v. Cousan,* 94–2503, p. 13 (La.11/25/96), 684 So.2d 382, 390. Additionally, specific intent may be inferred when the circumstances indicate that the offender actively desired the

---

[3] Slip Op., p. 6.

[4] Defendant argued throughout the trial and the appellate process that there was no foreseeable risk that human life might be endangered based on the "slight" burning of a paper and pouring the gasoline. *See State v. Lee,* 2024-0468 (La. App. 1 Cir. 7/11/25), 2025 WL 1913565.

prescribed criminal consequences of his act. La. R.S. 14:10(1). Just as the discharge of a firearm in the direction of a crowd of innocent bystanders has repeatedly been recognized as sufficient to prove specific intent to kill or inflict great bodily harm, so too are the consequences of death or grave harm so inevitable from setting flame to a gasoline-drenched house that intent can be reasonably inferred. *See e.g. State v. Mart*, 419 So.2d 1216 (La. 1982).[5]

Based on the foregoing, I find a rational jury could and did reject Defendant's exculpatory hypothesis, and the majority grossly errs in holding otherwise. I, therefore, find sufficient evidence to uphold the attempted first degree murder convictions.

Accordingly, I am compelled to address Defendant's assignment of error regarding prejudicial statements made during the State's closing arguments. Noting that the jury was instructed that closing arguments are not evidence and finding ample evidence of Defendant's guilt, I do not believe Defendant was deprived of his right to a fair trial or that reversible error occurred. I would affirm the three convictions of attempted first degree murder and the sentences imposed thereon.

[5] *See also State v. Thomas*, 609 So.2d 1078 (La. App. 2d Cir.1992), *writ denied*, 617 So.2d 905 (La.1993); *State v. Allen*, 94–1941 (La. App. 1st Cir.11/9/95), 664 So.2d 1264*, writ denied*, 95-2946 (La.3/15/96), 669 So.2d 433; *State v. Powell*, 94–1390 (La. App. 1st Cir.10/6/95), 671 So.2d 493, *writ denied*, 95–2710 (La.2/9/96), 667 So.2d 529; *State in the Interest of L.H.*, 94-903 (La. App. 3d Cir.2/15/95), 650 So.2d 433; *State v. Kennington*, 515 So.2d 521 (La. App. 1st Cir.1987).