

the Granite City police department testified that the room in which the defendant was questioned is near the detective division, is approximately eight feet by eight feet, consists of "block walls and one doorway, no windows," and is furnished with a table, "a couple of chairs," a wall clock, and a wall-mounted dry erase board. He testified that although the defendant never remarked directly about the temperature in the interview room, near the end of his interview the defendant requested a blanket, which was provided to him. He further testified that the temperature in the interview room is set "year round" at 72 degrees and that police officers have no access to the thermostat to manipulate that temperature. He described the temperature in the room at the time of the defendant's interview as "comfortable." Wojtowicz could not recall if he offered the defendant the opportunity to use the restroom during the interview or if the defendant requested to do so, but he did recall that the defendant did not request food or water during his interview. He testified that the defendant was read his *Miranda* rights (*Miranda v. Arizona*, 384 U.S. 436 (1966)), that the defendant appropriately initialed department forms showing that he had been informed of his rights, and that the defendant did not invoke his rights at any time during the interview. The tone of the interview was described by Wojtowicz as "conversational," and Wojtowicz did not raise his voice during the interview, did not threaten the defendant, and did not offer leniency if the defendant cooperated with the robbery investigation.

Other evidence presented at the hearing, including a videotape of the interview, revealed that although the interview began at approximately 9:55 p.m. and concluded at approximately 2:05 a.m., there were frequent breaks during the interview, so that it was not one continuous session. The videotape also revealed that near the end of the interview the defendant requested the use of a telephone but was told he could use one later. Ultimately, the defendant gave a statement implicating himself in the Lebanon robbery that is the subject of this criminal case, describing how he and his accomplices obtained the BB gun used in the

robbery and how he remained in the car while they accosted the victims.

At the conclusion of the hearing, the trial judge denied the defendant's motion to suppress his statement, finding that the State had proven, by a preponderance of the evidence, that the defendant's statement was given voluntarily. In so doing, the judge made, *inter alia*, the following findings of fact: (1) with regard to mental ability, the defendant was an "above average" student, (2) although the judge was concerned with the temperature in the interview room, he found "no evidence" that the defendant "was affected to the point of breaking down [the defendant's] will as a result of the temperature," (3) although the defendant was told he could keep the blanket he requested, he declined to do so, instead dropping it onto the floor at the conclusion of the interview, which was "inconsistent with a situation where the [d]efendant was suffering from severe effects of cold," (4) although the interviewing officer attempted to coax the defendant into changing his story, there was no evidence that the will of the defendant was overwhelmed by the officer, and (5) because of the breaks in the questioning of the defendant, the defendant had ample time to "collect himself" and the interview "was not a situation where there was a relentless pressure on the [d]efendant without any opportunity for him to have a hiatus."

At the defendant's trial, the following evidence of relevance to this appeal was adduced. The victim of the robbery, Harold Johnson, testified that on the evening of August 23, 2008, while walking outdoors with friends, he was approached by two strange men who demanded money from him at gunpoint. He gave one of the men his wallet and then watched as the second man unsuccessfully attempted to steal the purse of one of his friends. He then watched as the men fled to a waiting car, which was driven by a third person. The car began to pull away as the gunman tried to enter it, and Johnson watched the gunman stumble and then finally enter the car. Johnson identified his wallet, which was found near the scene of the crime, and described the getaway car as an older, four-door sedan with no visible rear

license plate. Johnson testified that he called 9-1-1 and gave a description of the two robbers he had observed. He admitted that shortly after the robbery, he identified the robbers at a show-up but was later told by police that he had identified the "wrong" men.

Johnson's friends testified for the most part consistently with him, although none of them were able to identify any of the perpetrators. O'Fallon police officer Kerry Andrews testified that shortly after the robbery, while on Interstate 64, he stopped a Chevy Caprice with no license plate and that Johnson identified one of the occupants as the man who had robbed him. The defendant was not in the stopped car. Granite City police officer Brad Shalsky testified that soon after the robbery he stopped a different Chevy Caprice, in which the defendant, a BB gun, and about \$80 in cash were found. The BB gun was identified by Johnson as being similar to the one used in the robbery.

Following the trial, the defendant was convicted and sentenced as described above, and this timely appeal followed.

