NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA	*	**NO. 2011-KA-1082**
VERSUS	*	
		COURT OF APPEAL
RUDY FRANCIS	*	
		FOURTH CIRCUIT
	*	
		STATE OF LOUISIANA

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APPEAL FROM
CRIMINAL DISTRICT COURT ORLEANS PARISH
NO. 443-175, SECTION "B"
Honorable Lynda Van Davis, Judge
* * * * * *
Judge Dennis R. Bagneris, Sr.
* * * * * *

(Court composed of Judge Dennis R. Bagneris, Sr., Judge Paul A. Bonin, and Judge Madeleine M. Landrieu)
BONIN, J., CONCURS IN PART AND DISSENTS IN PART WITH REASONS

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NOVEMBER 7, 2012

AFFIRMED

On October 30, 2003, the defendant, Rudy Francis, was indicted for the second degree murder of Larry Lawrence. The defendant entered a plea of not guilty at his arraignment on December 9, 2003. After a trial by jury held on September 14-16, 2010, the defendant was found guilty of manslaughter.[1] The trial court denied defendant's motion for new trial on November 5, 2010. On the same day, the trial court sentenced the defendant to serve twenty-five years at hard labor, with credit for time served. On November 18, 2010, the trial court denied the defendant's motion to reconsider sentence. Defendant now appeals.

Facts and Procedural History

The defendant, Rudy Francis, testified that he was born and raised in New Orleans. He and his family lived in New Orleans East prior to Hurricane Katrina but moved to the Uptown area after the storm. He had worked for Bellsouth, and was a union steward.

Mr. Francis testified that he and the victim, Mr. Lawrence, met while they were both working at Bellsouth. They cultivated a friendship playing tennis. Thereafter, he and Mr. Lawrence, along with two other gentlemen, decided to open

[1] Prior to this verdict, the defendant had been tried twice for this crime. Each trial ended in a mistrial.

a business together. According to Mr. Francis, Mr. Lawrence provided the money to start the business, and he (Mr. Francis) was the one who knew the business and had the contacts. At the time of the incident involved here, Mr. Francis and Mr. Lawrence operated their business out of two locations – one on the West Bank and the other near Elysian Fields and Gentilly Boulevard.

Mr. Francis described Mr. Lawrence as a person with a short fuse, who was high strung. He also stated that the Mr. Lawrence ran an escort service and used cocaine, although he acknowledged that he had never seen Mr. Lawrence use cocaine.

On the morning of the incident before us on appeal, Mr. Francis went to their West Bank office where he found Mr. Lawrence ranting about the staff, and cursing and threatening the employees. Mr. Francis testified that this behavior was not unusual as he had observed Mr. Lawrence exhibiting violent behavior several other times.

On one occasion, Mr. Francis had accompanied Mr. Lawrence to see someone in Kenner who owed Mr. Lawrence money. When they arrived at this gentleman's house, Mr. Lawrence kicked the front door. The gentleman came out, and Mr. Lawrence and this man began wrestling in the front of the house. Mr. Francis was able to pull Mr. Lawrence away and get him in their car. On another occasion, Mr. Lawrence and Mr. Francis had been meeting with staff at their West Bank location when Mr. Lawrence threatened to hit someone with a miniature baseball bat. On a third occasion, Mr. Francis had observed Mr. Lawrence grab an employee by the throat and pick him up out of his chair. Mr. Francis also testified that he observed Mr. Lawrence get in a fight with a car repairman and had

witnessed Mr. Lawrence exhibiting hostility to his own girlfriend and to women who worked for their business.

Mr. Francis testified that he was the person who usually closed the business at night. He would finish the paperwork and lock up. According to Mr. Francis, on the night of the incident before us on appeal, Mr. Lawrence came into the Gentilly office around 10:30 p.m. He and Mr. Francis discussed Mr. Lawrence's having cursed at and threatened their employees earlier that day. While they were meeting, Mr. Francis' wife called him at approximately 11:30 p.m. to let him know that he had left his house keys at home, and that she would leave the patio door unlocked. After the two men departed, Mr. Francis received a call from Mr. Lawrence asking him to return to the office. A few minutes later, Mr. Lawrence called again and suggested that the two of them meet at a nearby Burger King.

