

1-09-3355

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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. 08 CR 15627
)	
EDDIE WELLS,)	Honorable
)	Matthew E. Coghlan,
Defendant-Appellant.)	Judge Presiding.

PRESIDING JUSTICE CUNNINGHAM delivered the judgment of the court.
Justices Karnezis and Harris concurred in the judgment.

ORDER

¶1 *Held:* The plain error doctrine does not apply to reach any of the three forfeited issues for review on appeal because the defendant has failed to establish that an error had occurred at all.

¶2 Following a bench trial in the circuit court of Cook County, the defendant, Eddie Wells, was convicted of delivery of a controlled substance (720 ILCS 570/401(d)(i) (West 2008)) and sentenced to seven years of imprisonment. On appeal, the defendant argues that: (1) failure by the Chicago Police Department to save a “pod camera” video during the delay between the alleged crime and his arrest violated his right to due process; (2) his conviction was based on unduly suggestive

identification by the witnesses; and (3) his right to confront his accuser was violated when the State failed to present the police officers' "unidentified source" as a witness at trial. For the following reasons, we affirm the judgment of the circuit court of Cook County.

¶3

BACKGROUND

¶4 On July 3, 2008,¹ Chicago police officers conducted an undercover narcotics surveillance and controlled transaction during which the defendant sold heroin to undercover police officers in exchange for \$30 in pre-recorded funds.

¶5 On July 30, 2008, the defendant was arrested. Subsequently, he was charged with delivery of less than one gram of heroin within 1000 feet of a school (count I), and delivery of less than one gram of heroin (count II).

¶6 On May 21, 2009, a bench trial commenced during which the State offered the testimony of Officer Marco Mar (Officer Mar). Officer Mar testified that on July 3, 2008, based on information he had received regarding "narcotics activity," he and other police officers formulated a plan to conduct an undercover controlled narcotics purchase on the 700 block of S. Central Park Boulevard, near the intersection of Flournoy Street and S. Central Park Boulevard, in Chicago, Illinois. As part of the formulated plan, Officer Mar brought \$30 of pre-recorded funds from the police station to be used to conduct the controlled narcotics purchase. On that day, July 3, 2008, at approximately 3:20p.m., he and Officer Cynthia Contreras (Officer Contreras), drove to the targeted area in an

¹The defendant's arrest report stated that the incident at issue occurred on June 29, 2008, while all of the witnesses at trial stated that the incident occurred on July 3, 2008. Nonetheless, the discrepancy with the defendant's arrest date does not affect our analysis and resolution of the case.

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undercover vehicle. Officer Mar was the driver, while Officer Contreras sat in the front passenger seat. As they arrived at the location, Officer Mar parked on the west side of S. Central Park Boulevard, near the intersection of Flournoy Street and S. Central Park Boulevard. Officer Mar stated that less than one minute after they arrived at the location, an individual appeared from the north side of a building located on the southwest corner of S. Central Park Boulevard and Flournoy Street, and approached the open window of the passenger side of their vehicle, where Officer Contreras was sitting. Officer Mar then made an in-court identification of the defendant as the person who approached their surveillance vehicle. Officer Mar testified that he greeted the defendant by saying “[h]ey, Eddie what’s up?” and that the defendant then asked Officer Mar “what [he] was looking for,” to which Officer Mar replied that he wanted “three blows”—a street term for heroin. The defendant then instructed Officer Mar to stay in his vehicle, after which the defendant walked back towards the building located at 700 S. Central Park Boulevard and disappeared out of Officer Mar’s view. Within “a minute or so,” the defendant reappeared from the front door of the building and returned to the passenger side of Officer Mar’s vehicle. The defendant then “reached over *** Officer Contreras” and handed Officer Mar three ziplock bags of white powder. In exchange, Officer Mar tendered the \$30 of pre-recorded bills to the defendant. Officer Mar stated that each of these two encounters with the defendant was “very brief.” Officer Mar testified that the defendant was not arrested on the day of this transaction because there was a larger ongoing narcotics investigation in the area. He stated that at the time of this narcotics surveillance, he had been a police officer for 13.5 years and that he had made over a thousand narcotics arrests in his tenure as a police officer.

