

2012 IL App (1st) 102502, 102503-U

Nos. 1-10-2502, 1-10-2503 consolidated

SIXTH DIVISION
March 9, 2012

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. 08 CR 03112
)	
YVETTE HOOKER and CORRION BROWN,)	The Honorable
)	William G. Lacy,
Defendants-Appellants.)	Judge Presiding.

JUSTICE LAMPKIN delivered the judgment of the court.
Presiding Justice Robert E. Gordon and Justice Garcia concurred in the judgment.

ORDER

- ¶ 1 *HELD:* Defendants received a fair trial and effective assistance of counsel.
- ¶ 2 Defendants, Yvette Hooker and Corriion Brown, were found guilty of aggravated battery of a paramedic following a jury trial. The trial court entered judgment on the verdict and, after considering aggravation and mitigation, sentenced defendants to 30 months' probation and 100 hours of community service. On appeal, defendants contend that they were denied due process, that their trial counsel was ineffective on numerous bases, and that the trial court erred in

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amending their indictments. Based on the following, we affirm.

¶ 3

FACTS

¶ 4 At the outset, we note that defendants failed to provide a statement of facts in their appellant brief in violation of Supreme Court Rule 341(h)(6). Ill. S. Ct. R. 341(h)(6) (eff. Sep. 1, 2006) (an appellant's brief must contain a statement of facts, with citation to the record, necessary for an understanding of the case). Although we may strike the brief and dismiss defendants' consolidated appeal, we are not precluded from reviewing their contentions because the State provided a thorough statement of facts and we have the benefit of the record. *Carter v. Carter*, 2012 IL App (1st) 110855, ¶ 12.

¶ 5 At trial, Chicago Fire Department Paramedic Melanie Howe testified that, on December 30, 2007, she and her partner, Patrick O'Connell, responded to a call for a "patient unconscious, breathing" at 7939 South Winchester, in Chicago, Illinois. When they arrived, they brought a stair chair and a quick response bag to the front door and were led into the home by Calvin Bowers. They walked up the stairs and found defendant Brown on the floor with his eyes closed. Defendant Hooker, Brown's mother, was kneeling over Brown acting "agitated" and "frantic" while calling his name. Howe and O'Connell assessed Brown and determined that his heart was beating, he was breathing, and he had responsive pupils. Howe then asked Hooker if Brown had any medical problems or a history of drug or alcohol abuse. Hooker responded in the negative and Howe did not witness any evidence that drugs or alcohol were involved in Brown's medical emergency.

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¶ 6 Howe testified that, because Hooker was interfering with their ability to treat Brown, she and O'Connell decided they could better assess Brown by bringing him to the ambulance. As a result, the paramedics lifted Brown into the stair chair and began bringing him down the stairs. At that point, members of the Chicago fire department arrived and one firefighter relieved Howe from carrying Brown in the stair chair. When Brown was placed into the ambulance, Howe continued her assessment. During the assessment, Brown turned his head and made eye contact with Howe. In response, Howe, who testified that she felt bad for Hooker because Hooker believed that Brown was in real danger, told Brown that his mother thought he was dying and that he was not being "fair to her." Howe clarified that she never struck Brown or used profanity.

¶ 7 According to Howe, Hooker then appeared in the ambulance. Hooker was "aggressive and threatening" and began yelling at Howe. Howe testified that she instructed Hooker to leave the ambulance at least five times, but Hooker refused and continued her aggression. As a result, Howe radioed the police and attempted to usher Hooker out of the ambulance. While doing so, Hooker turned around and struck Howe on the left side of her body. Hooker also pulled Howe's hair and held her head down. Hooker then kicked and hit Howe. Howe yelled for assistance to "get this b*** off of me." Someone arrived to help Howe and Howe freed herself from Hooker's hold.

¶ 8 At that point, Brown grabbed Howe and began choking her with the cord of the radio that she was wearing around her neck. Howe had trouble breathing and talking. Brown also grabbed Howe's breast with force enough to cause milk to leak as she was a nursing mother. Brown then announced that he was going to kill Howe. According to Howe, two firefighters, James

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Fitzgerald and Lieutenant Joseph Rossi, along with O'Connell tried to subdue Brown.