ANALYSIS

The defendant first contends that he was not proved guilty beyond a reasonable doubt. When a defendant challenges the sufficiency of the evidence against the defendant, a court of review "must determine whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." *People v. Evans*, 209 Ill. 2d 194, 209 (2004). It is not the function of the court of review to retry the defendant. *Evans*, 209 Ill. 2d at 209. Accordingly, a court of review "will not reverse a conviction unless the evidence is so unreasonable, improbable or unsatisfactory that it raises a reasonable doubt of defendant's guilt." *Evans*, 209 Ill. 2d at 209. The defendant in the case at bar essentially contends that because none of the witnesses could positively identify his two accomplices, he cannot be guilty by way of accountability for their actions. We do not agree. We note, as does the

State, that in his interview with Granite City police the defendant confessed to his involvement in the robbery. In that confession, the defendant identified the approximate location of the robbery, the time of day, the victims targeted by the defendant and his accomplices, the type of weapon involved, and the fact that a wallet was obtained from one of the victims during the robbery. Moreover, the vehicle in which the defendant was riding after the robbery matched the description given by the victims of the robbery. In sum, the totality of the evidence in this case corroborated the defendant's confession and was sufficient for a rational trier of fact to have concluded beyond a reasonable doubt that the defendant was guilty of the crime charged under a theory of accountability. See *People v. Willingham*, 89 Ill. 2d 352, 359-60 (1982).

The defendant next contends that his confession should have been suppressed because during the interview, the defendant "was worn down by extended questioning, inducements, and ill treatment, until an involuntary confession was secured." Our review of a trial court's ruling on a motion to suppress involves mixed questions of fact and law. *People v. Outlaw*, 388 Ill. App. 3d 1072, 1080 (2009). We afford "great deference" to findings of fact made by the trial court "and will reverse those findings only if they are against the manifest weight of the evidence." *Outlaw*, 388 Ill. App. 3d at 1080. On the other hand, we review *de novo* the trial court's legal conclusion regarding whether suppression is required under the set of facts before the trial court. *Outlaw*, 388 Ill. App. 3d at 1080. To do so, we must determine if the defendant's confession was "freely and voluntarily made without compulsion or inducement or whether [his] will was overcome at the time he confessed." *People v. Mitchell*, 366 Ill. App. 3d 1044, 1049 (2006). To determine the voluntariness of a confession, we must consider the totality of the circumstances surrounding the confession. *Mitchell*, 366 Ill. App. 3d at 1049. Among the factors we must consider are the following: (1) the defendant's age, education, background, experience, mental capacity, and intelligence,

(2) the defendant's physical condition at the time of the questioning, (3) the duration of the detention, (4) the duration of the questioning, (5) whether the defendant was sufficiently apprised of his or her *Miranda* rights, and (6) whether the defendant was subjected to mental or physical abuse. *Mitchell*, 366 Ill. App. 3d at 1049.

We begin by noting that in the case at bar the trial judge made a detailed, thoughtful, and appropriate inquiry into the relevant factors before concluding that the State had proven, by a preponderance of the evidence, that the confession was voluntary. The record before the trial judge, and before this court on review, leads us to conclude that the trial judge's factual determinations were not against the manifest weight of the evidence and must be upheld. Accordingly, we agree with the following findings of fact: (1) with regard to mental ability, the defendant was an "above average" student, (2) there was no evidence that the defendant was affected to the point of breaking down his will as a result of the temperature in the interview room, (3) although the defendant was told he could keep the blanket he requested, he declined to do so, instead dropping it onto the floor at the conclusion of the interview, which was inconsistent with a situation where he was suffering from severe effects of cold, (4) although the interviewing officer attempted to coax the defendant into changing his story, there was no evidence that the will of the defendant was overwhelmed by the officer, and (5) because of the breaks in the questioning of the defendant, the defendant had ample time to collect himself and the interview "was not a situation where there was a relentless pressure on the [d]efendant without any opportunity for him to have a hiatus."

Moreover, we find that the defendant was sufficiently apprised by Detective Wojtowicz of his *Miranda* rights, that the tone of the interview was conversational throughout, and that the defendant was not subjected to any mental or physical abuse by the officers who arrested and interviewed him. We note that although the defendant was not yet 18 years old at the time of his arrest and interview, he was only two months shy of being 18

and was not, his counsel's insinuations to the contrary notwithstanding, a juvenile for purposes of our analysis. See 705 ILCS 405/5-120 (West 2008) (the jurisdiction of the Juvenile Court Act of 1987 extends to those under 17 years of age). The defendant was a healthy, active young man at the time of the interview, with no physical conditions or problems that would have made him unduly susceptible to giving a false confession; he was able to coherently and articulately relay information to Detective Wojtowicz and clearly was not under any physical duress. The duration of the defendant's detention prior to his confession was approximately five hours, with the duration of the questioning—which was marked by numerous breaks—being quite a bit shorter. Accordingly, although we are cognizant of the concerns raised by counsel for the defendant about the dangers of false confessions, we simply cannot conclude that the confession given by the defendant in this case was anything but true and voluntary. The trial judge did not err in denying the defendant's motion to suppress.

CONCLUSION

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

Affirmed.