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¶ 2 Following a jury trial, defendant Fabio Ramirez was found guilty of first degree murder and sentenced to 47 years' imprisonment. On appeal, defendant contends that the State failed to prove him guilty of first degree murder beyond a reasonable doubt and that he was denied his right to a fair trial by prosecutorial misconduct during closing argument. For the reasons that follow, we affirm.

¶ 3 BACKGROUND

¶ 4 Defendant Fabio Ramirez, codefendant Reyes Ramirez, and Alejandro Roman were charged with multiple crimes, including the first degree murder of Rosa Mora, in connection with events that transpired on July 8, 2006. Defendant and Reyes were tried simultaneously before separate juries, and Alejandro entered into a plea arrangement with the State.

¶ 5 At trial, Esmeralda Mora, the daughter of Rosa, testified that in the early morning hours of July 8, 2006, she was on the front porch of her family's house at 1818 North Drake Avenue in Chicago with her mother, her older brother Pedro Mora, and several other people. Pedro had a severe cut on his forehead and bruises on his face and body. Esmeralda and Rosa were going to bring Pedro inside the house and clean him up when Esmeralda noticed all the people around her drop to the floor. Esmeralda also dropped to the ground, and she heard gunshots and felt the heat produced by the bullets as she did so. When the gunshots ceased, Rosa called to Esmeralda and told her that she had been shot.

¶ 6 Maribel Acosta testified that on the evening of July 7, 2006, she went to a dance at the intersection of Austin and Grand Avenues with Pedro and Mauro Torres. At the dance, Pedro got into an argument with Ledemo Jimenez, and Acosta convinced Pedro not to go outside with

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him. The dance ended about 1:30 a.m., and Acosta was on her way home with her boyfriend when she learned that Pedro and Torres had been attacked by a group of people including Jimenez. Acosta and her boyfriend then went to Pedro's house, and when they arrived, he was arguing with Jimenez over the phone and was bleeding from his forehead. Lizeth Vargas and Adriana Sandoval subsequently arrived at the house and acquired medical supplies for Pedro from a nearby Walgreen's.

¶ 7 About 3:30 a.m., Acosta was at the top of the porch of Pedro's house when she saw a dark SUV down the block. Pedro said that it was family members, and the vehicle proceeded toward them and stopped in front of Pedro's house. Defendant then pulled himself out of the vehicle and fired about nine shots at the house from over the top of the SUV. Acosta fell to the ground after she heard the first shot.

¶ 8 Acosta testified that her view of defendant and the SUV was not obstructed. Acosta explained that there was a light directly in front of Pedro's house and that there was another light about four houses to the north. Acosta also testified that defendant was wearing a black shirt and had something dark covering his face from the nose down at the time of the shooting. Acosta further testified that she viewed a lineup at a police station on the night of July 9, 2006, and identified defendant as the shooter from that lineup.

¶ 9 On cross-examination, Acosta stated that she spoke with Alejandro on the phone a few minutes before the shooting and, and that he told her that "you guys had messed with the wrong person." Acosta also stated that she described the shooter as "about 25ish, dark Hispanic, stocky, black t-shirt, mask covering his face" when she went to the police station on July 9,

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2006.

¶ 10 Lizeth Vargas testified that she and Pedro were friends and were both members of the Club 357 dance group. About 1 a.m. on July 8, 2006, Vargas received a phone call relating that Pedro and Torres had been beaten. Vargas, who was housesitting at her sister's home with Adriana Sandoval, then drove to Pedro's house with Sandoval. There were a lot of people in front of Pedro's house when they arrived, including Pedro, who had a wound across his forehead that was gushing blood, and Torres, whose ear "was basically cut in half." Vargas and Sandoval went to a nearby Walgreen's and purchased first aid supplies, then returned to Pedro's house 15 to 20 minutes later and sat on the front steps with Pedro, Rosa, and others. While Vargas was on the steps, a dark SUV with tinted windows pulled up outside the house. The driver's side of the SUV was facing the house, and defendant pulled the upper half of his body out of the passenger window, pointed a gun over the top of the vehicle, and fired eight or nine shots at the house.

¶ 11 Vargas explained that defendant was wearing a dark camouflage or black bandana or ski mask on his face and that it covered his face from the bottom of his nose down. Vargas froze and stared at defendant for 30 or 40 seconds as he fired the first three shots, then ducked down and protected her head as he fired the remaining shots. Vargas further explained that she was 10 to 15 feet away from defendant during the shooting and that although it was dark outside, there was a light in front of Pedro's house that made it easier to see.