Mr. Francis testified that when he pulled up to their meeting place, he parked his car behind Mr. Lawrence's car and got into the front passenger seat of Mr. Lawrence's car. Mr. Lawrence then got out of his vehicle and walked to the passenger side where Mr. Francis was sitting. At that time, Mr. Francis noticed that Mr. Lawrence had Mr. Francis's briefcase, which Mr. Francis had apparently left at the office. According to Mr. Francis, Mr. Lawrence asked him why he had the gun in the briefcase. Mr. Lawrence then said he was going to treat Mr. Francis like all the other "MFers." Mr. Francis attempted to get out of the car, but Mr. Lawrence then shot him through the briefcase, striking him in the leg. Mr. Lawrence returned to the driver's seat and put the briefcase on the floor. The two men struggled for the briefcase, and the gun went off. Mr. Francis then got out of Mr. Lawrence's car, got into his own car, and drove home.

Once at home, Mr. Francis fell twice trying to get to his patio door. He eventually scooted to the door, and began banging on it. His oldest daughter came out and found him. Mr. Francis did not recall having spoken with any police officers.

Stephanie Briscoe, a senior dispatcher with the New Orleans Police Department, identified the 911 call that was received at 12:48 a.m. on August 9, 2000. The 911 tape was played for the jury.

Soon thereafter, at 1:00 a.m., Reginald Coster, a New Orleans police officer assigned to the Seventh District, and his partner, Larry Cager, responded to a call of an aggravated battery by shooting at 11030 Gilford Drive. When they arrived, emergency medical technicians were on the scene tending to Mr. Francis's gunshot wound to the leg. At that time, the officers believed that Mr. Francis had been the victim of a crime. Off. Coster testified that he asked Mr. Francis about the shooting. Mr. Francis told the officer that he and his business partner had been sitting in a vehicle on Elysian Fields and Treasure Street when an unknown male walked up to the vehicle and started shooting. Mr. Francis was then transported to the hospital by the EMS.

Larry Cager, Off. Coster's partner, testified that after they spoke with Mr. Francis, they contacted their rank and the Fifth District to have a Fifth District officer search for any evidence of a shooting at the location given by Mr. Francis.

Barry Mouton, a NOPD homicide detective, participated in the investigation. Det. Mouton went to Charity Hospital to speak with Mr. Francis. When the detective arrived at the hospital, Mr. Francis was in pain but coherent, and he gave Detective Mouton the same statement he had given to Officers Coster and Cager. Mr. Francis also told Det. Mouton that the perpetrator was African-American, tall

and thin. The detective collected Mr. Francis's clothing and some personal effects. The detective also spoke with Mr. Francis's wife, who was very upset and concerned.

Det. Hamilton also assisted in the investigation. After initially responding to a call concerning a homicide on Elysian Fields, Det. Hamilton was instructed to go to the Gilford Drive location to search for any evidence that might relate to the Elysian Fields homicide.

When Det. Hamilton arrived on the scene at Gilford Drive, he was informed that Mr. Francis had been transported to the hospital. Sgt. Thomas directed Det. Hamilton to Mr. Francis's car. There, the detective noticed blood in the vehicle and a Glock gun case on the floorboard, near the driver's seat. The detective also observed a trail of blood from the vehicle to the back patio. On the back patio, the two officers observed some clothing, a bottle of peroxide, and a briefcase that contained a gun sticking out from its edge.

On the morning of August 9, 2000, Off. Neville Payne was dispatched to a shooting scene at the intersection of Elysian Fields and Treasure where he found a vehicle parked, facing southbound, near a Burger King. The vehicle's doors were closed. Upon looking into the vehicle, the officer observed a person, who was motionless, in the vehicle. He told the dispatcher to call EMS. The officer attempted to open the driver's side door, but it was locked. He went to the passenger door and found it unlocked. When he opened the door, he saw that the victim had been shot. The victim was in the driver's seat but was slumped over the console towards the passenger seat. The victim was still wearing his seat belt. EMS soon arrived on the scene but could not revive the victim, and the coroner's office was called. Homicide detectives arrived on the scene shortly thereafter.

Det. Carlton Lawless was one of the detectives. The lead detective on the case was Det. Joel George. When Det. Lawless arrived on the scene, Det. George and some other officers were already there. Det. Lawless observed the victim, later identified as Larry Lawrence, in the driver's seat, slumped over the front console. It looked like Mr. Lawrence had been trying to get to the passenger seat. The victim had sustained multiple gunshot wounds to the body. The detective noted that the driver's side door was locked, but the passenger side door was open. Numerous spent nine millimeter shell casings were on the ground near the passenger side door. Someone from the Seventh District called and informed the officers that there was another scene in New Orleans East. Det. Lawless was instructed to go to the scene on Gilford Drive and assist Det. Hamilton with the investigation there.

