NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NUMBER 2017 KA 0341

STATE OF LOUISIANA

VERSUS

GRANT PIERCE CARRUTH

Judgment Rendered: NOV 01 2017

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On appeal from the
Twenty-First Judicial District Court
In and for the Parish of Tangipahoa
State of Louisiana
Docket Number 1402850, Division D

Honorable M. Douglas Hughes, Judge Presiding

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BEFORE: GUIDRY, PETTIGREW, AND CRAIN, JJ.

GUIDRY, J.

The defendant, Grant Pierce Carruth, was charged by grand jury indictment with aggravated rape, a violation of La. R.S. 14:42 (count 1) (prior to amendment, which redesignated aggravated rape as first degree rape); two counts of second degree kidnapping, a violation of La. R.S. 14:44.1 (count 2 and count 5); armed robbery, a violation of La. R.S. 14:64 (count 3); and sexual battery, a violation of La. R.S. 14:43.1 (count 4). Counts 1, 2, and 3 pertain only to the victim F.S.; counts 4 and 5 pertain only to the victim A.B. The defendant pled not guilty to all counts and waived his right to a jury trial. He filed a motion to suppress his statement and, following a hearing on the matter, the motion to suppress was denied. Following a bench trial, the defendant on count 1 was found guilty of the responsive offense of simple rape, a violation of La. R.S. 14:43 (prior to amendment, which redesignated simple rape as third degree rape). On count 2, he was found guilty of the responsive offense of simple kidnapping, a violation of La. R.S. 14:45. The defendant was found not guilty on counts 3, 4, and 5. For the simple rape conviction, the defendant was sentenced to eight years imprisonment at hard labor; for the simple kidnapping conviction, the defendant was sentenced to five years imprisonment. The sentences were ordered to run concurrently. The defendant now appeals, designating two assignments of error. We affirm the convictions and sentences.

FACTS

The defendant, a police officer with the Amite City Police Department, used Backpage.com, a website to meet prostitutes. The defendant met A.B.[1] through this site and, on August 11, 2014, went to the Friendly Inn Motel in Hammond, where A.B. was staying. According to A.B., when she opened her motel room door, the defendant said "narcotics" and told her she was being arrested for

[1] Victims of sex offenses are referred to by their initials. See La. R.S. 46:1844(W).

narcotics and prostitution. The defendant handcuffed A.B., and placed her in his vehicle (a white Equinox). A.B. thought she was being taken to the police station in Amite. Instead, the defendant took her to a wooded area where his house was located. The defendant took A.B. to an unoccupied house next to the defendant's home. A.B. testified she was taken to a pink bedroom in this house. The defendant rearranged the handcuffs and tied her to the bedpost with a wire hanger. The defendant rubbed her vagina. He tried to have intercourse with her, but could not get an erection. Following this, the defendant untied A.B. from the bedpost, handcuffed her again, took her to his vehicle, and drove her back to her motel. A.B. subsequently identified the defendant in a photographic lineup.

On the night of September 20, 2014, the defendant met F.S. through the same website. F.S. lived in Baton Rouge and was told by the defendant to meet him on Terrel Road in Robert in Tangipahoa Parish. F.S. had her boyfriend drive her to the location. When they arrived the defendant was standing outside of his (other) vehicle, a Ford F-150 truck. According to F.S., when she approached the defendant, he said he was a narcotics officer and that she was under arrest for prostitution. He handcuffed her, placed her in the backseat of his truck, and sped off. F.S.'s boyfriend tried to follow but could not keep up with the defendant's truck. The defendant drove about twenty minutes to a wooded area and parked. He grabbed a shotgun (identified by F.S. as a rifle), ripped F.S.'s dress down the middle, and pulled her out of the truck. The defendant told her that if she screamed, he would kill her. He walked F.S. to the back of the truck and pushed her down on the truck bed. She was still handcuffed. The defendant produced a condom, pulled it over his hand, then inserted that hand into F.S.'s vagina. The defendant then had vaginal sex with F.S. for one to two minutes. Following this, the defendant pulled F.S. to the ground and forced her to perform oral sex on him. After this, the defendant told F.S. that he knew where she lived and that if she said

anything, he would come back for her. The defendant placed F.S. back in his truck, blindfolded her, drove to Greensburg, and dropped her off on the road. With nothing to call anyone (no purse or money or cell phone, which the defendant took), F.S. stood in the middle of La. Hwy. 10, trying to flag down motorists until eventually one stopped. The man drove F.S. back to her apartment in Baton Rouge. F.S. identified the defendant in a photographic lineup.

