

FIRST DIVISION
April 25, 2011

No. 1-09-1817

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellee,)	Cook County.
)	
v.)	No. 06 CR 23271
)	
ROBERT WASHINGTON,)	Honorable
)	Stanley J. Sacks and
Defendant-Appellant.)	Joseph M. Claps,
)	Judges Presiding.

JUSTICE ROCHFORD delivered the judgment of the court.
Justices Hoffman and Lampkin concurred in the judgment.

ORDER

Held: Defendant's conviction of first-degree murder was affirmed where: (1) his counsel provided effective assistance; (2) the evidence supported the jury's finding that defendant failed to prove a mitigating factor reducing his conviction to second-degree murder; and (3) the circuit court committed no abuse of discretion in granting the State's motion *in limine* precluding defendant from introducing evidence of the victim's allegedly aggressive and violent character.

A jury convicted defendant, Robert Washington, of first-degree murder and the circuit court sentenced him to 50 years' imprisonment. On appeal, defendant contends: (1) his counsel provided ineffective assistance; (2) his conviction should be reduced to second-degree murder; and (3) the circuit court erred by granting the State's motion *in limine* to preclude him from introducing evidence

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of the victim's allegedly aggressive and violent character. We affirm.

At trial, Vivian Shields testified that, on September 17, 2006, she lived on the second floor of an apartment building at 5310 South Wolcott Avenue. Karen Johnson lived on the first floor. On that day, defendant drove Ms. Shields and Ms. Johnson to two grocery stores and a liquor store. Ms. Shields did not see a gun on defendant at that time. After they finished shopping, they returned to the apartment building and Ms. Shields fried some shrimp. Ms. Shields then went outside the apartment building, where she stood talking to defendant, Ms. Johnson, and another resident of the building, Mignon Boswell.

Ms. Shields testified that, during this conversation, defendant told her he liked her breasts. Then he stated he wanted to have sex with Ms. Boswell. Ms. Boswell's boyfriend, Ricky Carpenter, (the victim), walked in on the conversation. Upon hearing defendant's comments, he told defendant not to "disrespect" Ms. Boswell. Defendant and the victim began arguing. The victim picked up a crate and threatened to "bust" defendant's face. He also threw beer in defendant's face. Ms. Boswell and Ms. Johnson took the crate from the victim, and then Ms. Boswell escorted the victim upstairs. As they were going upstairs, the victim hollered that he would be back because he had "something" for defendant. Ms. Shields testified that, during this entire argument, she did not see defendant in possession of a gun.

Ms. Shields testified that after the victim went upstairs, defendant remained outside and talked to someone on his cell phone. After he got off the phone, defendant told Ms. Shields and Ms. Johnson that the victim was going to get "his ass whooped." Defendant then walked to his car, which was parked in front of the apartment building, and drove away. Ms. Shields remained outside

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and later saw defendant had returned and was walking around the side of the apartment building. The victim's brother, Michael Carpenter, pulled up in his car and exited the vehicle. Around this time, the victim began walking down the stairs. Ms. Shields saw Mr. Carpenter put his arm around defendant, and they began walking together.

Ms. Shields testified that the victim began hollering at defendant from inside the apartment building. Defendant looked back over his shoulder and warned the victim against running up behind him. Defendant then pulled a gun from his pocket. Ms. Shields did not see a gun or knife in the victim's hand. After defendant pulled out the gun, Ms. Shields ran inside Ms. Johnson's apartment. Ms. Shields testified she heard two gunshots, but she did not see who fired the gun.

Patricia Carpenter, the victim's sister, testified that, on the afternoon of September 17, 2006, she received a phone call from Ms. Boswell concerning the victim. Ms. Carpenter then called the victim's brother, Michael Carpenter, and asked him to check on the victim.