¶7 Officer Mar testified that after conducting the controlled narcotics purchase with the defendant, he and Officer Contreras returned to the police station, where Officer Contreras inventoried the three ziplock bags. At the police station, Officer Tate prepared and presented a photographic array of five images of individuals to Officer Mar, who then identified the defendant as the person who had sold him the suspect narcotics that day by circling, initialing and dating the defendant's photograph. At trial, the State presented a photocopy of the original photographic array, which bore Officer Mar's handwriting identifying the defendant's photograph.

¶8 On cross-examination, Officer Mar noted that when he and fellow police officers had first gathered to formulate the plan to conduct the undercover narcotics surveillance and controlled purchase at issue, "it was mentioned there was a guy named Eddie that lived in the area and was serving people that was delivering narcotics." Officer Mar testified that the photographic array from which he had identified the defendant's photograph had been printed from a computer by Officer Tate. Officer Mar stated that the computer screen displaying all five images of the photographic array was visible at the same time that he identified the defendant's photograph on the hard copy of the photographic array. After he positively identified the defendant's photograph from the photographic array, Officer Mar looked at a "demographics" page on the back of the images and noticed the defendant's name.

¶9 Following Officer Mar's testimony, the State, without objection from defense counsel, sought a continuance in order to obtain the original photographic array which was viewed by Officer Mar at the police station. The trial court then granted the trial continuance until June 18, 2009.

¶10 On June 18, 2009, the bench trial recommenced and the State recalled Officer Mar to the

witness stand and presented him with the original photographic array. Officer Mar testified that he had viewed and identified the defendant's photograph from the original photographic array within an hour after the controlled narcotics purchase. He stated that he had also signed a "lineup photo advisory form" after viewing the photographic array, which was used "to confirm that's what [he] identified in the [photographic] array."

¶11 Officer Contreras' testimony regarding the events of July 3, 2008 paralleled Officer Mar's testimony. Officer Contreras made an in-court identification of the defendant as the person who approached their surveillance vehicle. She stated that during the defendant's conversations and encounters with Officer Mar, the defendant's face was "right next to [her]." Officer Contreras stated that she did not view a photographic array after she returned to the police station. She further noted that she was not aware if there was a Chicago police "pod camera" located in the area at that time.

¶12 Officer Lynn Bunch (Officer Bunch) testified that on July 3, 2008, at approximately 3:20p.m., she was a surveillance officer in the area of 700 S. Central Park Boulevard, where she parked her vehicle in front of Officer Mar's vehicle. She observed, through her car's side window and rearview mirror, that the defendant approached the passenger side of Officer Mar's vehicle, leaned in the car window, and engaged in a conversation. She testified that nothing obstructed her view of the defendant and that she was about 20 feet away from him. At trial, Officer Bunch made an in-court identification of the defendant as the person who approached Officer Mar's vehicle. The defendant then left Officer Mar's vehicle and walked to the north side of a nearby building out of Officer Bunch's line of sight. However, she did not observe the controlled narcotics transaction between Officer Mar and the defendant because she had to move her vehicle unexpectedly. Officer

Bunch testified that Officer Tate was also conducting narcotics surveillance in a separate vehicle at that location on the date at issue.

¶13 The parties then stipulated that forensic chemist Moses Boyd, if called to testify, would testify that based on a reasonable degree of scientific certainty, the three ziplock bags of white powder tested positive for 0.4 grams of heroin. The trial court then admitted into evidence the “lineup photo advisory form” and the original photographic array. The State then rested and the trial court denied the defendant’s motion for a finding of not guilty. Defense then rested without presenting any evidence.

¶14 Following closing arguments by the parties, the trial court found the defendant guilty of delivery of a controlled substance (count II), but found him not guilty of delivery of a controlled substance within 1000 feet of a school (count I):

“Well, the issue is the identification. It is not clear how [Officer] Tate obtained the identity of the defendant in order to obtain his photo and place it in the array.

But the testimony is that Officer Mar made a controlled purchase from an individual who he has identified as the defendant. He viewed a photo array within an hour of this purchase and identified a photo of the defendant in the array. There is no suggestion that he was given the defendant’s identity or told who to identify.

The defendant is a distinctive[-]looking man. The

identification by [Officer] Mar is corroborated by the other two officers, both of whom had a good opportunity to observe the defendant. And I believe that the State has proved his identity beyond a reasonable doubt.”