The defendant was brought in for questioning to the Tangipahoa Parish Sheriff's Office and interviewed by Detective Dale Athman, with the sheriff's office, and Louisiana State Trooper Barry Ward. The defendant admitted that he had met with A.B. and F.S. on the days in question. He denied that he raped them or threatened them, and said that each of them performed oral sex only on him.

The defendant did not testify at trial.

ASSIGNMENT OF ERROR NO. 1

In his first assignment of error, the defendant argues the trial court erred in denying his motion to suppress his statement. Specifically, the defendant contends that during his questioning, the officers failed to honor his invocation of the right to remain silent.

The defendant argues that when he said "I'm done" during his recorded interview with Detective Athman and Trooper Ward, he invoked his right to remain silent, and the continuing questioning by the officers violated that right. Almost the entirety of the motion to suppress hearing focused on the suppression of the photographic lineups wherein the victims identified the defendant. The right to silence ("I'm done") issue was not raised at the motion to suppress hearing. The pretrial motion to suppress statement filed by the defendant contained boilerplate language and made no mention of the content of his recorded statement:

> NOW INTO COURT appearing through undersigned counsel, comes the Defendant, GRANT CARRUTH, in the above entitled and numbered cause, who moves to suppress for use as evidence herein all objects or other property, or documents, books, confessions, or

> writings presently in the possession of the State, the description of which is unknown to mover, seized by an officer in a search of person or premises, on the ground that said search and seizure was unconstitutional and was made without a search warrant or with an unlawful search warrant, and any confession and other inculpatory statements are inadmissible in evidence because they were not made by mover to said police officers or anyone else, freely and voluntarily, but were made under the influence of fear, duress, intimidation, menaces, threats, inducements and promises, and/or without mover having been advised of his rights to remain silent, right to counsel, and his other constitutional rights.

At the motion to suppress hearing, the only mention of the defendant's statement was when the prosecutor asked Detective Dale Athman where and when the defendant gave his recorded statement. Detective Athman indicated there was no coercion, threats, or promises made to the defendant for his statement, and that the defendant did not appear to be under the influence of narcotics or alcohol. Detective Athman also indicated that the defendant was Mirandized, he signed the rights form (and waiver thereof), and at no point did the defendant ask for an attorney or invoke his right to remain silent.

This was the extent of the testimony regarding the defendant's statement. The actual contents of the statement were never raised or addressed at the motion to suppress hearing. On the cross-examination of Detective Athman, the only questions asked by defense counsel regarding the defendant's statement were who was present at the time of the statement and if the defendant had given more than one recorded statement (which he had not).

The right to silence ("I'm done") issue was raised for the first time at trial. Defense counsel elicited from Detective Athman that during the defendant's interview, the defendant said, "I'm done," and that he did not want to talk about that (anything regarding F.S.), followed by something the defendant said that was inaudible. The defendant then said that he was with his wife at that time. Defense counsel asked Detective Athman at trial what the defendant meant by "I'm done," and the detective said he did not know what it meant. The detective later testified

that he did not even remember the defendant saying this in the interview. Trooper Ward did not testify at trial or at the motion to suppress hearing.

The defendant now suggests in brief that he invoked his right to silence during his interview when he said, "I'm done." This issue, however, regarding the invocation of the right to silence, was never raised or addressed at the motion to suppress hearing and, as such, was never ruled on by the trial court. Accordingly, we find that the defendant, in not having raised the issue of his alleged invocation of his right to remain silent during the interview, in either his written motion to suppress inculpatory statement or at the motion to suppress hearing, is precluded from raising this issue on appeal.

Louisiana Code of Criminal Procedure Article 703 provides, in pertinent part:

> A. A defendant adversely affected may move to suppress any evidence from use at the trial on the merits on the ground that it was unconstitutionally obtained.
> B. A defendant may move on any constitutional ground to suppress a confession or statement of any nature made by the defendant.
> C. A motion filed under the provisions of this Article must be filed in accordance with Article 521, unless opportunity therefor did not exist or neither the defendant nor his counsel was aware of the existence of the evidence or the ground of the motion, or unless the failure to file the motion was otherwise excusable. The court in its discretion may permit the filing of a motion to suppress at any time before or during the trial.
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> . . .
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> F. A ruling prior to trial on the merits, upon a motion to suppress, is binding at the trial. Failure to file a motion to suppress evidence in accordance with this Article prevents the defendant from objecting to its admissibility at the trial on the merits on a ground assertable by a motion to suppress.