Michael Carpenter testified that, on September 17, 2006, he was at home watching television, when his sister called at approximately 3 p.m. After speaking with his sister, Mr. Carpenter drove to 5310 South Wolcott Avenue, where his brother (the victim) was living with Ms. Boswell. Mr. Carpenter exited his car and saw defendant, a friend of his who he had known for seven or eight years, standing on the sidewalk in front of the apartment building. Defendant was yelling at the victim, who was at a window inside the building. Mr. Carpenter put his arms around defendant and tried to calm him down by telling him that the victim was his brother.

Mr. Carpenter testified that, as he was putting his arm around defendant, he saw a handle of a gun in the waist area of defendant's pants. Mr. Carpenter and defendant walked toward a vacant

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lot on the side of the apartment building. At this point, the victim came down the stairs and was standing in the first-floor hallway. Defendant and the victim looked at each other and continued arguing, and then defendant walked into the hallway. Mr. Carpenter followed.

Mr. Carpenter testified that when defendant stepped into the hallway, he pulled the gun out of his waist and held it in his hand. The victim was unarmed. The victim told defendant he did not care whether defendant had a gun. Defendant responded by threatening to shoot the victim. Defendant then leaned over and fired one shot into the victim's leg. The victim stumbled toward a wall and grabbed his leg. As the victim was slumped against the wall, defendant fired another shot at him and exited the building. The victim reached for his stomach. Ms. Boswell came downstairs, and Mr. Carpenter told her to call the police. When paramedics arrived, they rolled the victim over to examine his wounds. When they rolled the victim over, Mr. Carpenter saw, for the first time, that he had a knife in his back pocket.

Officer Patrick Doyle, an evidence technician with the forensics unit, testified that he arrived at the scene of the shooting at approximately 3:30 p.m. on September 17, 2006. Officer Doyle took photographs of the scene and recovered a stainless steel knife from the hallway floor. The knife was approximately one-foot away from blood on the hallway floor. There was no blood on the knife.

Officer Thomas Kelly testified he arrived at the scene of the shooting at approximately 3:30 p.m. on September 17, 2006. After learning that the victim already had been taken to the hospital, Officer Kelly spoke with Mr. Carpenter and Ms. Boswell. After speaking with them, Officer Kelly began looking for a man named Dion Washington. Officer Kelly later spoke with Ms. Johnson, who told him that Dion was a nickname, and that Mr. Washington's real first name was Robert. Officer

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Kelly then put together a photo array. When Officer Kelly began his work shift the next day, he learned the victim had died. Mr. Carpenter came to the police station and Officer Kelly showed him the photo array. Mr. Carpenter identified defendant as the person who had shot the victim. Officers arrested defendant on September 19, 2006.

Assistant Cook County Medical Examiner, Dr. Ponni Arunkumar, testified she performed an autopsy of the victim's body on September 19, 2006. Dr. Arunkumar found the victim had sustained two gunshot wounds, one to the left knee and one to the abdomen. There was no evidence the shots had been fired at close range. Dr. Arunkumar opined that the cause of death was multiple gunshot wounds, and the manner of death was homicide.

Defendant testified that, on September 17, 2006, he drove Ms. Shields and Ms. Johnson to the grocery store. After they returned to the apartment building at 5310 South Wolcott Avenue, defendant helped them put away the groceries and then he went outside. Defendant was wearing baggy jeans and a long-sleeved shirt and he carried a .357 revolver in his right pocket. Defendant sat outside in front of the apartment building with Ms. Shields, Ms. Johnson, and Ms. Boswell. Defendant commented on Ms. Shields' breasts. Defendant also told Ms. Boswell he had wanted to have sex with her when he was younger.

Defendant testified that the victim walked in on the conversation and overheard his comments to Ms. Boswell that he had wanted to have sex with her. The victim told him to stop disrespecting her. Defendant apologized to Ms. Boswell. The victim began swearing and walked toward defendant. Ms. Johnson and Ms. Boswell got between them. The victim threw a beer at defendant, picked up a crate, and threatened to "bust" his face. Ms. Boswell took the crate away

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from the victim and then walked with the victim up the stairs. As they were going upstairs, the victim told defendant he would be right back because he had "something" for defendant.