¶15 On July 13, 2009, the defendant filed a post-trial motion for a new trial. On September 23, 2009, the defendant filed a supplemental motion for a new trial, to which he attached exhibits such as the “lineup photo advisory form,” a photocopy of the photographic array depicting Officer Mar’s identification of the defendant’s photograph, and a March 18, 2009 letter from police sergeant Thomas Hogan (Sergeant Hogan) to the defense counsel and the State’s Attorney. The March 18, 2009 letter stated that the Chicago Police Department’s record indicated that “there is no Chicago Police Department video for POD#661 and 293 located in the area of Central Park and Flournoy,” and that “the [p]od cameras have a 3[-]day or 15[-]day retention period, after which the hard drive records over itself.”

¶16 On October 30, 2009, the trial court denied the defendant’s motion for a new trial and supplemental motion for a new trial. On that same day, October 30, 2009, the trial court sentenced the defendant to seven years of imprisonment. On November 23, 2009, the defendant filed a motion to reconsider the sentence. On November 23, 2009, the defendant filed a notice of appeal before this court. On December 9, 2009, the trial court denied the defendant’s motion to reconsider the sentence. On December 10, 2009, the defendant filed a new notice of appeal before this court.

¶17

ANALYSIS

¶18 We determine the following issues: (1) whether the defendant’s right to due process was

violated because a video from a “pod camera” alleged to have been in existence at the time of the crime was not made available to him; (2) whether the defendant’s conviction was based on unduly suggestive identification by the witnesses; and (3) whether his right to confront his accuser was violated when the State did not present the police officers’ “unidentified source” as a witness at trial.

¶19 We first determine whether the defendant’s right to due process was violated because a video from a “pod camera” alleged to have been in existence at the time of the crime was not made available to him.

¶20 The defendant argues that a video from a “pod camera” located near the site of the alleged narcotics transaction was destroyed before he had an opportunity to request it, because his arrest was “delayed for at least 27 days” after the alleged narcotics transaction had occurred. He contends that the video evidence was “potentially materially exculpatory” because it would have either definitively established that he was not the narcotics seller or would have corroborated the police officers’ testimony. The defendant maintains that the video evidence would have been available to be subpoenaed by the defendant had he been arrested on the day of the alleged narcotics transaction—July 3, 2008—rather than on July 30, 2008, because the hard drives of pod cameras only had a retention period of 3 or 15 days. The defendant argues that the delay in his arrest was a choice made by the State, which resulted in the unavailability of the video to the defendant.

¶21 The State counters that the defendant had forfeited this issue on appeal because he failed to raise it in the trial court, and that it should not be reviewed under the plain error doctrine. Specifically, the State argues that no error occurred in this case to trigger the application of the plain error doctrine because the video evidence was only “potentially useful,” and the record is devoid of

any allegation or indication of bad faith on the part of the State. Even if an error had occurred, the State argues that the evidence was not so closely balanced nor was the error so fundamental to the integrity of the judicial process that would warrant review under the plain error doctrine.

¶22 We agree with the State’s contention that the defendant has forfeited review of this issue on appeal because he had failed to raise this issue in the trial court, but had only included it in the September 23, 2009 supplemental motion for a new trial. See *People v. Herron*, 215 Ill. 2d 167, 175, 830 N.E.2d 467, 472-73 (2005) (a defendant who fails to either make a timely trial objection and include the issue in a posttrial motion forfeits the review of the issue); see generally *People v. Murray*, 379 Ill. App. 3d 153, 157, 882 N.E.2d 1225, 1229 (2008) (defendant’s speedy trial claim was forfeited on appeal where defense counsel never filed a motion to discharge or otherwise raise the issue in the trial court). However, the plain error doctrine allows a reviewing court to consider unpreserved issues when either: (1) the evidence is close, regardless of the seriousness of the error; or (2) the error is so serious, regardless of the closeness of the evidence. *Herron*, 215 Ill. 2d at 178-79, 830 N.E.2d at 475; *People v. Piatkowski*, 225 Ill. 2d 551, 565, 870 N.E.2d 403, 410-11 (2007). The first step in a plain error analysis is to determine whether an error occurred at all. *People v. Hudson*, 228 Ill. 2d 181, 191, 886 N.E.2d 964, 971 (2008).