¶ 12 Vargas viewed a lineup at a police station on the evening of July 8, 2006, and identified defendant as the shooter with 95% certainty. Vargas explained that even though the shooter's face was partially covered during the shooting, defendant's face was partially covered during the

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lineup, and she was able recognize him based on "his facial features, his nose, his eyes, his haircut, his body build, and his skin color." Vargas further testified that defendant had a fade haircut at the time of the shooting and had that same haircut at trial.

¶ 13 On cross-examination, Vargas stated that Alejandro had been a member of Club 357, but split from that group with other members and formed the Chosen Ones dance group. Pedro was vice president of Club 357 and was upset when members of his group left to form the Chosen Ones. Although defendant was not part of any dance groups at the time of the incident, he hung out with members of the Chosen Ones. Vargas also stated that she and Sandoval returned to Pedro's house with medical supplies about 3:30 a.m. and that camouflage was the color of the Calibre 357 dance group, which had also split off from Club 357. Vargas further stated that she did not provide the police with defendant's name when she first spoke with them, and that she first did so after she viewed the lineup.

¶ 14 Adriana Sandoval testified that she and Vargas went to Pedro's house in the early morning hours of July 8, 2006, after learning that he had been injured in a fight and that he and Torres were at his house. Pedro, whose head was bleeding, was sitting on the front steps of the house when Sandoval and Vargas arrived. Sandoval and Vargas then went to Walgreen's to get first aid supplies, and there were about eight people outside of the house when they returned. Sandoval went across the street from the house to talk to a friend, and just when she was about to return, Pedro stood up and said that more of his family was coming. Sandoval looked down the block and saw a SUV turn its lights on and off and drive toward Pedro's house. The vehicle stopped in front of Pedro's house, and defendant pulled himself out of the SUV through the

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passenger window, put his arms across the top of the vehicle, and fired eight or nine shots at the house.

¶ 15 Sandoval was standing on the passenger side of the vehicle behind the shooter when he fired his gun, and she testified that he was muscular and had broad shoulders and that he was wearing a black t-shirt and had a short haircut resembling a fade. Sandoval was able to recognize defendant as the shooter because she had seen him three or four times at dance competitions. After the shots had ceased, the vehicle drove away and Sandoval heard a window break. At 8 p.m. on July 8, 2006, Sandoval spoke with detectives, told them that defendant was the shooter, and provided them with a picture of defendant she had taken from the internet.

¶ 16 On cross-examination, Sandoval stated that she did not see the shooter's face and that although she initially believed his name was Victor, she did so because she was confused about people's names and nicknames. About 7 a.m. on the morning of the shooting, Sandoval was driving from the hospital where Rosa had been taken to a friend's home when she saw a black Chevrolet SUV with a broken window on Hirsch Street and alerted the police. Sandoval further stated that she did not show the picture of defendant she had taken from the internet to anyone prior to providing it to the detectives. On redirect examination, Sandoval testified that she told the officers at the scene of the shooting that defendant was the shooter and that he also went by the name Victor.

¶ 17 Pedro Mora testified that he was a member of Club 357 at the time of the shooting and that his group was not getting along with the Chosen Ones. About 9 p.m. on July 7, 2006, Pedro went to a club at Austin and Grand Avenues with Torres and got into an argument with Jimenez,

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who was a member of the Chosen Ones. Later that night, as Pedro and Torres were leaving the club, Pedro was attacked by a group of people including Jimenez, who beat him up and hit him in the forehead with a crowbar. Pedro eventually escaped and returned home between 2 and 2:30 a.m.

¶ 18 After he arrived home, Pedro got in his truck with his uncle Gonzalo Mora and his friend Jose Garrido, and they drove to Alejandro's house because he was a member of the Chosen Ones and Pedro knew where he lived. Pedro knocked on the door of Alejandro's house and smashed the front windows with a crowbar when nobody answered, then went to Hirsch Street by Kostner Avenue, where he knew members the Chosen Ones hung out, and smashed the windshield of a black SUV. Pedro then returned home, where he was met by family, friends, and neighbors, including Torres, whose ear looked swollen. About 3:30 a.m., Pedro was on the front porch of his house when a truck proceeded down the block toward him. When the vehicle reached his house, Pedro heard several gunshots and dropped to the ground for cover.