Eventually, Howe was able to break free from Brown's hold.

¶ 9 Howe lost some hair and was bruised all over her body after the incident. She was treated at the hospital.

¶ 10 On cross-examination, defense counsel attempted to impeach Howe with an internal affairs¹ report authored by the fire department in which she did not say that Brown squeezed her breast.

¶ 11 On redirect examination, Howe testified that there are various levels of emergency medical technicians (EMTs) and a paramedic is the highest level. Without objection, Howe testified that she did not receive any discipline following the internal affairs investigation.

¶ 12 O'Connell testified that Hooker was "panicked," "anxious," and "agitated" when he and Howe first arrived. Hooker was "hovering over them" during their initial assessment of Brown. When Hooker refused to step back and provide them room to work, Howe and O'Connell decided to move Brown outside to the ambulance. At that point, they had already determined that Brown did not require immediate care. While attempting to transport Brown down the stairs, Hooker was "kind of grasping" at the stair chair and further hindering their efforts to assist Brown. When they approached the ambulance, O'Connell and Fitzgerald, a firefighter who had relieved Howe from carrying the stair chair, opened the back door of the ambulance and placed Brown on a stretcher. Meanwhile, Howe entered the ambulance through the side door.

¹The Chicago fire department initiated an internal affairs investigation after defendants filed a complaint.

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O'Connell and Fitzgerald then moved the stair chair to the side of the ambulance.

¶ 13 After completing that task, O'Connell reentered the back of the ambulance. Hooker entered the ambulance as well and began arguing with Howe. Howe told Hooker to leave the ambulance so that the paramedics could do their job. O'Connell then observed Hooker strike Howe in the head, grab Howe's hair, pull Howe's head down, and attempt to kick and hit Howe. O'Connell never observed Howe strike Hooker or use profanity. O'Connell, Fitzgerald, and Bowers all stepped in to separate Hooker from Howe. Hooker was escorted out of the ambulance.

¶ 14 O'Connell further testified that, while Hooker was removed from the ambulance, Brown got up from the stretcher, appearing "very agitated" and "angry," and began "yelling" and "spitting." Brown attacked Howe by pulling on her clothes and grabbing a radio cord from around Howe's neck. According to O'Connell, two firefighters and Lieutenant Rossi assisted in pulling Brown off of Howe. O'Connell then jumped on Brown's feet because Brown was kicking everyone in the ambulance.

¶ 15 On cross-examination, defense counsel asked O'Connell whether he spoke to Investigator George Roberts in relation to the internal affairs investigation. O'Connell testified that he did speak to Roberts and reported that any allegation that the ambulance crew was discourteous to Hooker was false.

¶ 16 On redirect examination, O'Connell testified that his signed internal affairs statement said Brown and his family attacked Howe, resulting in their arrest.

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¶ 17 Fitzgerald testified that, after instructing Hooker to give the paramedics space to do their job, he observed Hooker enter the ambulance and strike Howe on the left side of Howe's head. Fitzgerald entered the ambulance from the side to pry Hooker's hand from Howe's hair. Fitzgerald then saw Brown begin choking Howe with the cord from Howe's neck. Brown said, "I am going to kill that b***." While attempting to pry Brown's hand from Howe's radio cord, another firefighter and Lieutenant Rossi arrived to provide additional assistance. Brown was "wild, crazy-like" and making growling noises. According to Fitzgerald, it took three men to subdue Brown in order for Howe to slip out of his grip.

¶ 18 On cross-examination, Fitzgerald testified that the reason the paramedics and firefighters were called to the address was for "unconscious breathing." Fitzgerald testified that Roberts interviewed him for the internal affairs investigation. Fitzgerald agreed that the report said Hooker and Howe pulled each other's hair.

¶ 19 On redirect examination, Fitzgerald testified that when he entered the ambulance the scene was chaotic and the hair pulling occurred after Hooker struck Howe. Fitzgerald confirmed that Howe was a paramedic, which is a higher class of EMT.