Louisiana Code of Criminal Procedure Article 521 provides in pertinent part:

> A. Pretrial motions shall be made or filed within fifteen days after arraignment, unless a different time is provided by law or fixed by the court at arraignment upon a showing of good cause why fifteen days is inadequate.
> B. Upon written motion at any time and a showing of good cause, the court shall allow additional time to file pretrial motions.

These provisions allow a defendant to object to the admission of a confession by the filing of a motion to suppress on any constitutional grounds. He must file this motion within the time limitations set by the trial judge, which may even be during the trial on the merits, and must assert the constitutional grounds under which the confession must be suppressed and the facts entitling him to relief thereunder. The only exception to this rule is if the defendant or his counsel was unaware of the evidence or the ground of the motion, or the failure was otherwise excusable. State v. Montejo, 06-1807, p. 21 (La. 5/11/10), 40 So. 3d 952, 967, cert. denied, 562 U.S. 1082, 131 S. Ct. 656, 178 L.Ed.2d 513 (2010). Louisiana courts have long held a defendant may not raise new grounds for suppressing evidence on appeal that he did not raise at the trial court in a motion to suppress. Id., 06-1807 at p. 22, 40 So. 3d at 967. See La. C. Cr. P. art. 841; State v. Brown, 434 So. 2d 399, 402 (La. 1983). See State v. Barton, 02-163, pp. 11-12 (La. App. 5th Cir. 9/30/03), 857 So. 2d 1189, 1198-99, writ denied, 03-3012 (La. 2/20/04), 866 So. 2d 817; State v. Hawkins, 95-0624, p. 4 (La. App. 1st Cir. 2/23/96), 669 So. 2d 587, 589, writs denied, 96-0738 (La. 6/21/96), 675 So. 2d 1078, and 96-0801 (La. 6/28/96), 675 So. 2d 1120.

While the burden of proof was on the State on the trial of the motion to suppress to prove the admissibility of the confession, the defendant was required to raise all grounds for suppression of the evidence that were knowable or available at that time. Montejo, 06-1807 at p. 24, 40 So. 3d at 969. The defendant bears this burden in order to give the State adequate notice so that it may present evidence and address the issue at trial on the motion. Id. See State v. Stokes, 511 So. 2d 1317, 1322 (La. App. 2nd Cir.), writ denied, 516 So. 2d 129 (1987). Because the defendant did not raise the issue of invocation of right to silence in the written motion to suppress or at the motion to suppress hearing, the State had no need to put on evidence to show that the defendant never made a clear assertion of his right

to remain silent. See Id.

Based on the foregoing, the issue of whether or not the defendant invoked his right to silence during questioning is not properly before this court. The defendant's failure to preserve the issue notwithstanding, we find the defendant did not invoke his right to remain silent while being questioned by Detective Athman and Trooper Ward.

Whether the police have scrupulously honored a defendant's right to cut off questioning is a determination made on a case-by-case basis under the totality of the circumstances. State v. Leger, 05-0011, p. 14 (La. 7/10/06), 936 So. 2d 108, 125, cert. denied, 549 U.S. 1221, 127 S. Ct. 1279, 167 L.Ed.2d 100 (2007). After the defendant talked about meeting A.B. and disclosing only bits and pieces of what occurred between them, Detective Athman asked the defendant about F.S. The defendant denied he met F.S. or knew anything about her. Fifty-five minutes into questioning, as Detective Athman continued to ask about F.S. and the defendant continued to deny any involvement with her, Trooper Ward told the defendant that they were serving a search warrant on his house and impounding his truck and that he believed F.S.'s DNA would be in his truck. Trooper Ward told the defendant he believed he was "there" with F.S. and that he (the defendant) produced some kind of long gun and had some kind of sexual act with F.S. Trooper Ward then said that what he did not know was whether it was consensual. The defendant said, "I'm done." Detective Athman responded, "I'm sorry?" The defendant then appeared to say, "I ain't talking no more about that what happened." The defendant continued to speak, but what he said was inaudible, partly because he was cross-talking with Trooper Ward. Detective Athman then asked, "You were with your wife at that time?" The defendant replied, "Yeah." The defendant then had an exchange with Detective Athman about being with his wife that night and the time that they went to bed. After this, the conversation

between the defendant and the two officers continued unabated for more than an hour. The defendant admitted that he picked up F.S. and that she performed oral sex on him, but denied that he raped her or threatened her with a gun.