Defendant testified he called Ms. Boswell's brother and told him what had occurred. After he hung up the phone, defendant told Ms. Johnson and Ms. Shields that his "boy" was on his way to "kick [the victim's] ass." Then defendant went to his car and drove it around the corner because he was concerned the victim might try to vandalize it in retaliation for defendant's comments to Ms. Boswell.

Defendant testified that, after parking the car, he started walking back toward the apartment building. As he was walking, defendant heard a car pull up and saw Michael Carpenter exit the vehicle. Defendant walked up to Mr. Carpenter, who put his arm around defendant and asked him what was happening. While defendant was telling Mr. Carpenter what had happened, Mr. Carpenter turned around and said to somebody, "Don't run up on him yet." Defendant pushed Mr. Carpenter away, turned around, and saw the victim in the doorway of the apartment building. Defendant then reached into his pocket and pulled out his gun.

Defendant testified he saw the victim moving toward him in "a sneak mode" with "a shiny object pointing in his right hand." Defendant believed the object was a knife, so he fired his gun. Defendant testified he aimed the gun "at the floor" in an attempt to "hit him anywhere below the waist" in order to stop him from advancing. Defendant then saw Mr. Carpenter running toward defendant's car. Defendant "shot off and ran." Defendant admitted after he was arrested, that he gave the police "quite a few stories" in which he denied the shooting, and he never told them the version of events he testified to in court. Defendant testified he gave the police a number of stories

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and denied the shooting because he did not trust the police.

On cross-examination, defendant testified that when he first saw the victim with the shiny object in his right hand, he was about six to eight-feet away. As the victim began walking toward him, defendant fired two shots at him. Defendant admitted that, at the time of the shooting, the victim was "not standing right up on [him] with the knife" and from where the victim was located, he could not have poked defendant with the knife. Defendant testified, though, that at the time of the shooting, he felt an immediate threat because, not only was the victim advancing on him with an object he believed to be a knife, but the victim's brother Mr. Carpenter also was standing next to him. Defendant feared Mr. Carpenter might hold him until the victim was able to stab him.

Following all the evidence, the jury convicted defendant of first-degree murder. Within a few weeks of the verdict, the State filed a notice of disclosure with the court. In presenting the notice to the court, the prosecutor stated he had contacted defense counsel about an issue that had come to his attention following the jury's verdict. The prosecutor stated that, while talking to the jurors following their verdict, he heard a juror mention a witness statement in a police report. Unsure as to what the juror was referring to, the prosecutor reviewed the evidence that had been sent back to the jury and discovered an investigator's report from the Cook County Medical Examiner's Office inadvertently had been attached to the report of post-mortem examination. In the narrative portion of the report, the medical examiner's investigator wrote, "[a]ccording to the Chicago Police Report, the subject and the offender were having a verbal altercation. The offender stated that he was 'going to get a gun.' "

Defendant filed a motion for new trial or for judgment notwithstanding the verdict based on

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the investigator's report having been sent back to the jury. At the hearing, defense counsel argued that the investigator's statement that defendant said he was "going to get a gun" was prejudicial to defendant because there had been no testimony at trial that defendant ever said he was going to get a gun; rather, defendant had testified at trial that he had always had the gun in the waistband of his pants. Defense counsel argued that the investigator's report served to impeach defendant's trial testimony and may have contributed to the jury's verdict finding him guilty of first-degree murder. The circuit court denied the motion on March 13, 2009.

Additional counsel filed a supplemental motion for a new trial on April 27, 2009, arguing defendant's trial counsel had committed ineffective assistance by failing to inspect the post-mortem examination report and discover the investigator's report attached thereto prior to its being sent back to the jury. The circuit court denied the supplemental motion for a new trial, finding the evidence against defendant was so overwhelming that he would have been convicted even if trial counsel had discovered the investigator's report and objected to it being sent to the jury. Following a sentencing hearing, the circuit court sentenced defendant to 50 years' imprisonment. Defendant appeals.