¶ 20 Sergeant Eric Elkins testified that, as the field sergeant on the day in question, he monitored a call that said ambulances were responding to an unresponsive 19-year-old at 7939 South Winchester. Due to the age of the victim and the reported unconscious state, Sergeant Elkins went to the location to make sure there "wasn't more to it." Upon his arrival, he noticed that Hooker was "agitated." Sergeant Elkins asked Hooker whether Brown was taking any medications. Hooker responded that Brown had just broken up with his girlfriend and was

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depressed. While performing an authorized search of Brown's bedroom, Sergeant Elkins heard yelling from outside. When he approached the ambulance, he observed Hooker fighting with the paramedics and firefighters. Sergeant Elkins grabbed Hooker and assisted O'Connell in removing her from the ambulance. According to Sergeant Elkins, Hooker was combative and hit him in the chest. Sergeant Elkins pushed Hooker back and warned her to calm down or he would have to "tase" her.

¶ 21 On cross-examination, defense counsel asked Sergeant Elkins whether Brown "may have taken something" as a result of his being depressed due to his recent breakup with his girlfriend. Sergeant Elkins responded that he never said Brown had taken something, but that Sergeant Elkins searched to see if there was "anything around" because of the information regarding Brown's breakup and depression. In an attempt to impeach Sergeant Elkins, defense counsel asked whether he told Investigator Roberts that Brown was "unresponsive, and his mother told [him] that [Brown] was unresponsive and he may have taken something because he had broken up from his girlfriend." Sergeant Elkins testified that he could have said that to the investigator.

¶ 22 Lieutenant Rossi testified that he and his team responded to a call for a "drug overdose" at 7939 South Winchester. At some point, Hooker approached Lieutenant Rossi and inquired whether the paramedics were going to administer the drug narcan to her son. Over defense counsel's objection, Lieutenant Rossi testified that narcan is used when someone overdoses on opiates. Lieutenant Rossi testified that he told Hooker he was a fire lieutenant and was unaware of the paramedics' course of action. Hooker repeated her question and Lieutenant Rossi repeated that he could not provide an answer. After assisting Howe with the stretcher, Lieutenant Rossi

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returned to his fire truck. However, before leaving the scene, the firefighters were flagged down and Lieutenant Rossi noticed the ambulance was rocking. When he approached the ambulance again, Lieutenant Rossi observed Howe with a radio cord wrapped twice around her neck and Brown's hand on her neck. Brown's other hand was squeezing Howe's breast. Howe was unable to move. Brown was growling at Howe and saying, "I am going to kill you, b***." Lieutenant Rossi pried defendant's fingers off of Howe's breast. Howe then was able to "wiggle" herself out of the cord around her neck. Another firefighter sat on Brown's shoulders and Fitzgerald sat on Brown's feet so that Howe could exit the ambulance.

¶ 23 On cross-examination, Lieutenant Rossi testified that the dispatch call stated that "Truck 50 ambulance assist Ambulance 30, overdose, 19 year old male." Lieutenant Rossi testified that no medication was administered on the scene. Lieutenant Rossi said he did not produce naran after Hooker questioned him about the drug. Defense counsel impeached Lieutenant Rossi with the internal affairs investigation report in which Lieutenant Rossi provided that Brown's hand was on Howe's neck and not her breast. The trial court, however, refused to strike Lieutenant Rossi's testimony.

¶ 24 The trial court denied defendants' motion for directed verdicts.

¶ 25 Bowers testified for the defense that he was Hooker's fiancé and lived with Hooker and Brown on the date at issue. Bowers found Brown in his room "lying there" and not responding. Bowers later watched the paramedics inside the home and then followed them to the ambulance. Bowers testified that he witnessed an argument between Hooker and Brown and Howe. According to Bowers, Howe became angry and got "all in Dr. Hooker's face" and shoved

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Hooker. Bowers then heard Howe say, “somebody get this b*** out of here.” Bowers witnessed Howe grab Hooker’s hair and Hooker grab Howe’s hair in response. Bowers entered the ambulance and separated Howe and Hooker without any additional assistance. Bowers testified that Hooker then stood outside the ambulance crying and looking at her son. An officer in a white shirt approached the ambulance carrying a taser and informed Hooker that she was under arrest.