¶ 19 On cross-examination, Pedro stated that at the time of the shooting, he had problems with Jimenez and the Chosen Ones, but not defendant, whom he had not seen as part of any of the aforementioned dance clubs. Pedro explained that he smashed the window of the SUV by Hirsch and Kostner because he had previously seen one of the Chosen Ones driving that vehicle. Pedro also stated that he received a phone call from Jimenez not long before the shooting and told him that he would "get him back." Pedro further stated that he did not see who fired the gunshots at his house.

¶ 20 Linda Roman, Alejandro's sister, testified that she was living with her family at 4822

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West Wellington Avenue at the time of the shooting. Linda, Alejandro, Pedro, and Reyes had all been members of Club 357, but Alejandro and Reyes left that group and joined the Chosen Ones a couple months prior to the shooting. Linda explained that defendant was also a member of the Chosen Ones, and that he was friends with Reyes and Alejandro.

¶ 21 On the evening of July 7, 2006, Linda went to a dance in the western suburbs, and arrived home about 2 a.m., when she picked up Alejandro to go to a restaurant. Alejandro was arguing with Acosta on his phone when she arrived, and when he entered her car, Linda saw a truck, a van, and another small car arrive at their house. Pedro exited the truck, and Alejandro told Linda to drive away. Alejandro was scared because he had been alerted that Pedro was looking for him and was going to hurt him because of what had happened to him earlier that night. Linda drove away, and a couple minutes after she and Alejandro arrived at the restaurant, their mother called and told them that somebody had broken the windows to their house.

¶ 22 After they left the restaurant, Linda drove Alejandro to the intersection of Kostner and Armitage, where they met defendant and Reyes. Reyes was driving a dark SUV, and defendant was in the passenger seat. Alejandro got in the back seat of the SUV, and then drove off with Reyes and defendant. Linda then proceeded to the intersection of North and Ashland to pick up her friends Erica Ramirez and Jackeline Salinas, who had been at a dance club downtown. As Linda drove them home, she received a phone call from her mother that caused her to become hysterical and unable to drive. Salinas then drove them to a gas station at the intersection of Central and Touhy in Niles, a northwest suburb of Chicago, where they met Alejandro, Reyes, and defendant. Erica, Salinas, Reyes, and defendant drove away in the SUV Reyes had been

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driving, and Linda drove Alejandro to their brother's house in the suburbs. As Linda did so, Alejandro told her to say that they had been together all night if anyone asked. Linda later met with a police officer and did not initially tell him the truth about what had happened that night because she was scared.

¶ 23 On cross-examination, Linda stated that at some point on the night of the shooting, Pedro told Linda that Alejandro and her mother were dead. Linda also stated that about 40 minutes had passed from when Alejandro drove away with Reyes and defendant from Kostner and Armitage and when she next saw him at the gas station in Niles. Linda further stated that she initially told the police that she had been with Alejandro all night, but later admitted that was not true. On redirect examination, Linda testified that she told the police the truth after learning an innocent woman had died.

¶ 24 Jackeline Salinas testified that she left work at midnight on the night of the shooting and met Erica, her friend Maribel Rodriguez, Reyes, and defendant at Reyes's house. Reyes drove them to the Excalibur dance club in downtown Chicago in his dark SUV. They arrived at the club about 1 a.m., and Reyes received a phone call from Alejandro 30 to 45 minutes later. Reyes told Salinas that Jimenez had beaten up Pedro and that "now it's war," and then left the club with defendant. Salinas and Erica left the club about 3:30 a.m. and were dropped off at the corner of North and Ashland by two of Erica's cousins. Linda picked them up from that location and was driving them to her house when she received a phone call from her mother that caused her to shake and scream. Linda pulled the car over, and Salinas proceeded to drive.

¶ 25 As Salinas was driving, Erica received a phone call and told her to drive to a Holiday Inn

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at Central and Touhy in Niles, where they were to meet Reyes and defendant. They instead met Reyes, defendant, and Alejandro, who all arrived in Reyes's SUV, at a nearby gas station, and Salinas and Erica then went to the Holiday Inn with Reyes and defendant in Reyes's SUV. The four of them got a room at the hotel at 4:19 a.m., and about five or ten minutes after going to the room, Erica and defendant left to drop off Rodriguez's keys. When they returned, Reyes asked defendant what happened and he said "I spoke to Linda, nothing happened, that shit's gone." Reyes then said "if it's gone, let's get it back," and defendant responded "I can't, it's in the river." They checked out of the room between 9 and 9:30 a.m. and went to Reyes's house at 4343 West Hirsch Street, where they encountered numerous police officers. On cross-examination, Salinas stated that although defendant was a member of the Chosen Ones, she had not seen him dance at a competition with that group.