During the over two hours of questioning, this is the only instance where the defendant said he did not want to talk about it. In Leger, 05-0011 at pp. 15-17, 936 So. 2d at 125-26, our supreme court found that the defendant invoked his right to remain silent when he told the police he did not want to talk anymore. The Leger exchange, however, is distinguishable from the instant matter. In his interview, Leger was unresponsive and initially refused to talk at all. Throughout the questioning, Leger repeatedly said that he did not want to talk and particularly said multiple times that he "did not want to talk about it" and "did not want to talk anymore." Further, in Leger, no waiver of rights form was generated during the interview. Id., 05-0011 at pp. 15-16, 936 So. 2d at 126.

The instant interview is much more similar to that in State v. Prosper, 08-839, p. 1 (La. 5/14/08), 982 So. 2d 764, 765, where our supreme court found that, given the totality of the circumstances, the defendant's comment, "I don't have nothing else to say," during a police interview did not reasonably suggest a desire to end all questioning or remain silent, where the defendant continued making other statements. See State v. Hebert, 08-0003, pp. 7-9 (La. App. 1st Cir. 5/2/08), 991 So. 2d 40, 46, writs denied, 08-1526 & 1687 (La. 4/13/09), 5 So. 3d 157 & 161 (where, when the defendant at the start of the interview indicated he did not want to talk to the police, and the detective continued to ask him general questions, this court found that the police did not engage in conduct which destroyed the defendant's confidence in his right to cut off questioning, that the defendant remained in control of whether or not he would talk to the police, and the police did not browbeat the defendant into making a statement).

In Davis v. United States, 512 U.S. 452, 460-61, 114 S. Ct. 2350, 2355-56,

129 L.Ed.2d 362 (1994), the Supreme Court held that a suspect during questioning who desires the assistance of counsel must unambiguously request counsel. In Berghuis v. Thompkins, 560 U.S. 370, 381-82, 130 S. Ct. 2250, 2259-60, 176 L.Ed.2d 1098 (2010), the Supreme Court found that the rule for invoking the right to remain silent was the same as the Davis rule for invoking the right to counsel; that is, the accused who wants to invoke his right to remain silent must do so unambiguously. The first and only time the defendant in the instant matter said he was not talking anymore about what happened, it is clear he was dodging the questions about his meeting and involvement with F.S. The defendant did not indicate he did not want to speak to the police at all, but only that he was not going to talk about F.S., aware that acknowledgment of knowing anything about F.S. would betray his feigned ignorance of having met her or even having heard of her. Moreover, the fact the defendant continued to speak immediately after saying he was not talking anymore "about that" reflected an intent to continue the exchange. See State v. Robertson, 97-0177, p. 27 (La. 3/4/98), 712 So. 2d 8, 31, cert. denied, 525 U.S. 882, 119 S. Ct. 190, 142 L.Ed.2d 155 (1998). When the defendant continued to speak, the officers could have reasonably inferred that he did not wish to terminate all questioning, but rather that the "I'm done" utterance was a frustrated, emotional response to the defendant's increasing awareness that the officers knew that he knew F.S. and that he had met with her on the night in question. See West v. Johnson, 92 F.3d 1385, 1403 (5th Cir. 1996), cert. denied, 520 U.S. 1242, 117 S. Ct. 1847, 137 L.Ed.2d 1050 (1997) (where the court found a detective's testimony that the suspect said he "didn't want to tell us anything about it," was not an invocation of the suspect's right to remain silent, but rather a denial of involvement in the crime). See also State v. Watson, 14-0350 (La. App. 1st Cir. 9/19/14), 2014 WL 4668773 (unpublished), writ denied, 14-2211 (La. 6/19/15), 172 So. 3d 649.