¶ 26 On cross-examination, Bowers admitted that Howe instructed Hooker to leave the ambulance and Hooker said, “I am not going anywhere.” Bowers denied informing Roberts that he was unaware who instigated the altercation, that Brown was wrestling with Howe when Hooker exited the ambulance, and that he required the assistance of other firefighters to remove Hooker from the ambulance.

¶ 27 Eddie Flowers lived in the neighborhood and went to Hooker’s house when he noticed the paramedics' presence. Flowers observed Hooker enter the ambulance and heard the paramedic say, “get this b*** out of here.” According to Flowers, commotion ensued and Bowers removed Hooker from the ambulance. Brown was then left inside the ambulance with two paramedics. Flowers testified that he witnessed firefighters and policemen “standing around laughing like something was funny.”

¶ 28 Three character witnesses were called to testify that they did not observe the events in question, but knew Brown to have a peaceful reputation in the community.

¶ 29 Brown testified that on the date in question he woke up with a headache and felt abnormal and weak. He recalled retrieving water and returning to bed. The next thing he

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remembered was being in the back of an ambulance. When he woke, he was in a stair chair inside of an ambulance. Two paramedics, neither of which was Howe, then entered through the side of the ambulance and knocked him off of the chair and onto the floor. The paramedics said, “get that motherf***” and Brown said he screamed for help. Brown was unable to locate Hooker, until he observed her standing outside of the ambulance wearing handcuffs. According to Brown, Hooker was never inside the ambulance. Brown testified that he had men on him and he could not breath. When Brown asked what he had done, the officers told him to “shut up.” Brown denied wrapping a cord around Howe’s neck, grabbing Howe’s breast, or kicking or hitting Howe. Brown testified that he was never taken to the hospital, but was taken to the police station instead.

¶ 30 On cross-examination, Brown denied telling Detective Michael Qualls that he had just broken up with his girlfriend, that he was depressed, or that he drank Jack Daniels and smoked a pack of cigarettes earlier on the day in question. According to Brown, neither Howe, Hooker, nor Bowers were in the ambulance with him. Brown denied telling Detective Qualls that Hooker was arguing with a paramedic in the ambulance and Brown gathered enough strength to break up the fight.

¶ 31 Hooker testified that she had her Ph.D. and was a nurse educator. After receiving a call from one of Brown’s friends and then noticing that Brown was unresponsive in his room on the day in question, Hooker instructed Bowers to retrieve her medical kit. Hooker checked Brown’s pupils and blood pressure, both of which were abnormal. After applying a cold towel to Brown and receiving no response, Hooker instructed Bowers to call 911. When the paramedics arrived,

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Hooker told them about Brown's vitals. As her son was removed from the house, a sergeant asked Hooker whether Brown was on drugs and asked for permission to search Brown's room. Hooker said that, to her knowledge, Brown was not on drugs. Hooker followed the paramedics to the ambulance and was told to wait in the front, which she did until she heard a female voice say, "motherf***, you punk, wake your faking a** up. Look at all the trouble you caused." Hooker then moved to the back of the ambulance, opened the doors, entered, and asked the paramedic why she was talking to Brown "like that." According to Hooker, Howe answered, "get out of here b*** if you want me to save his life." Hooker said, "no thank you" and that she would save Brown's life herself. Hooker refused treatment on Brown's behalf. Howe then shoved Hooker in the chest and grabbed Hooker's hair. Hooker grabbed Howe's hair in response. Bowers then stepped between the women and pulled Hooker out of the ambulance. According to Hooker, she never struck Howe.