First, defendant contends his trial counsel committed ineffective assistance by failing to inspect the post-mortem examination report and discover the investigator's report attached thereto. Defendant contends, "[b]y his own admission, the attorney would have objected to the admission of [the investigator's report] had he known it was attached to" the post-mortem examination report. To succeed on a claim of ineffective assistance, defendant must show first, that "counsel's representation fell below an objective standard of reasonableness" (Strickland v. Washington, 466 U.S. 668, 688 (1984)), and second, that he was prejudiced thereby such that "there is a reasonable

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probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Strickland, 466 U.S. at 694.

Counsel's failure to examine the post-mortem examination report and discover the investigator's report attached thereto did not constitute ineffective assistance under *Strickland*. The post-mortem examination report was prepared by Dr. Arunkumar, who testified she performed the autopsy on the victim's body, found gunshot wounds to his left knee and to the abdomen, and opined that the cause of death was multiple gunshot wounds and the manner of death was homicide. Dr. Arunkumar identified People's exhibit no. 2 as a certified copy of her post-mortem examination report. Following all the evidence, the assistant state's attorney asked that People's exhibit no. 2 be sent back to the jury during deliberations. Defense counsel had no objections. The post-mortem examination report was properly admitted into evidence and it was within the circuit court's discretion to send it back to the jury during deliberations. *People v. Hughes*, 257 Ill. App. 3d 633, 639 (1993). At the time the post-mortem examination report was sent back to the jury, defense counsel had no reason to question its authenticity or its content as Dr. Arunkumar had testified to the authenticity of the post-mortem examination report at trial and had been allowed to refer to the report during her testimony. There was no testimony at trial indicating that the investigator's report was attached to the post-mortem examination report, and no statements by the assistant state's attorney or the circuit court to that effect at the time the post-mortem examination report was sent back to the jury. Defense counsel relied on the fact that the post-mortem examination report was as testified to by Dr. Arunkumar and acquiesced in sending it back to the jury without examining it further. On these facts, we cannot say defense counsel's conduct was so objectively unreasonable

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as to constitute ineffective assistance under *Strickland*.

Defendant's claim of ineffective assistance also fails because he was not prejudiced by the investigator's report being sent back to the jury. Defendant contends the investigator's report could have "tipped the scales" and led the jury to reject his claim of second-degree murder. We disagree. As correctly noted by the circuit court, the evidence of defendant's guilt of first-degree murder was overwhelming where: Mr. Carpenter testified defendant was the aggressor in the shooting; Ms. Shields and Mr. Carpenter testified the victim was not holding a knife at the time he was shot; Dr. Arunkumar testified there was no evidence of close range firing in her examination of the gunshot wounds sustained by the victim; defendant testified during cross-examination that, at the time of the shooting, the victim was not close enough to stab him; and defendant admittedly told the police "quite a few stories" inconsistent with his trial testimony and initially falsely denied shooting the victim. Given all this evidence, there is no reasonable probability that the jury's verdict of guilty of first-degree murder would have been different even if defense counsel had discovered the investigator's report was attached to the post-mortem examination report and successfully objected to it being sent to the jury. Accordingly, defendant's claim of ineffective assistance fails.

Next, defendant contends his counsel provided ineffective assistance by the poor quality of his closing argument. To preserve an issue for appellate review, defendant must object at trial and file a written post-trial motion. *People v. Enoch*, 122 Ill. 2d 176, 186 (1988). While defense counsel would not be expected to file a post-trial motion alleging his own ineffectiveness during closing argument, an additional counsel filed an appearance after the trial and filed a supplemental motion raising the issue of trial counsel's alleged ineffective assistance. However, the supplemental motion's

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claim related to trial counsel's failure to examine the post-mortem examination report and discover the investigator's report attached thereto prior to its being sent back to the jury; the supplemental motion made no claim regarding trial counsel's alleged ineffectiveness during closing argument and therefore the issue has been waived.