Accordingly, we find no error or abuse of discretion in the trial court's denial of the motion to suppress the statement. There was no unambiguous invocation by the defendant of his right to terminate all questioning. The defendant had been thoroughly informed of his rights, he indicated he understood those rights, and he intelligently waived his rights explicitly, as well as implicitly through his actions and words. See State v. Brown, 384 So. 2d 425, 426-28 (La. 1980). Our review of the entire interview further supports our finding that the defendant was not coerced, threatened, or intimidated in any way by Detective Athman and Trooper Ward. The defendant's remark "I'm done," particularly in light of the entire interview, could not have reasonably put the officers on notice that the defendant sought to terminate all questioning. Cf. Leger, 05-0011 at pp. 15-17, 936 So. 2d at 125-26.

Accordingly, we find the defendant did not preserve for appellate review his argument that he invoked his right to silence during questioning. We also find that the defendant's comment that he was "done" when the questions about F.S. became more pressing did not reasonably suggest a desire to end all questioning or to remain silent. See Robertson, 97-0177 at pp. 27-28, 712 So. 2d at 31.

This assignment of error is without merit.

ASSIGNMENT OF ERROR NO. 2

In his second assignment of error, the defendant argues the trial court erred in denying his motion to sever offenses. Specifically, the defendant contends that the State's inclusion of both victims on one bill of information prejudiced him because the facts and circumstances of each incident were different.

The defendant filed a motion to sever the two victims, whose combined five charges against the defendant were joined in a single indictment. According to the indictment, the defendant committed aggravated rape (first degree rape), second

degree kidnapping, and armed robbery against F.S. on September 20, 2014, and sexual battery and second degree kidnapping against A.B. on August 11, 2014. Following a hearing on the matter, the trial court denied the motion to sever. The defendant in brief argues the victims should have been severed because they were separate incidents occurring on separate dates. According to the defendant, the facts were separate and distinct and there was no common scheme.

We find no reason to disturb the trial court's ruling. Louisiana Code of Criminal Procedure art. 493 states:

> Two or more offenses may be charged in the same indictment or information in a separate count for each offense if the offenses charged, whether felonies or misdemeanors, are of the same or similar character or are based on the same act or transaction or on two or more acts or transactions connected together or constituting parts of a common scheme or plan; provided that the offenses joined must be triable by the same mode of trial.

Louisiana Code of Criminal Procedure art. 493.2 states:

> Notwithstanding the provisions of Article 493, offenses in which punishment is necessarily confinement at hard labor may be charged in the same indictment or information with offenses in which the punishment may be confinement at hard labor, provided that the joined offenses are of the same or similar character or are based on the same act or transaction or on two or more acts or transactions connected together or constituting parts of a common scheme or plan. Cases so joined shall be tried by a jury composed of twelve jurors, ten of whom must concur to render a verdict.

Louisiana Code of Criminal Procedure art. 495.1 provides: "If it appears that a defendant or the state is prejudiced by a joinder of offenses in an indictment or bill of information or by such joinder for trial together, the court may order separate trials, grant a severance of offenses, or provide whatever other relief justice requires."

Louisiana Code of Criminal Procedure art. 782(A) provides in pertinent part:

> Cases in which punishment is necessarily confinement at hard labor shall be tried by a jury composed of twelve jurors, ten of whom must concur to render a verdict. Cases in which the punishment may be confinement at hard labor shall be tried by a jury composed of six

jurors, all of whom must concur to render a verdict.[2]

The punishment for aggravated rape (first degree rape), second degree kidnapping, and armed robbery is necessarily confinement at hard labor. See La. R.S. 14:42(D)(1), La. R.S. 14:44.1(C), & La. R.S. 14:64(B). The punishment for sexual battery may be confinement at hard labor. See La. R.S. 14:43.1(C)(1). Thus, joinder of the offenses would be proper under La. C. Cr. P. art. 493.2.

In ruling on a motion for severance, the trial court should consider a variety of factors in determining whether or not prejudice may result from the joinder: whether the jury would be confused by the various counts; whether the jury would be able to segregate the various charges and the evidence; whether the defendant could be confounded in presenting his various defenses; whether the crimes charged would be used by the jury to infer a criminal disposition; and whether, considering the nature of the offenses, the charging of several crimes would make the jury hostile. A severance need not be granted if the prejudice can effectively be avoided by other safeguards. In many instances, the trial judge can mitigate any prejudice resulting from joinder of offenses by providing clear instructions to the jury. The State can further curtail any prejudice with an orderly presentation of evidence. A motion for severance is addressed to the sound discretion of the trial court, and its ruling should not be disturbed on appeal absent a showing of an abuse of discretion. A defendant in any case bears a heavy burden of proof when alleging prejudicial joinder of offenses as grounds for a motion to sever. Factual, rather than conclusory, allegations are required. State v. Allen, 95-1515, p. 6 (La. App. 1st Cir. 6/28/96), 677 So. 2d 709, 713, writ denied, 97-0025 (La. 10/3/97), 701 So. 2d 192.