When Det. Lawless arrived, Det. Hamilton confirmed that Mr. Francis had been shot in the leg. Det. Hamilton also told him that there were bloody clothes on the patio, a bottle of peroxide on top of a lawnmower, a large wet spot on the patio, and what appeared to be blood on the front passenger seat of the vehicle. He further told Det. Lawless that he had seen a gun box that would hold a hand gun. Detectives Lawless and Hamilton went to view the vehicle together. Det. Lawless saw a wet spot on the driver's seat that appeared to be blood and found a gun box for an automatic hand gun on the rear floorboard. The box did not contain a gun but did contain some bullets. The detectives requested that the crime lab process the scene. They then followed a blood trail from the vehicle to the patio. Det. Lawless saw a black bag with something sticking out of it. Upon closer examination, he found a nine millimeter handgun in the bag. The weapon

appeared to have been fired. The bag had a hole in it, and there were spent casings and bullets in the bag.

Det. Joel George, the lead homicide detective, went to the scene at Elysian Fields and Treasure Street, where he learned that a male subject in a black Nissan sports car had been shot multiple times. Det. George then relocated to the scene in New Orleans East. He met with the detectives working that scene, and learned that Mr. Francis's vehicle was also involved in the incident. After having the vehicle secured, Det. George attended the autopsy on Mr. Lawrence. Six bullets were recovered during the autopsy. The detective later conducted interviews with people in the area of the shooting, but no one had seen the shooting. Det. George also spoke with employees at the Burger King to see if there was any surveillance video of the incident, but no such evidence existed. The detective spoke with family members of both Mr. Francis and Mr. Lawrence. He was unable to interview Mr. Francis, who was in surgery when Det. George arrived at the hospital. While at the hospital, Det. George learned that the bullets and spent casings found on the scene had been fired from the gun found at Mr. Francis's house. Mr. Francis then became a suspect; he was placed under arrest and advised of his rights.

Dr. Michael DeFate, a forensic pathologist, performed an autopsy on Mr. Lawrence. Dr. DeFate testified that the victim had nine gunshot wounds, of which four were fatal. Toxicology reports revealed evidence of cocaine in the victim and a blood alcohol level of .02.

Off. Kenneth Leary, an expert in firearms and ballistics, examined the weapon found in the briefcase at the defendant's house, the spent casings and bullets found at both scenes, and the bullets retrieved from Mr. Lawrence's body

during the autopsy. He determined that the spent casings and bullets all had been fired from the gun found at Mr. Francis's house.

Rev. Moses Gordon, the pastor of the Fellowship Missionary Baptist Church, testified on behalf of the defendant, Mr. Francis. He stated that he had known Mr. Francis since they were in junior high school in 1967. Mr. Francis has been a member of his church for thirty years, having had his children baptized there and having raised them in the church. Rev. Gordon stated that he had never known Mr. Francis to get into trouble. On cross-examination, Rev. Gordon acknowledged that it is possible for a good person to do an evil thing and admitted that he did not know that Mr. Francis had been arrested in 1971.

Michael Smith, Mr. Francis's former co-worker, also testified on the defendant's behalf. Mr. Smith stated that he has known Mr. Francis for over forty years and that they had been best friends growing up. Mr. Smith testified that Mr. Francis was a good-natured person, a trusted friend, and a good family man.

Dwight Jarrett, a former lobbyist for the AFL-CIO, testified that he met Mr. Francis when Mr. Francis was the union's shop steward at Bellsouth. He stated that he knew Mr. Francis to be an upstanding person. On cross-examination, Mr. Jarrett admitted that he did not know Mr. Francis had been arrested in 2006 on a bank fraud charge and pled guilty in 2009 to issuing a worthless check.