¶ 32 Hooker testified that she observed two paramedics jump into the ambulance. The paramedics threw Brown on the ground and restrained him. Hooker began screaming and crying and was told by Sergeant Elkins that if she did not step back she would be tased. Hooker was placed into handcuffs and moved into a police car. While at the police station, Hooker saw Brown in handcuffs. Hooker never observed Brown hit Howe, wrap a cord around her neck, or verbally abuse Howe.

¶ 33 On cross-examination, Hooker denied telling Detective Qualls that she was worried about her son because he had broken up with his girlfriend. Hooker further denied telling Detective Qualls that she shoved Howe and that she heard Howe slap Brown. Hooker admitted telling

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Detective Qualls that Brown said Howe struck him in the face.

¶ 34 George Roberts testified that in January 2008 he was assigned to investigate a complaint for verbal abuse filed by defendants against certain firefighters. Roberts testified that he interviewed Lieutenant Rossi, but Rossi did not report that Brown squeezed Howe's breast. Lieutenant Rossi did report that Brown made "growling" noises and that Hooker's wig appeared on the floor of the ambulance.

¶ 35 On cross-examination, Roberts testified that he interviewed Bowers. Bowers reported that he heard Howe ask Hooker to "let her do her job," that he never heard Howe say "shut up," and that Hooker refused to leave the ambulance. Bowers told Roberts that he witnessed Brown wrestling with Howe, that Bowers needed to assist the firefighters to remove Hooker from Howe, and that Brown was wrestled to the ground only after having attacked Howe. Roberts also interviewed Howe, who reported that Brown grabbed her breast. Roberts added that Lieutenant Rossi reported having to pry each finger of Brown's hand off of Howe; however, that information was not in Roberts' report, which was a summary of his interviews and not a verbatim transcript. The State asked Roberts whether any reprimands resulted from the investigation. Defense counsel objected. The trial court overruled the objection, reasoning that defense counsel "opened the door by bringing the internal investigations into play." Roberts testified that Howe did not receive any reprimand following the investigation.

¶ 36 The defense rested.

¶ 37 On rebuttal, Officer Marcus Hall testified that he worked in the prison lockup on December 30, 2007. In his capacity as a lockup keeper, Officer Hall processed prisoners by

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searching them, fingerprinting them, and taking photos of them. Officer Hall processed Brown and Brown did not complain of any injuries or illnesses and did not report taking any medications.

¶ 38 Officer Derrick Houser testified that he processed Hooker in the lockup on December 30, 2007. Officer Houser testified that Hooker did not complain of any health problems.

¶ 39 Detective Qualls testified that he interviewed several of the witnesses following the incident on December 30, 2007. Howe reported that Brown grabbed her breast and grabbed her neck, causing her to choke on her radio cord. According to Detective Qualls, Howe's neck appeared red during the interview. Lieutenant Rossi confirmed Howe's description of the events. While interviewing Brown, Brown informed Detective Qualls that he had just broken up with his girlfriend and was depressed. Brown added that he drank some Jack Daniels and smoked cigarettes earlier on the date in question to "ease the pain of the breakup." Brown reported that Hooker entered the back of the ambulance while he was inside and began arguing with the paramedics. Brown added that he "gathered enough strength" to join the fight. During her interview, Hooker reported that Howe told her to "get the f*** out of the ambulance" or to "get this b*** out of the ambulance." Hooker provided that Brown had been depressed as a result of his breakup. Hooker further stated that she heard Howe slap Brown and that she struck Howe after Howe pushed Hooker and instructed her to leave the ambulance. Hooker added that she "whipped [Howe's] a*** with one hand." During his interview, Bowers reported that, although he did not see who instigated the altercation, he required the assistance of several firefighters to separate Howe and Hooker.

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¶ 40 The jury found Hooker and Brown guilty of aggravated battery. No posttrial pleadings or reports of posttrial proceedings appear in the record; however, the courtroom halvesheets and sentencing orders demonstrate that Hooker and Brown were both sentenced to 30 months' probation and 100 hours of community service.