¶ 26 Erica Ramirez testified that she went to a dance club on the night of the shooting with Salinas, Rodriguez, Reyes, and defendant in Reyes's truck. Reyes and defendant left the club after Reyes received a phone call from Alejandro, and Erica and Salinas were later picked up by Linda. The three of them met Reyes, defendant, and Alejandro at a gas station in Niles, and Linda became upset while talking on the phone while they were on their way. From the gas station, Linda left with Alejandro, and Erica, Salinas, Reyes, and defendant went to a nearby Holiday Inn and got a room.

¶ 27 While they were in the room, Erica told Reyes and defendant that she needed to go to Rodriguez's house to drop off the keys Rodriguez needed to get into work the next day. Erica then drove to Rodriguez's house with defendant, and he told her to stop at the Jiffy Lube by the

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Chicago River at North Avenue while they were on their way. When Erica did so, defendant grabbed something wrapped in dark cloth from the back seat and exited the vehicle. Defendant crossed the street and walked onto the bridge running over the Chicago River and dropped the object he had taken from the back seat into the river. Erica asked defendant about the object he had dropped into the river when he returned, but he did not tell her anything about it.

¶ 28 When they returned to the hotel after dropping off Rodriguez's keys, Reyes asked defendant "if he got rid of it," and defendant responded that he had, "by the river." Before they left the hotel, Reyes and defendant talked to Erica about their whereabouts that evening and said that they were at Excalibur, then went from the club to the hotel, and then went from the hotel to Reyes's house. Erica testified that their statement as to their whereabouts was not accurate. Erica, Salinas, Reyes, and defendant then went to Reyes's house, where they were arrested, and Erica subsequently met with detectives and took them to the location where defendant dropped an object into the river.

¶ 29 Alejandro Roman testified that he was currently charged with the murder of Rosa Mora and that he had reached a plea agreement with the State to testify truthfully in exchange for the recommendation of the State's attorney that he receive a sentence of 10 years' imprisonment on the charge of conspiracy to commit murder. Alejandro further testified that he, defendant, and Reyes were all in the Chosen Ones dance group, which was formed in March 2006. Prior to that, Alejandro and Reyes had been part of Club 357. Although defendant was a member of the Chosen Ones and trained with the group, he did not perform at any competitions with them. A few weeks prior to the shooting, the Chosen Ones and Club 357 had gotten into a fight following

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a dance.

¶ 30 Shortly after midnight on the morning of July 8, 2006, he received a phone call from Linda about going to a restaurant, and she later picked him up from their house. While they were outside their house and in Linda's car, Pedro arrived in his car with a group of people in a van. Alejandro told Linda to drive away, and she did. As they drove to the restaurant, Alejandro received a phone call from Jimenez, who told him that a fight had occurred, that Pedro had been injured during that fight, and that he should be careful. While at the restaurant, Alejandro received angry phone calls from Pedro and other Club 357 members about what had happened to Pedro. Alejandro also received a call from his mother, who told him that the front windows to their house had been broken right after he left.

¶ 31 Alejandro called Reyes, told him about what had happened to his house, and agreed to meet him and defendant at the intersection of Kostner and Armitage. Linda drove Alejandro to that location, and he met defendant and Reyes and sat down in the back seat of his truck. Reyes was driving the vehicle and defendant was in the front passenger seat. Alejandro, defendant, and Reyes were all upset because Pedro had broken the windows of Alejandro's house and a window of defendant's truck. Defendant, who was loading a gun, told Alejandro that they "were going to drive there and shoot up the house." Reyes drove them to Pedro's house and Alejandro provided him with the directions as he did so. Pedro's house was on the driver's side of the vehicle, and there were about 10 people on the front porch. When they arrived, defendant said "I don't care," pulled himself out of the passenger side window, and fired about nine shots at the house over the roof of the truck. Reyes drove away and went to a gas station in Niles where they met Linda,

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Erica, and Salinas. Erica and Salinas left with Reyes and defendant, and Linda drove Alejandro to his brother's house in the suburbs.

¶ 32 Alejandro further testified that he spoke with police detectives following the shooting and that he did not initially tell them the truth because he was scared, but eventually changed his mind because it was the right thing to do. On cross-examination, Alejandro stated that Pedro had threatened to kill him when he talked to Pedro on the phone prior to the shooting and that he had a fade haircut when he went to the police station on July 9, 2006.