Delcena Francis, the defendant's wife, testified that she and Mr. Francis had been married for thirty-eight years. They have four daughters and four grandchildren. Mrs. Francis was retired from AT&T, where she had worked for thirty-four years. She stated that her husband had formerly worked for Bellsouth as an outside service technician, was a union steward, and volunteered for several organizations. Mrs. Francis testified that her husband and Mr. Lawrence played

tennis together. When her husband had decided to leave Bellsouth and open his own business, Mr. Lawrence and a few other men went into business him. On the night of the shooting, Mrs. Francis called her husband to tell him that he had left his house keys at home and that she would leave the back patio door unlocked. When Mr. Francis came home, he passed out near the patio door. He was bleeding, and was in and out of consciousness. He told her that someone had shot at him and Larry (Mr. Lawrence). She called 911, and the fire department, EMS and police arrived shortly thereafter. Mr. Francis was taken to Charity Hospital. Mrs. Francis admitted that Mr. Lawrence had loaned her husband money, and she identified her signature and her husband's signature on a promissory note. Mrs. Francis stated that her husband paid Mr. Lawrence back.

Jerome Pellerin testified that he was the attorney who handled the incorporation of the business established by Mr. Francis and Mr. Lawrence, and that he also represented Mr. Lawrence's estate. He testified that at the time of Mr. Lawrence's death, Mr. Francis and Mr. Lawrence were only two shareholders in the business. Mr. Pellerin had also assisted in drafting the promissory note to protect Mr. Lawrence's investment in the corporation. Mr. Francis had executed the demand note in favor of Mr. Lawrence, and had also executed the pledge of stock to secure the payment of the promissory note. The pledge provided that if Mr. Francis did not repay the $100,000, his shares of stock would go to Mr. Lawrence. After Mr. Lawrence's death, Mr. Pellerin had made demand on the promissory note on behalf of Mr. Lawrence's estate. Mr. Pellerin testified that the promissory note has never been paid, and confirmed that Mr. Lawrence financed the business and that Mr. Francis's "sweat equity" was the basis of his shares of stock.

On cross-examination, Mr. Francis acknowledged that Jerome Pellerin had prepared legal documents for the business and that those documents included a pledge of the defendant's stock in favor of Mr. Lawrence. Mr. Francis also admitted that he did not tell his family the truth about the shooting that night because he did not want them to know what happened and he was scared. Mr. Francis testified that had purchased the gun about six months prior to the incident for protection because he was working late at night. He denied that had been in a financial bind in 2000. He admitted that Mr. Lawrence had previously loaned him money, but denied that the amount was $100,000. Mr. Francis testified that Mr. Lawrence had helped pay for the wedding of one of Mr. Francis's daughter's. In addition, Mr. Francis testified on cross-examination that he had filed for bankruptcy four times - in 1992, 1993, 1997 and 2001.

Mr. Francis acknowledged that he had been arrested when he was seventeen years old for being in possession of a stolen vehicle[2] and that he had pled guilty in December 2006 for issuing a worthless check. With respect to the stolen vehicle charge, Mr. Francis testified that the arrest occurred because he was driving a vehicle which had been purchased by a friend, but, prior to the purchase, the vehicle had been reported as stolen. The prior owner failed to inform the police that the vehicle had been recovered. As to the "worthless check charge", Mr. Francis testified that he had written a check expecting that a deposit from his pension would have been posted to his checking account before the check was presented. However, his pension check was not deposited in time. According to Mr. Francis, when he learned of the overdraft, he made restitution. However,

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[2] See discussion of Assignment of Error One, *infra.*

charges were pressed against him and he pled guilty. Upon further questioning, Mr. Francis admitted that the worthless check charges involved a series of checks written on closed bank accounts, but testified that he did not realize the accounts were closed.

Errors Patent

A review of the record for errors patent reveals that there is no evidence that Mr. Francis waived his right to delay sentence after the trial court denied the motion for new trial. La.C.Cr.P. art. 873 states that if a motion for new trial is filed, sentence shall not be imposed until twenty-four hours after the motion is denied, unless Mr. Francis expressly waives the delay or pleads guilty. However, as per State v. Collins, 584 So.2d 356, 359 (La. App. 4 Cir. 1991), the failure to observe the twenty-four-hour delay mandated by La. C.Cr.P. art. 873 is harmless where Mr. Francis does not complain of his sentence on appeal. See also State v. Riley, 2005-1311 (La. App. 4 Cir. 9/20/06), 941 So.2d 618, 621; State v. Wheeler, 2004-0953 (La. App. 4 Cir. 3/9/05), 899 So.2d 84, 89. Mr. Francis has not alleged that his sentence is excessive. Thus, the error is harmless.