Even choosing to address the issue on the merits, we find no ineffective assistance of counsel. Defendant contends his counsel denied him effective assistance by calling him an "idiot" during closing argument and by admitting defendant was not a "nice guy" and he was not "right" and he should not have been on the street with a gun. Defendant contends his counsel effectively abandoned him by disparaging him in front of the jury. Reviewing the entirety of defense counsel's closing argument, his strategy clearly was to concede defendant's wrong-headed behavior on the day of the shooting, but to argue that such behavior did not compel a verdict of first-degree murder. Defense counsel's argument was, notwithstanding defendant's behavior in making lewd comments to Ms. Shields and Ms. Boswell and carrying a gun and arguing with the victim, he was not guilty of first-degree murder because he shot the victim who he believed was coming at him with a knife. Defense counsel's comments (inartfully worded though they may have been) did not constitute an abandonment of defendant, but, rather, was an attempt to convince the jury it should not convict him of first-degree murder simply because it did not like him or approve of his behavior prior to the shooting. Such an argument was objectively reasonable and did not constitute ineffective assistance.

Defendant also contends he was denied effective assistance when his counsel made comments during closing argument addressing his initial lies to police regarding his participation in the shooting. Defendant contends counsel's comments made it obvious to the jury that he did not

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believe his own client's testimony. Review of the closing argument indicates otherwise; defense counsel attempted to explain away defendant's lies to the police as being the result of a belief in the corruptness of the Chicago Police Department, and he argued that defendant's lies were understandable under the circumstances and did not compel a verdict of guilty of first-degree murder. Defense counsel's argument was an attempt to portray defendant in the best light possible and did not constitute ineffective assistance.

Defendant contends his counsel denied him effective assistance during closing argument when he referenced "four or five eyewitnesses" to the shooting, even though only two eyewitnesses testified in the case, and one of them (Ms. Shields) did not even see the actual shooting. Defense counsel's comment was not prejudicial to defendant, where at trial defendant never denied the shooting or his participation therein, but, rather, contended the shooting was in self-defense or, in the alternative, the shooting resulted from an unreasonable belief in self-defense. Defense counsel's reference to four or five witnesses to the shooting did not in any way contradict his theory of self-defense or unreasonable belief in self-defense and, therefore, did not prejudice defendant such that there is a reasonable probability that the result of the trial would have been different in the absence of the comment. Accordingly, defendant's claim of ineffective assistance fails.

Defendant contends his counsel denied him effective assistance during closing argument by characterizing Ms. Shields as "probably the most honest, best witness" he had ever seen. Defendant contends this characterization constituted ineffective assistance because Ms. Shields did not corroborate defendant's testimony that the victim had a knife in his hand at the time of the shooting. Review of the entirety of the closing argument reveals that, in referencing Ms. Shields, defense

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counsel argued she was looking at defendant when he pulled out his gun and, therefore, that was the reason why she did not see the victim holding the knife. Defense counsel's argument was an attempt to explain why Ms. Shields did not corroborate defendant's testimony regarding the victim holding a knife at the time of the shooting. Defense counsel's argument was objectively reasonable and did not constitute ineffective assistance.

Finally, defendant contends his counsel provided ineffective assistance by turning the trial into a "farce" and laughing "like a clown" during his closing argument. Specifically, defendant refers to the following comments:

"Now let's talk about [defendant] as a person. I'm not laughing because I think this is funny, because this is as serious as a heart attack and every time I come to court I tell my client a joke, because I've been doing this and this is not funny.

* * *

So let's take a look at Vivian Shields. Vivian Shields, and I'm laughing because I asked Vivian have we talked before and we have talked before.