¶ 33 Chicago police detective Mark Pawelski testified that about 9:40 p.m. on July 9, 2006, Acosta viewed a lineup consisting of five individuals including defendant, Alejandro, and Reyes, and that she identified defendant as the shooter from that lineup. Detective Pawelski further testified that all the people in the lineup were made to wear a cloth or some kind of object over their mouths and were made to sit down and stand up because the shooter was believed to have had a cloth over his mouth and to have been standing during the shooting. On cross-examination, Detective Pawelski stated that Acosta and Sandoval were at the police station on July 8, 2006, but did not view a lineup at that time, and that the individuals in the lineup viewed by Acosta did not cover their noses or wear camouflage bandanas.

¶ 34 Chicago police detective Michael Landando testified that he spoke with Sandoval about 8:55 p.m. on July 8, 2006, at which time Sandoval provided him with a printed photograph of defendant, Reyes, and several unidentified people. Sandoval told Detective Landando that she had not shown that picture to anyone else and she identified defendant as the shooter. Detective Landando further testified that he spoke with Alejandro at 1:35 and 1:53 a.m. on July 9, 2006,

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and that he suggested the next interview with Alejandro be videotaped because the information he provided during the first two interviews was inconsistent.

¶ 35 On cross-examination, Detective Landando stated that Alejandro told him that he told Pedro that he was messing with the wrong person after Pedro had threatened him and that he said "I'll say I did it" during the videotaped interview. On redirect examination, Detective Landando testified that he did not think Alejandro was the shooter when he said "I'll say I did it," but instead believed that Alejandro was trying to stop the police from investigating further.

¶ 36 Donald Beltrame testified that he owned a retail store that sold firearms, ammunition, and related items and that he was required by law to keep records of anything related to gun sales or ammunition sales. Beltrame further testified that Reyes purchased a handgun with the serial number 302-70902 from his store in December 2005 and that the purchase was reflected by the records he was legally required to maintain.

¶ 37 Chicago police officer David Bryja testified that about 5:30 p.m. on July 9, 2006, he participated in a dive into the Chicago River by the North Avenue Bridge and recovered a number of items that were wrapped inside a black t-shirt from the river floor. Officer Bryja further testified that wrapped inside the black t-shirt were a loaded gun with the serial number of 302-70902, a camouflage handkerchief, a pair of gloves, and an unpaired glove.

¶ 38 Forensic investigator Maurice Henderson testified that about 4:30 a.m. on July 8, 2006, he recovered eight cartridge cases from a semi-automatic weapon from the street between 1818 and 1838 North Drake and two fired bullets from the stairs and the floor of the vestibule of the house at 1818 North Drake. The parties stipulated that if called, Dr. Valerie Arangelovich would

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testify that she performed an autopsy on the body of Rosa Mora and recovered a fired bullet from Rosa's body while doing so.

¶ 39 Forensic scientist Marc Pomerance testified that he tested the gun found by Officer Bryja, the two fired bullets and eight fired cartridge cases from the scene of the shooting, and the fired bullet from Rosa's body. Based on that testing, Pomerance concluded within a reasonable degree of scientific certainty that the cartridge cases and two of the three fired bullets, including the one recovered from Rosa's body, had been fired from the gun found by Officer Bryja. The testing of the other bullet recovered from the scene of the shooting was inconclusive.

¶ 40 Chicago police officer Ocampo testified for the defense that he spoke with Sandoval at the scene of the shooting at 3:48 a.m. on July 8, 2006, and that she told him that the shooter's name was Victor Arriola. Sandoval also described the shooter as a male white Hispanic that was about 5'6" tall and had brown eyes and black Afro-style hair.

¶ 41 Based on this evidence, the jury found defendant guilty of first degree murder and found the additional fact that he personally discharged a firearm that proximately caused death to another during the commission of the murder. The trial court subsequently sentenced defendant to 47 years' imprisonment.

¶ 42 ANALYSIS

¶ 43 I. Sufficiency of the Evidence

¶ 44 Where a defendant challenges the sufficiency of the evidence to sustain a conviction, the standard of review is whether, after viewing the evidence in the light most favorable to the State, any rational trier of fact could have found the essential elements of the crime beyond a

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reasonable doubt. *People v. Hall*, 194 Ill. 2d 304, 330 (2000). This standard recognizes the responsibility of the trier of fact to resolve conflicts in the testimony, weigh the evidence, and draw reasonable inferences therefrom. *People v. Campbell*, 146 Ill. 2d 363, 375 (1992). This court will only reverse a conviction where the evidence is so unreasonable, improbable, or unsatisfactory as to justify a reasonable doubt of the defendant's guilt. *People v. Ross*, 229 Ill. 2d 255, 272 (2008).