¶ 41

DECISION

¶ 42 Defendants' first contention involves the alleged admission of "other crimes evidence." In particular, defendants argue that the trial court denied their due process rights by allowing the State to question Lieutenant Rossi regarding Brown's potential drug overdose and to question Hooker regarding her knowledge of the drug narcan. Defendants argue that the jury was led to believe that Brown used illegal drugs and was more likely to commit the offense because he was a bad person.

¶ 43 Defendants' contention is without merit. We recognize that defendants forfeited review of their challenge because they failed to object to the contested testimony at trial and to include it in a posttrial motion. *People v. Enoch*, 122 Ill. 2d 176, 186, 522 N.E.2d 1124 (1988). We further recognize that defendants do not assert that the challenged testimony constituted plain error. *People v. Herron*, 215 Ill. 2d 167, 186-87, 830 N.E.2d 467 (2005). Notwithstanding, our review of the record demonstrates that the witnesses repeatedly testified that the emergency call was *not* for an overdose and that Brown was *not* under the influence of drugs while he was being treated. As a result, the limited testimony exploring the basis of the emergency assistance call was proper and did not involve the admission of "other crimes."

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¶ 44 Defendants, therefore, cannot establish a claim for ineffective assistance of counsel for failing to request a limiting instruction of the "other crimes" evidence. To establish an ineffective assistance of counsel claim, the defendant must demonstrate the counsel's representation fell below an objective standard of reasonableness and he suffered resulting prejudice such that there is a reasonable probability that, but for the counsel's errors, the result of the proceeding would have been different. *Strickland v. Washington*, 466 U.S. 668, 694 (1984). A defendant must overcome the strong presumption that the trial counsel's challenged actions were a matter of sound trial strategy. *Id.* at 689-90. A defendant must satisfy both prongs of the *Strickland* test; however, where prejudice has not been demonstrated, a court need not determine whether the counsel's performance was deficient. *People v. Harris*, 206 Ill 2d. 293, 303, 794 N.E.2d 181 (2002). Defendants cannot demonstrate defense counsel's performance was unreasonable or that they suffered prejudice where there was no evidence of other crimes presented to the jury.

¶ 45 Defendants next contend their trial counsel was ineffective for failing to file a motion to sever defendants' trials. Defendant Hooker argues that the testimony providing that Brown threatened to kill Howe should have been limited to him either through a severance or, in the alternative, through a limiting instruction.

¶ 46 Section 114-8 of the Code of Criminal Procedure (Code) (725 ILCS 5/114-8 (West 2006)) provides:

"If it appears that a defendant or the State is prejudiced by a joinder of related prosecutions or defendants in a single charge or by joinder of separate

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charges or defendants for trial the court may order separate trials, grant a severance of defendants, or provide any other relief as justice may require." 725 ILCS 5/114-8(a) (West 2006).

The rules for severance are firmly established, in that individuals that were indicted together should be tried together. *People v. Morrow*, 104 Ill. App. 3d 995, 1006, 433 N.E.2d 985 (1982). Severance, however, is proper where the defenses are so antagonistic that separation is required to ensure a fair trial. *Id.* "Severance may also be granted when hearsay admissions of a codefendant implicate the defendant seeking severance, since the latter may be denied his constitutional right to confrontation if the codefendant does not testify." *People v. Bock*, 242 Ill. App. 3d 1056, 1079, 611 N.E.2d 1173 (1993). In general, the decision whether to file a motion to sever is considered a matter of trial strategy. *Morrow*, 104 Ill. 3d at 1006. An ineffective assistance claim cannot be established where the motion to sever would not have been successful. *Id.*

¶ 47 In this case, defendants were indicted together and their defenses were not antagonistic where Hooker claimed self defense and Brown argued that the facts were insufficient to prove his guilt. Moreover, Hooker was not denied her constitutional right to confrontation where Brown testified at trial. Therefore, although we fail to see how the challenged statement prejudiced Hooker where it had no implication as to Hooker's guilt, Hooker was provided the opportunity to question Brown about his alleged statement in which he threatened to kill Howe. Because there was no basis for the motion to sever, defendants cannot establish that their counsel was ineffective.