* * *

If [defendant] moves his car and something happens he's got to run and now everybody knows his car so he's not moving the car so nobody notices my car. It's not like a bank robbery where the driver's sitting around the corner so nobody can see the car. Everybody knows his car so that tells you that as goofy as it sounds, this whole thing is goofy, but as goofy as this sounds, and [I'm] smiling but this isn't funny. I smile at all of this stuff because if I didn't smile, I would blow my brains out 15, 20 years ago going through this with all of

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this ridiculousness. That doesn't mean that he committed murder."

On this record, we are unable to determine whether defense counsel was speaking literally or figuratively in describing himself as laughing and smiling during his closing argument. Assuming defense counsel was speaking literally, the record is unclear as to the extent of his laughter and as to whether it was so pervasive as to interfere with his closing argument and undermine his defense. Had additional counsel raised this issue in his supplemental motion for a new trial, the respective parties and the circuit court would have had the opportunity to make a record of their observations of defense counsel's conduct and its perceived effect on the jury. The absence of such a record forecloses our ability to effectively review the propriety of defense counsel's conduct and results in a waiver by defendant.

Addressing the issue to the extent possible by this record, we note defense counsel was quick to point out to the jury that he was not laughing or smiling in mockery of his client. As noted above, defense counsel explained to the jury that "this is as serious as a heart attack" and "I smile at all of this stuff because if I didn't smile, I would blow my brains out 15, 20 years ago going through this with all of this ridiculousness. That doesn't mean that he committed murder." Once again, defense counsel's strategy was to concede the "ridiculousness" of defendant's behavior in making lewd comments and walking around with a gun, but to argue that he was not guilty of first-degree murder. On the record before us, review of the entirety of defense counsel's closing argument reveals no ineffective assistance.

Defendant contends *People v. Robinson*, 70 Ill. App. 3d 24 (1979), compels a different result. In *Robinson*, the appellate court found ineffective assistance of counsel where defense counsel in his

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closing argument argued a defense of dwelling after the trial court had denied such an instruction, and where counsel used an offensive tone of argument (such as by cursing, stating he would not hesitate to put a gun in an aggressor's ear, nose and mouth and pull the trigger, and telling the jury to "[g]ive him the juice or turn him loose") and ostensibly admitted defendant's guilt. *Robinson*, 70 Ill. App. 3d at 27-29. *Robinson* is inapposite, where defense counsel here did not argue an inapplicable defense, use such an offensive tone of argument, or admit defendant's guilt.

Next, defendant contends we should reduce his conviction to second-degree murder. For a second-degree murder conviction, the State must prove beyond a reasonable doubt all the elements of first-degree murder. *People v. Hawkins*, 296 Ill. App. 3d 830, 836 (1998). Once the State has proven first-degree murder beyond a reasonable doubt, defendant must prove by a preponderance of the evidence either of the following mitigating factors: (1) he was acting under a sudden and intense passion resulting from serious provocation from the victim; or (2) he believed the circumstances justified the killing as self-defense, but his belief was unreasonable. *Hawkins*, 296 Ill. App. 3d at 836.

Defendant contends he presented sufficient evidence that he unreasonably believed deadly force was justified as self-defense. Where, as here, defendant argues he presented sufficient evidence to prove a mitigating factor reducing his conviction to second-degree murder, the reviewing court must consider " 'whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found that the mitigating factors were not present. ' " *People v. Romero*, 387 Ill. App. 3d 954, 968 (2008), quoting *People v. Blackwell*, 171 Ill. 2d 338, 358 (1996).