¶ 45 Defendant contends that the State failed to prove him guilty of first degree murder beyond a reasonable doubt because the eyewitness identifications provided by Vargas, Acosta, and Sandoval were unreliable, Alejandro's testimony was not credible, and the remaining evidence was insufficient to prove him guilty of murder under an accountability theory. The State responds that the evidence of defendant's guilt is overwhelming because all three eyewitnesses who identified him as the shooter knew him prior to the shooting and those identifications were supplemented by the testimony of Alejandro and evidence showing that he disposed of the murder weapon.

¶ 46 Defendant first asserts that the eyewitness identifications of him are unreliable because the witnesses did not have a good opportunity to view the shooter, their initial descriptions of the shooter did not match his appearance at the time of the shooting, and the evidence strongly suggests that their identifications were tainted. In determining the reliability of a witness identification, this court will consider the opportunity the witness had to view the defendant at the time of the crime, the witness' degree of attention, the accuracy of the witness' prior description of the defendant, the level of certainty demonstrated by the witness at the

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identification confrontation, and the length of time between the crime and the identification confrontation. *People v. Slim*, 127 Ill. 2d 302, 308-09 (1989).

¶ 47 Defendant maintains that Vargas, Acosta, and Sandoval did not have a good opportunity to view the shooter because the shooting occurred at night, the shots were fired from a moving vehicle, the shooter's face was covered from the nose down, they viewed the shooter for a short period of time, and Sandoval did not see the shooter's face. The record shows, however, that Acosta testified that she had an unobstructed view of defendant and the vehicle from which he shot at Pedro's house. Acosta also testified that there was a light directly in front of Pedro's house and another light about four houses to the north. In addition, Vargas testified that although it was dark outside when the shooting occurred, there was a light in front of Pedro's house that made it easier to see. Further, the record does not show that the shots were fired from a moving vehicle where Acosta and Vargas testified that the SUV "pulled up" in front of Pedro's house and Sandoval testified that the vehicle came to a complete stop.

¶ 48 Although the shooter's face was partially covered during the shooting, the faces of all the participants in the lineups from which Acosta and Vargas identified defendant were also partially covered. Vargas also explained that even though the shooter's face was partially covered, she was able to identify defendant as the shooter with 95% certainty and was able to recognize him by his facial features, nose, eyes, haircut, body build, and skin color. As to the length of time the witnesses had to view the shooter, the record shows they viewed him for several seconds where they saw him pull himself out of the vehicle, point a gun at Pedro's house, and fire at least one shot, and such an opportunity is sufficient to support a reliable identification. *People v. Herrett*,

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137 Ill. 2d 195, 204 (1990). To the extent the reliability of Sandoval's identification may be discounted due to the fact that she did not see the shooter's face, the identifications provided by Acosta and Vargas suffer from no such defect.

¶ 49 Also, the reliability of the witnesses' identifications are strengthened by the fact that they all knew defendant prior to the shooting (*People v. Jones*, 187 Ill. App. 3d 823, 831 (1989)) and by the fact that they each independently identified defendant as the shooter at separate police lineups (*People v. Negron*, 297 Ill. App. 3d 519, 530 (1998)). The identifications of defendant as the shooter are further bolstered by the fact that all three witnesses testified that the shooter was in the front passenger seat of the SUV, and Linda Roman testified that defendant was sitting in that seat when she dropped Alejandro off with defendant and Reyes prior to the shooting.

¶ 50 Defendant next maintains that the witnesses' initial descriptions of the shooter did not match his appearance at the time of the shooting because Erica Ramirez testified that he had a bald haircut at the time of the shooting and Vargas and Sandoval described the shooter as having a fade haircut. The record shows that Vargas and Sandoval testified that the shooter had a fade haircut and that Vargas testified that defendant had a fade haircut at trial. The record also shows that Erica stated on cross-examination that defendant had a bald haircut, and not a fade, on the night of the shooting. However, the record further shows that Erica stated that defendant had the same haircut on the night of the shooting as he did at trial and that defense counsel then asked her if Alejandro's haircut was different than defendant's, and she responded that "I don't remember, I don't recall, I didn't pay attention to their haircuts."