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¶ 48 To the extent defendants contend their defense counsel was ineffective for failing to request a limiting instruction, their argument is futile. The jury was offered a limiting instruction, such that each defendant was to be considered separately in light of the evidence and law that applied to him or her and that "a statement made by one defendant may not be considered by you against any other defendant." Defendants, therefore, cannot establish that defense counsel was ineffective for failing to request a limiting instruction when the record demonstrates that a limiting instruction was provided.

¶ 49 Defendants additionally contend they were denied due process and effective assistance of counsel as a result of the testimony regarding the internal affairs investigation. Defendants argue that the "quasi-judicial" finding that Howe "did not start the fight" with Hooker essentially vouched for Howe and was prejudicial.

¶ 50 The record demonstrates that defense counsel elicited testimony regarding the internal affairs investigation on cross-examination in an attempt to impeach Howe, O'Connell, Fitzgerald, and Elkins. During Howe's redirect examination, Howe testified, without objection, that she did not receive any discipline as a result of the internal affairs investigation. During the cross-examination of defense witness and Internal Affairs Investigator Roberts, the State asked whether Howe or O'Connell received any discipline. Defense counsel objected and the trial court overruled the objection, finding that defense counsel "opened the door" by raising the investigation with previous witnesses. We conclude that defendants were not denied due process. The internal affairs investigation was prompted by defendants' complaint that Howe verbally abused them. Defendants then opened the door to testimony regarding the results of that

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investigation by cross-examining Howe, O'Connell, Fitzgerald, and Elkins as to their discussions with Roberts. See *People v. Crisp*, 242 Ill. App. 3d 652, 659, 609 N.E.2d 740 (1992). The scope of redirect examination is within the trial court's discretion. *Id.* Moreover, defendants cannot demonstrate that defense counsel's strategic decision to attempt to impeach the State witnesses was unreasonable under *Strickland*.

¶ 51 Defendants briefly argue that defense counsel was ineffective for failing to impeach the State's witnesses with the alleged fact that Howe was the daughter of the deputy chief of the fire department. Defendants have failed to demonstrate that this information was of record. There is no evidence that defense counsel was aware of the alleged relationship. Defendants cannot support an ineffective assistance of counsel claim with allegations outside the record. See *People v. Taylor*, 237 Ill. 2d 356, 373, 930 N.E.2d 959 (2010).

¶ 52 Defendants finally contend the trial court erred in amending their indictments. Defendants failed to cite to authority to support their contention in violation of Supreme Court Rule 341(h)(7) (Ill. S. Ct. R. 341(h)(7) (eff. Sep. 1, 2006)). Moreover, defendants forfeited review of this argument by failing to object at trial or raise it in a posttrial motion. *Enoch*, 122 Ill. 2d at 186. To the extent defendants argue that defense counsel did object, the amendments to the indictments were mere formalities in order to bring them in line with the testimony demonstrating that Howe was a paramedic. See *People v. Flores*, 250 Ill. App. 3d 399, 401, 621 N.E.2d 142 (1993) (pursuant to section 111-5 of the Code (725 ILCS 5/111-5 (West 2006)), an indictment may be amended at any time to correct formal defects, including miswriting, if the change is not material and does not alter the nature and elements of the charged offense).

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Defendants were indicted together, but were indicted for aggravated battery on two bases. Prior to the amendments, the indictments, in relevant part, read "to wit: struck and grabbed Melanie Howe, knowing Melanie Howe to be a EMT, to wit: Chicago Fire Department paramedic."

Following Howe's testimony, the State motioned the trial court to amend the indictments to read "knowing Melanie Howe to be a EMT paramedic." The trial testimony repeatedly demonstrated that Howe was a paramedic, which is a higher form of an EMT. The trial court did not err in granting the formal amendments, which were not material and did not alter the nature or elements of the aggravated battery charges.

¶ 53

CONCLUSION

¶ 54 We find that defendants were not denied due process and their defense counsel was not ineffective. We, therefore, affirm the judgment of the trial court.

¶ 55 Affirmed.