In the present case, viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found that the mitigating factor of defendant's unreasonable belief in self-defense was not present. Specifically, Mr. Carpenter testified that, during the verbal argument, defendant entered the hallway of the apartment building where the victim was standing, pulled the gun out of his waist and held it in his hand. Mr. Carpenter testified that the victim was unarmed and did not move toward defendant. Ms. Shields similarly testified that, when defendant pulled out his gun, the victim was unarmed. Defendant shot the victim two times and fled. Mr. Carpenter's and Ms. Shields' testimony provided evidentiary support for the conclusion that defendant did not believe the circumstances justified the killing in self-defense. Although defendant testified at trial to the contrary, specifically, that he thought the victim was advancing on him with a knife, it was the responsibility of the jury to determine the credibility of the witnesses and the weight to be given their testimony. *Romero*, 387 Ill. App. 3d at 969. The jury obviously credited Mr. Carpenter's and Ms. Shields' testimony over defendant's testimony, and we will not substitute our judgment therefor. Further, during his cross-examination, defendant admitted that from where he was standing at the time of the shooting, the victim was not close enough to have been able to stab him. This admission further supports the jury's verdict that defendant was guilty of first-degree murder rather than second-degree murder. Viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found that defendant failed to prove the mitigating factor of his unreasonable belief in self-defense. Accordingly, we reject defendant's argument that we should reduce his conviction to second-degree murder.

Defendant contends *People v. Brown*, 19 Ill. App. 3d 757 (1974), and *People v. Ellis*, 107

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Ill. App. 3d 603 (1982), compel a different result. In *Brown*, the appellate court reduced Albert Brown Jr.'s murder conviction to voluntary manslaughter, the predecessor to second-degree murder, where the evidence indicated he killed the victim because he unreasonably thought she was armed with a gun and was going to shoot him. In *Ellis*, the appellate court reduced John Ellis' murder conviction to voluntary manslaughter where the evidence indicated he killed the victim, who had lunged at him, because he unreasonably believed the victim was going to kill him or cause him great bodily harm. Unlike in *Brown* and *Ellis*, where there was no evidence refuting the respective defendants' claims of unreasonable belief in self-defense, Mr. Carpenter's and Ms. Shields' testimony coupled with defendant's own testimony on cross-examination here supported the jury's finding that defendant failed to prove he shot the victim based on an unreasonable belief in self-defense. Accordingly, *Brown* and *Ellis* are inapposite, and we affirm defendant's conviction of first-degree murder.

Next, defendant contends the circuit court erred by granting the State's motion *in limine* precluding him from introducing evidence of the victim's allegedly aggressive and violent character. In *People v. Lynch*, 104 Ill. 2d 194, 199-200 (1984), the supreme court held "when self-defense is properly raised, evidence of the victim's aggressive and violent character may be offered for two reasons: (1) to show the defendant's knowledge of the victim's violent tendencies affected defendant's perceptions of and reactions to the victim's behavior; and (2) to support the defendant's version of the facts where there are conflicting accounts of what happened." *People v. Nunn*, 357 Ill. App. 3d 625, 631 (2005) (reviewing and summarizing holding of *Lynch*). The circuit court's ruling regarding the admissibility of evidence will not be reversed absent a clear abuse of discretion and manifest

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prejudice. *People v. Figueroa*, 381 Ill. App. 3d 828, 841 (2008).

In the present case, the State made a motion *in limine* to prevent defendant from introducing evidence that, about one week prior to the murder, the victim swung a frying pan and wielded a knife at a man who was attempting to crawl into the victim's window while the victim and his family were sleeping. Defendant argued this evidence was relevant under *Lynch* to show the victim's reaction to a "disrespecting of his property was to go get a weapon and proceed towards the person that was disrespecting his property." In granting the State's motion *in limine*, the circuit court found the evidence sought to be introduced by defendant was not evidence of aggressive behavior by the victim, but, rather, was evidence of "simple self-defense of, defense of others and defense of property" and did not constitute admissible *Lynch* evidence. We agree with the circuit court that the victim's act of self-defense about a week prior to the shooting did not constitute evidence of an aggressive and violent character. Accordingly, the circuit court committed no abuse of discretion by granting the State's motion *in limine* and precluding defendant from introducing this evidence at trial.

Further, even if we were to hold that the circuit court erred in granting the State's motion *in limine*, the error was harmless given the overwhelming evidence of defendant's guilt of first-degree murder. See our discussion above.

For the foregoing reasons, we affirm the circuit court.

Affirmed.