¶23 When the State fails to preserve potentially useful evidence, “of which no more can be said than that it could have been subjected to tests, the results of which might have exonerated the defendant,” a defendant is not denied due process of law unless he can show bad faith on the part of the police. *Arizona v. Youngblood*, 488 U.S. 51, 57-58, 109 S. Ct. 333, 337 (1988); accord *Illinois v. Fisher*, 540 U.S. 544, 548-49, 124 S. Ct. 1200, 1202-03 (2004); *People v. Sutherland*, 223 Ill. 2d

187, 213-214, 860 N.E.2d 178, 236-37 (2006).

¶24 In the case at bar, the record reveals that Officer Contreras testified that she was not aware if there was a Chicago police “pod camera” located in the area at that time, and neither Officer Mar nor Officer Bunch testified to the existence of any “pod cameras” or videos of any “pod cameras” at trial. The trial court’s half sheet shows that the State tendered Sergeant Hogan’s March 18, 2009 letter in April 2009, a month prior to the start of trial. However, the March 18, 2009 letter indicating that there was no videos in existence from “pod cameras” located in the area at issue and that the “pod cameras” had only a 3 or 15-day retention period, was never presented at trial. Although the defendant did not have the burden of proving his innocence at trial, he made no attempt to present the testimony of Sergeant Hogan regarding the issue of “pod camera” videos at the location in question. Further, the record shows that Officer Mar explained why the defendant was not arrested on the same day that the controlled narcotics transaction occurred. He testified that there was a larger ongoing narcotics investigation in the area at that time. We find that even had a “pod camera” video existed, the defendant has not shown that it contained “potentially materially exculpatory” evidence, as he asserts. Rather, we find that any video footage of the area on the day in question was at most “potentially useful evidence,” and the defendant has failed to show that the police acted in bad faith in not making the video available to him. Thus, we find that the defendant has not shown that any error occurred. Therefore, application of the plain error doctrine is not warranted.

¶25 Next, we determine whether the defendant’s conviction was based on unduly suggestive identification by the witnesses.

¶26 The defendant argues that the State’s case was founded on unduly suggestive identification,

because Officer Tate, who did not testify at trial and whose credibility could not be assessed, was the person who prepared the photographic array. Specifically, the defendant maintains that the circumstances surrounding the assembly of the photographic array and Officer Mar's review of the photographs were so suggestive as to create a "substantial likelihood of irreparable misidentification." Further, the defendant contends that the brevity of the controlled narcotics transaction, inconsistencies between Officer Bunch's trial testimony and arrest report, Officer Tate's use of some outdated photographs in compiling the photographic array, as well as the circumstances surrounding the assembly and viewing of the photographic array, all served to show that the identification of the defendant was unduly suggestive.

¶27 The State counters that the defendant had forfeited this issue for review on appeal because he neither filed a motion to suppress the photographic array, nor objected to its introduction at trial, and that the plain error doctrine is inapplicable to circumvent forfeiture. The State maintains that no error occurred because the defendant has not established that the photographic array was unduly suggestive, and that he could not show that he was prejudiced in light of the three testifying police officers' in-court identification of the defendant at trial.

¶28 We agree with the State's contention that the defendant has forfeited review of this issue on appeal because he neither filed a motion to suppress the photographic array nor objected to its introduction at trial. Rather, the defendant included it in his September 23, 2009 supplemental motion for a new trial. See *Herron*, 215 Ill. 2d at 175, 830 N.E.2d at 472-73. As discussed, in determining whether the plain error doctrine applies to reach the forfeited issue, we must first determine whether an error occurred at all. *Hudson*, 228 Ill. 2d at 191, 886 N.E.2d at 971.