We note initially that there was a bench trial in the instant matter, so any of the Allen factors regarding a jury, *i.e.*, jury confusion and/or hostility,

[2] In the instant case, the defendant waived his right to the jury trial required by La C. Cr. P. art. 482 (A). See La C. Cr. P. art. 780.

had no application to the defendant's trial. Moreover, the trial judge's verdicts revealed its ability to compartmentalize the offenses, given his rejection of both charges on counts 4 and 5 (finding the defendant not guilty) where A.B. was the victim; and further finding the defendant not guilty of armed robbery and guilty of the responsive offenses of simple rape and simple kidnapping where F.S. was the victim. See State v. Crochet, 05-0123, p. 8 (La. 6/23/06), 931 So. 2d 1083, 1088 (per curiam). As such, it is clear the trial judge was not confused by the various counts, he clearly segregated the various charges and evidence, and he did not use the charges against F.S. to infer a criminal disposition on the part of the defendant.

In State v. Roca, 03-1076, pp. 7-11 (La. App. 5th Cir. 1/13/04), 866 So. 2d 867, 872-74, writ denied, 04-0583 (La. 7/2/04), 877 So. 2d 143, the fifth circuit found a severance was not warranted where the defendant was charged with aggravated rape, aggravated rape of a juvenile, oral sexual battery of a juvenile, and molestation of a juvenile, which involved different victims, the defendant's biological daughter and his girlfriend's daughter. The court stated that the evidence of each offense would have been admissible as other crimes evidence at the trial of the other offense to show the defendant's propensity to sexually abuse young females under his supervision and care under La. C. E. art. 412.2. See State v. Burks, 04-1435, pp. 2-10 (La. App. 5th Cir. 5/31/05), 905 So. 2d 394, 396-401, writ denied, 05-1696 (La. 2/3/06), 922 So. 2d 1176. See also State v. Deruise, 98-0541, pp. 5-10 (La. 4/3/01), 802 So. 2d 1224, 1231-33, cert. denied, 534 U.S. 926, 122 S. Ct. 283, 151 L.Ed.2d 208 (2001).

Similarly in the instant matter, evidence of the sexual abuse (aggravated rape) and the kidnapping of one victim would have been admissible as other crimes evidence at trial of the other offense of sexual abuse (sexual battery) and kidnapping. See State v. H.A., Sr., 10-95, p. 1, pp. 10-13 (La. App. 3rd Cir. 10/6/10), 47 So. 3d 34, 37, 41-43 (where the trial court's denial of a motion to

sever was upheld where the charges of aggravated incest [the defendant was found guilty of attempted aggravated incest] and molestation of a juvenile occurred between eight and fifteen years apart and were committed against different victims). See also State v. Dickinson, 370 So. 2d 557, 559-60 (La. 1979) (where the trial court's denial of a motion to sever was upheld in a case that involved the kidnapping-attempted rape of one victim and then, a year later, the kidnapping-attempted rape of another victim).

The charges were properly joined. The incidents, while committed on separate dates and involved different victims, were of a similar character. Both victims were female escorts, or prostitutes, who posted ads (for sexual rendezvous) on Backpage.com. Both victims were handcuffed by the defendant almost immediately after meeting him and driven by the defendant to a secluded area. Further, the evidence of each offense was simple and distinct, and the State presented the evidence in a clear, orderly fashion to minimize any possible confusion. As noted, the trial judge clearly came to a decision on the guilt or innocence of the defendant as to each offense and each victim without regard to the other offenses or victim. See Crochet, 05-0123 at pp. 8-9, 931 So. 2d at 1088. Accordingly, the trial judge did not abuse his discretion in denying the defendant's motion to sever.

This assignment of error is without merit.

CONVICTIONS AND SENTENCES AFFIRMED.