No other patent errors were found.

Assignment of Error One

In his first assignment of error, Mr. Francis contends that the trial court erred when it permitted the prosecution to question Mr. Francis and his witness, Rev. Gordon, regarding a prior arrest for which Mr. Francis was never convicted. Mr. Francis argues that the prosecutor should not have been allowed to question Mr. Francis and Rev. Gordon about Mr. Francis's arrest when he was seventeen years old. However, the State alleges that such questioning was permitted after Rev.

Gordon testified that he never knew Mr. Francis to get into trouble. The State avers that Mr. Francis opened the door to the evidence with this statement.

La. C.E. article 404 provides in pertinent:

> **B. Other crimes, wrongs, or acts.** (1) Except as provided in Article 412, evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show that he acted in conformity therewith. It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake or accident, provided that upon request by the accused, the prosecution in a criminal case shall provide reasonable notice in advance of trial, of the nature of any such evidence it intends to introduce at trial for such purposes, or when it relates to conduct that constitutes an integral part of the act or transaction that is the subject of the present proceeding.
> (2) In the absence of evidence of a hostile demonstration or an overt act on the part of the victim at the time of the offense charged, evidence of the victim's prior threats against the accused or the accused's state of mind as to the victim's dangerous character is not admissible; provided that when the accused pleads self-defense and there is a history of assaultive behavior between the victim and the accused and the accused lived in a familial or intimate relationship such as, but not limited to, the husband-wife, parent-child, or concubinage relationship, it shall not be necessary to first show a hostile demonstration or overt act on the part of the victim in order to introduce evidence of the dangerous character of the victim, including specific instances of conduct and domestic violence; and further provided that an expert's opinion as to the effects of the prior assaultive acts on the accused's state of mind is admissible

Generally, evidence of other crimes is inadmissible at trial because of the danger that the trier of fact will convict the defendant of the offense for which he is being tried based on his prior criminal or bad acts. State v. Davis, 97–0817, p. 6 (La. App. 4 Cir. 3/24/99), 735 So.2d 708, 711. However, it is well recognized that when one side has partially gone into a matter during its direct examination, the other side may fully go into it on cross-examination. State v. Edwards, 420 So.2d 663, 675 (La. 1982). Any doubt as to the propriety or extent of cross-examination is resolved in favor of the cross-examination. Id. at 675; State v. Lane, 292 So.2d 711, 715 (La. 1974).

In Edwards, the defendant, who was charged with the murder of her husband, contended that the trial court erred in allowing the prosecution to elicit evidence during cross-examination of the defendant that the defendant had spent part of the early morning hours (of the day when her husband was killed) with her lover. On direct examination, the defendant had testified at length about her activities prior to the shooting. On cross-examination she was asked where she was between the hours of 3:00 and 5:00 a.m. After defense counsel objected, the jury was removed, and the trial court was informed that the State intended to show that the defendant was at the home of her lover at this time. The trial court ruled that the cross-examination was proper because the defense had gone into defendant's activities thereby entitling the prosecutor to full cross-examination. The Supreme Court found no error by the trial court because the defendant had "opened the door" for its introduction by testifying concerning her activities between the prior altercation and the shooting.

Likewise, in State v. Betancourt, 351 So.2d 1187 (La. 1977), the Supreme Court found no error when the defendant was cross-examined about prior arrests to impeach his testimony on direct examination that he had never "been in any kind of trouble with the law" in his life.

The defendant relies upon this Court's decisions in State v. Monroe, 602 So.2d 125 (La. App. 4 Cir. 1992), and State v. Morgan, 513 So.2d 361 (La. App. 4 Cir. 1987), in which this Court found that the trial courts erred in allowing testimony about other crimes after the defendant had "opened the door." In Morgan, the defendant was convicted of second degree murder. The defendant testified at trial in his own behalf. During direct examination, the defendant admitted he was arrested for another crime on July 22, 1983 and was in jail when

he was rebooked for first degree murder. On cross-examination, the defendant admitted he was arrested on July 22, 1983, for being in possession of a stolen car and was convicted of this offense. He also admitted pleading guilty to attacking two sheriffs and two counts of attempted residence burglary. The State then proceeded to cross-examine the defendant about his confinement to, and escapes from, Scotlandville. The defendant did not testify about these arrests during direct examination. The trial court allowed the testimony to proceed, over defense counsel's objection, on the basis that the defendant testified that he had volunteered at Scotlandville. This Court found that the defendant's statement that he had volunteered at Scotlandville was not sufficient to open the door to cross-examination on the other arrests and that the trial court's error was prejudicial, requiring reversal of the defendant's conviction.