¶29 Illinois law states that where a pretrial encounter resulting in an identification is unnecessarily or impermissibly suggestive so as to produce a “very substantial likelihood of irreparable misidentification,” due process requires that such identification evidence and any subsequent identification be excluded. *People v. Love*, 377 Ill. App. 3d 306, 311, 878 N.E.2d 789, 794 (2007), quoting *People v. Moore*, 266 Ill. App. 3d 791, 796-97, 640 N.E.2d 1256, 1260 (1994). The defendant bears the burden of proving that, based on the totality of the circumstances surrounding the identification, he was denied his due process rights. *People v. Lamacki*, 121 Ill. App. 3d 403, 412, 459 N.E.2d 1142, 1148 (1984). However, “evidence which results from an unnecessarily suggestive identification may be admissible at trial if it is reliable.” *Id.* at 413, 459 N.E.2d at 1149. Factors used in evaluating the reliability of identification testimony are: “(1) the [witness’] opportunity to view the defendant during the offense; (2) the [witness’] degree of attention at the time of the offense; (3) the accuracy of the [witness’] prior description of the defendant; (4) the [witness’] level of certainty at the subsequent identification; and (5) the length of time between the crime and the identification.” *People v. Gabriel*, 398 Ill. App. 3d 332, 341, 924 N.E.2d 1133, 1143 (2010).

¶30 In the case at bar, the record shows that Officers Mar, Contreras and Bunch made an in-court identification of the defendant as the person who approached Officer Mar’s surveillance vehicle on the day in question. Officer Mar testified that on July 3, 2008, he positively identified the defendant’s photograph in the photographic array within an hour after the controlled narcotics transaction. The record further shows that the photographic array from which Officer Mar identified the defendant was printed from a computer, and that the five images displayed on the computer

screen exactly matched the five photographs depicted on the hard copy of the photographic array. Officer Mar's testimony also showed that he positively identified the defendant's photograph from the hard copy of the photographic array, and the record reveals nothing to support the defendant's speculative argument that any impropriety occurred during the identification process. Further, there is nothing in the record to support the defendant's contention that the photographic array was unduly suggestive because his photograph was the only one depicting an individual with "long hair, a beard, and a dark complexion." Rather, "participants in a lineup are not required to be physically identical," and we find that the photographic array at issue shows that the five men depicted in the photographs shared many similar features. *Love*, 377 Ill. App. 3d at 311, 878 N.E.2d at 794.

¶31 During closing arguments, the State conceded that "proper lineup procedures weren't followed in this case," by stating that Officer Mar identified the defendant from the photographic array prior to signing the "lineup photo advisory form." However, we find that any failure by Officer Mar to follow police procedures in a strictly sequential manner, by signing the "lineup photo advisory form" *after* rather than *prior* to viewing the photographic array, did not undermine the reliability of his identification. Further, the defendant's conclusory arguments that the photographs in the photographic array were outdated, or that his photograph in the arrest report did not match his photograph in the photographic array, do not in any way establish that the photographic array was unduly suggestive. Nor has the defendant established that he was deprived of his due process rights based on the alleged unduly suggestive photographic array, in light of the positive in-court identification of the defendant by Officers Mar, Contreras and Bunch, which the trial court found to be credible. We also find that the factors used in evaluating the reliability of Officer Mar's

identification of the defendant greatly favor the State. Facts presented at trial showed that Officer Mar had more than ample opportunity to view the defendant during the offense, that Officer Mar's degree of attention at the time of the controlled narcotics transaction was great, that Officer Mar had a high level of certainty during the identification process, and that the length of time between the crime and the identification was small. Thus, we find that the defendant has not established that any error occurred.

¶32 Moreover, the defendant neither filed a pre-trial motion to suppress the photographic array nor objected to the introduction of the photographic array at trial. Rather, the defendant first raised this issue in his September 23, 2009 supplemental motion for a new trial. Because the defendant has only raised the issue for the first time in a post-trial motion, we find that even assuming the defendant's challenge had merit, the trial court was no longer in a position to provide the relief sought by suppressing the evidence in question. Thus, we likewise find that the defendant has not shown that the trial court committed any error. Therefore, the plain error doctrine does not apply to reach this forfeited issue.

¶33 We next determine whether the defendant's right to confront his accuser was violated when the State did not present the police officers' "unidentified source" as a witness at trial.

¶34 The defendant argues that he was deprived of the right to confront his accuser because an unidentified source provided information to Officer Mar that someone named "Eddie" was allegedly selling heroin in the area of Central Park Boulevard and Flournoy Street, and that the unidentified source was neither revealed nor called to testify at trial.

¶35 The State counters that the defendant has forfeited review of this issue on appeal because he

has failed to cite relevant authority in contravention of Supreme Court Rule 341(h)(7), has failed to advance any meaningful argument, and that he has failed to raise the issue in the trial court. The State further contends that the plain error doctrine does not apply to reach this forfeited issue because the defendant could not “establish that his confrontation clause rights were implicated, let alone violated.”