¶ 51 Thus, although Vargas and Erica disagreed over what constituted a fade haircut and what

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constituted a bald haircut, they agreed that defendant had the same haircut at trial as he did on the night of the shooting. In addition, to the extent Erica's description of defendant's haircut on the night of the shooting differed from the descriptions provided by Vargas and Sandoval, it was reasonable for the jury to believe Vargas and Sandoval over Erica where Erica admitted that she did not pay attention to defendant's haircut on the night of the shooting.

¶ 52 Defendant further maintains that Sandoval based her identification of him on speculation and guesswork where she initially believed the shooter was named Victor Arriola and did not see the shooter's face and that the identifications provided by Acosta and Vargas were the product of Sandoval's identification and the photograph she provided the police. However, Sandoval explained that she initially believed the shooter's name was Victor because she was confused about people's names and nicknames and that she did not show the photograph of defendant to anyone prior to providing it to the police. Further, there is no evidence in the record showing that Sandoval showed the photograph of defendant to Acosta or Vargas or that she influenced their lineup identifications of defendant.

¶ 53 The testimony of a single eyewitness, if positive and credible, is sufficient to support a defendant's conviction. *People v. Siguenza-Brito*, 235 Ill. 2d 213, 228 (2009). In this case, three witnesses provided eyewitness testimony identifying defendant as the shooter. Although the identification provided by Sandoval cannot be accorded significant weight due to the fact that she did not see the shooter's face, the identifications provided by Acosta and Vargas are alone sufficient to support defendant's conviction. As stated earlier, it is the responsibility of the jury to make determinations regarding the credibility of witnesses and the weight to be given to their

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testimony. *Ross*, 229 Ill. 2d at 272. The jury was presented with evidence of the conditions under which Acosta and Vargas viewed the shooter and identified defendant, and the jury could have reasonably relied on their identifications in finding defendant guilty where they had an unobstructed view of the shooter in good lighting and independently identified defendant as the shooter from separate lineups. We therefore conclude that the State presented sufficient evidence to prove defendant guilty of first degree murder beyond a reasonable doubt.

¶ 54 In reaching that conclusion, we have considered *People v. Cullotta*, 32 Ill. 2d 502 (1965), cited by defendant, and find it distinguishable. In *Cullotta*, our supreme court determined that the identifications of the defendant provided by two police officers were unreliable where the officers had not previously observed the defendant and had only a fleeting view of the profile of the offenders as they drove by in their patrol cars. *Id.* at 504-05. The court further determined that even if the officers' identification of defendant could be accepted as reliable, the defendant's mere presence at the scene of a burglary more than an hour before it was interrupted by the police was insufficient to establish his guilt. *Id.* at 505. In this case, however, the witnesses all knew defendant prior to the shooting, Acosta and Vargas had more than a fleeting view of the shooter's partially covered face, and the witnesses observed the commission of the crime.

¶ 55 Defendant next asserts that Alejandro was not a credible witness and that his testimony did not provide a sufficient basis to sustain his conviction. Although the testimony of an accomplice witness has inherent weaknesses (*People v. Holmes*, 141 Ill. 2d 204, 242 (1990)) and must be cautiously scrutinized on appeal (*People v. Ash*, 102 Ill. 2d 485, 493 (1984)), such testimony, whether corroborated or uncorroborated, is sufficient to sustain a criminal conviction

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if it convinces the jury of defendant's guilt beyond a reasonable doubt (*People v. Young*, 128 Ill. 2d 1, 48 (1989)). The inherent weaknesses in accomplice testimony go to the weight of the evidence and the credibility of the witnesses, which are matters within the province of the jury. *Holmes*, 141 Ill. 2d at 242.

¶ 56 In this case, and unlike *People v. Wilson*, 66 Ill. 2d 346, 350 (1977), cited by defendant, Alejandro's testimony was corroborated by the identifications of defendant as the shooter by Acosta, Vargas, and Sandoval and was therefore not the only evidence of defendant's guilt. In addition, the fact that Alejandro was charged with murder and had agreed to testify truthfully in exchange for the recommendation that he receive a 10-year sentence for conspiracy to commit murder were brought to the jury's attention when he testified about his plea agreement. The record also shows that the trial court instructed the jury that accomplice testimony is "subject to suspicion and should be considered by you with caution." Thus, the jury was fully apprised of the infirmities in Alejandro's testimony when it performed its function as fact-finder and found defendant guilty of first degree murder (*id.* at 243), and we have no reason to disturb that determination. Moreover, even if Alejandro's testimony was not to be accorded any weight, the evidence was nonetheless sufficient to prove defendant guilty of murder beyond a reasonable doubt where Acosta and Vargas identified him as the shooter.