In Monroe, the trial court allowed the State to impeach the defendant by questioning him about a prior arrest for possession of codeine after the defendant had stated on direct examination that he did not use drugs. This Court, relying on Morgan, found that the trial court erred by allowing the introduction of such testimony, and that the error was prejudicial. This Court reversed the defendant's conviction.

However, in a more recent case, this Court held that the trial court did not err when it allowed the State to cross-examine the defendant about a prior arrest for cocaine and that he had shot at an ex-girlfriend. In State v. White, 2000-1740 (La. App. 4 Cir. 11/21/01), 802 So.2d 869, 874, the defendant testified on direct examination that he had turned his life around and no longer did drugs. He also testified on direct that he never possessed a gun. This Court found that the State was entitled to refute his testimony.

In State v. Smith, 2011-0091, p. 25 (La. App. 4 Cir. 7/11/12), 96 So.3d 678, 693, this Court recently reiterated that it is well settled that where one side has gone partially into a matter on examination-in-chief, the other side may go fully into it on cross-examination, quoting State v. Edwards, supra. In Smith, the Court held that the State was entitled to introduce testimony about Mr. Francis's drug use. The Court found that the defendant had opened the door when his wife testified that the defendant occasionally used drugs.

In the present case, defense counsel exhaustively questioned Rev. Gordon about his friendship with Mr. Francis. Rev. Gordon testified that he had known the defendant since junior high school and that the defendant had been an active member of his church for thirty years. He further stated that Mr. Francis "didn't get into trouble" as a young man. On cross-examination, Rev. Gordon reiterated that he had never known the defendant to get into trouble. At that point, the State asked Rev. Gordon if he knew that the defendant had been arrested when he was seventeen years of age, to which the witness responded in the negative.

The facts of the present case are similar to White, where this Court found that the State was entitled to refute the defendant's testimony. Additionally, even under Morgan, the testimony would be admissible. In Morgan, there was no issue with the State's questions regarding the defendant's 1983 arrest, to which the defendant had admitted during direct examination. The Morgan Court found that the State was not permitted to broaden its cross-examination to matters not covered during direct examination. In the present case, the State's questioning of Rev. Gordon went directly to Rev. Gordon's prior statement that he never known the defendant to get into any trouble. The trial court did not err when it allowed the State to question Rev. Gordon about the defendant's arrest.

This assignment of error is without merit.

Assignment of Error Two

In this assignment, Mr. Francis contends that the trial court erred when it allowed the prosecution to elicit testimony about an alleged promissory note the defendant signed in favor of Mr. Lawrence without requiring the prosecution to produce the actual promissory note. The defendant argues that the trial court erred by allowing such testimony because, in civil cases in which one party sues on a promissory note, the promissory note must be produced in order to meet the burden of proof. See Colonial Mortg. & Loan Corp. v. James, 2001-0526 (La. App. 4 Cir. 3/6/12), 812 So.2d 817.

However, the case cited by the defendant is inapplicable. The present proceeding is not a civil matter in which the victim's family is seeking payment of the promissory note. In this criminal matter, testimony concerning the pledge of stock and the promissory note was presented to show that the defendant had a motive for shooting the victim.

During cross-examination of Mr. Francis, the State questioned him about a promissory note executed by him in favor of Mr. Lawrence. The promissory note was referenced in a pledge of stock made by Mr. Francis in favor of Mr. Lawrence. The pledge of stock was introduced into evidence at trial, and the defendant admitted that it was his signature on the pledge. The person who signed the pledge agreement as a witness, Dwight Jarrett, was one of the defendant's character witnesses at trial. Additionally, Jerome Pellerin, the attorney who handled the incorporation of the defendant's business, identified the pledge of stock and testified regarding the promissory note.

In a criminal matter, this evidence is admissible as long as it is relevant. La. C.E. article 401 defines "relevant evidence" as "evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence." The testimony cited above is obviously relevant to the issue of motive, and therefore, the trial court did not err when it admitted such testimony into evidence.

This assignment is without merit.

Conclusion

For the reasons stated, we hereby affirm the defendant's conviction and sentence.

AFFIRMED