¶36 We agree with the State’s contention that the defendant has forfeited review of this issue on appeal because he neither filed a pre-trial motion to disclose the identity of the unidentified source nor otherwise raised the issue in the trial court. Rather, the defendant first raised it in his September 23, 2009 supplemental motion for a new trial. See *Herron*, 215 Ill. 2d at 175, 830 N.E.2d at 472-73; *Murray*, 379 Ill. App. 3d at 157, 882 N.E.2d at 1229. As discussed, in determining whether the plain error doctrine applies to reach the forfeited issue, we must first determine whether an error occurred at all. *Hudson*, 228 Ill. 2d at 191, 886 N.E.2d at 971.

¶37 The sixth amendment of the United States Constitution provides that “[i]n all criminal prosecutions, the accused shall enjoy the right *** to be confronted with the witnesses against him.” U.S. Const., amend. VI. “This part of the sixth amendment is called the confrontation clause and applies to the states through the fourteenth amendment.” *People v. Williams*, 238 Ill. 2d 125, 142, 939 N.E.2d 268, 277 (2010). The sixth amendment’s primary object concerns “testimonial hearsay.” *Id.* Testimonial statements made by a witness absent from trial may only be admitted where the declarant is unavailable and the defendant has had a prior opportunity to cross-examine him. *Id.* However, “the confrontation clause does not bar the admission of testimonial statements that are admitted for purposes other than proving the truth of the matter asserted.” *Id.* Thus, a court “need

only consider whether a statement was testimonial if the statements at issue were, in fact, hearsay statements offered to prove the truth of the matter asserted.” *Id.*

¶38 In the instant case, Officer Mar testified that he had received information regarding “narcotics activity,” and that when he and fellow police officers had first gathered to formulate the plan to conduct the undercover narcotics surveillance and controlled purchase at issue, “it was mentioned there was a guy named Eddie that lived in the area and was serving people that was delivering narcotics.” We find no evidence in the record to show that any alleged statement made by an unidentified source was used at trial to prove the truth of the matter asserted. Officer Mar’s testimony that “it was mentioned that a guy named Eddie” who lived in the area at issue was engaged in narcotics activity, was not introduced at trial to prove that the “Eddie” was in fact engaged in criminal activities. Rather, we find that Officer Mar’s testimony was elicited to show a course of police conduct, by describing how, upon receiving information of possible criminal activities, he and fellow police officers formulated a plan to investigate the location at issue through undercover surveillance. Further even assuming that the unidentified source was a police informant who told the police officers that a man named “Eddie” was engaged in narcotics activity, the informant’s identity may be withheld where he neither participated in nor witnessed the instant crime. See *People v. Rose*, 342 Ill. App. 3d 203, 206, 794 N.E.2d 1004, 1007 (2003) (“where the informant neither participated in nor witnessed the offense, the informant is not a crucial witness and his identity may be withheld”). Thus, we find that the confrontation clause was not implicated. Therefore, the defendant has not established that any error occurred.

¶39 Moreover, as with the other issues which the defendant attempts to raise on appeal, the record

does not indicate that the defendant either filed a pre-trial motion to disclose the identity of the unidentified source or otherwise raised the issue in the trial court. Because the defendant has only raised the issue for the first time in a post-trial motion, we find that even assuming the defendant's challenge had merit, the trial court was no longer in a position to provide the relief sought by ordering the State to disclose the identity of the unidentified source so that he may be made available as a potential witness at trial. Thus, we likewise find that the defendant has not shown that the trial court committed any error. Therefore, the plain error doctrine does not apply to reach this forfeited issue.

¶40 We further note that even if errors had occurred in any of the three forfeited issues discussed above, the plain error doctrine does not apply to reach any of the three forfeited issues in the instant case because the evidence was not closely balanced. Moreover, even had errors occurred, we find that none of the errors were so serious as to deprive the defendant of a substantial right or a fair trial. Therefore, we hold that the plain error doctrine does not apply to reach the three forfeited issues.

¶41 For the foregoing reasons, we affirm the judgment of the circuit court of Cook County.

¶42 Affirmed.