¶ 57 Although defendant also asserts that the remaining evidence was insufficient to prove him guilty of murder beyond a reasonable doubt under an accountability theory, we need not address this issue because the State presented sufficient evidence showing that defendant was the shooter to support his conviction.

¶ 58

II. Prosecutorial Misconduct

¶ 59 Defendant also contends that his conviction must be reversed because he was denied a fair trial by the prosecutor's improper comments during closing argument. The State initially responds that defendant has forfeited this issue by failing to articulate the basis for his challenge with sufficient specificity in his posttrial motion for a new trial. To preserve an issue for appeal, a defendant must object at trial and raise the issue in a posttrial motion. *People v. Anderson*, 407 Ill. App. 3d 662, 676 (2011). The record shows that in his motion for a new trial, defendant alleged that the prosecutor "made prejudicial, inflammatory and erroneous statements in closing argument, designed to arouse the prejudices and passions of the Trial Court, thereby prejudicing [his] right to a fair trial." Thus, although defendant did not specify the exact comments he alleged were improper, he adequately raised the issue of prosecutorial misconduct to preserve it for appeal.

¶ 60 A prosecutor is afforded wide latitude in closing argument, and this court will not disturb the trial court's ruling on the propriety of these comments absent an abuse of discretion. *People v. Chapman*, 262 Ill. App. 3d 439, 454 (1992). In reviewing allegations of prosecutorial misconduct, the comments at issue must be examined in their entirety and placed in the proper context. *People v. Cisewski*, 118 Ill. 2d 163, 176 (1987). A jury's verdict will not be disturbed on appeal due to prosecutorial misconduct, however, unless it can be said that the improper comment caused substantial prejudice to the defendant. *People v. Williams*, 192 Ill. 2d 548, 573 (2000). Whether a prosecutor's statement is so egregious that it warrants a new trial is a legal issue, which this court will review *de novo*. *People v. Wheeler*, 226 Ill. 2d 92, 121 (2007).

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¶ 61 Defendant asserts that the prosecutor improperly suggested that his failure to testify was evidence of his guilt and personally vouched for Alejandro's credibility during closing argument.

Defendant specifically challenges the prosecutor's remarks that:

"[t]he difference between Alejandro *** and [defendant] was that [Alejandro] accepts responsibility for his actions. You saw him testify. He was honest, he was credible. He admitted to what happened. Say what you will about [Alejandro], but it does take guts to get up there on the witness stand and to point out the person you saw."

¶ 62 Defendant maintains that the prosecutor improperly commented on his failure to testify by drawing a distinction between him and Alejandro on the basis that Alejandro testified at trial and he did not. A prosecutor may not comment on a defendant's exercise of his constitutional right not testify as a witness on his own behalf, and in determining whether a prosecutor improperly commented on a defendant's failure to testify, this court will consider whether the reference was intended to direct the jury's attention to the defendant's failure to testify. *People v. Howard*, 147 Ill. 2d 103, 146-47 (1991). We determine that the prosecutor drew a distinction between Alejandro and defendant on the basis of Alejandro's willingness to accept responsibility for his role in the shooting, and not the basis of whether or not they testified, in the challenged comment and did not improperly direct the jury's attention to defendant's failure to testify.

¶ 63 Defendant further maintains that the prosecutor improperly vouched for Alejandro's credibility by arguing that he was honest, credible, and courageous and that it "takes guts" to testify. It is improper for a prosecutor to vouch for the credibility of the State's witnesses or

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express a personal opinion on a case (*People v. Emerson*, 122 Ill. 2d 411, 434 (1987)), and a prosecutor may not place the integrity of the State's Attorney's office behind the credibility of the witnesses (*People v. Zoph*, 381 Ill. App. 3d 435, 456 (2008)). A prosecutor may, however, comment on the strength of the evidence. *Emerson*, 122 Ill. 2d at 434.

¶ 64 Where defendant was required to testify truthfully as part of his plea agreement, we determine that the prosecutor's comments that Alejandro was honest and credible were fair comments on the strength of his testimony. In addition, the prosecutor did not place the integrity of the office of the State's Attorney behind Alejandro's credibility by arguing that it took guts to testify at trial. Moreover, even if the prosecutor's brief and isolated comments regarding the credibility of Alejandro were improper, they did not substantially prejudice defendant where the evidence was sufficient to prove him guilty of murder even if the jury did not believe Alejandro's testimony.

¶ 65

CONCLUSION

¶ 66 Accordingly, we affirm the judgment of the circuit court of Cook County.

¶ 67 Affirmed.