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2013 IL App (4th) 120108-U  
NO. 4-12-0108  
IN THE APPELLATE COURT  
OF ILLINOIS  
FOURTH DISTRICT

FILED  
August 13, 2013  
Carla Bender  
4<sup>th</sup> District Appellate  
Court, IL

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from
Plaintiff-Appellee,	)	Circuit Court of
v.	)	McLean County
GERALD WAYNE WHITE,	)	No. 11CF414
Defendant-Appellant.	)	
	)	Honorable
	)	James E. Souk,
	)	Judge Presiding.

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JUSTICE KNECHT delivered the judgment of the court.  
Justices Appleton and Holder White concurred in the judgment.

**ORDER**

- ¶ 1 *Held:* (1) The State presented sufficient evidence to prove defendant guilty of unlawful delivery of a controlled substance (720 ILCS 570/401(d)(i) (West 2010)) beyond a reasonable doubt.
- (2) The trial court did not err by denying defendant's motion *in limine* to redact certain portions of a video-recorded police interview of defendant.
- ¶ 2 In October 2011, a jury found defendant, Gerald Wayne White, guilty of (1) unlawful delivery of a controlled substance (720 ILCS 570/401(d)(i) (West 2010) (less than 1 gram of a substance containing heroin)) and (2) unlawful possession of a controlled substance (720 ILCS 570/402(c) (West 2010) (less than 15 grams of a substance containing heroin)). In November 2011, defendant filed a posttrial motion requesting the court to set aside the jury's verdict and enter judgment of acquittal notwithstanding the verdict. In December 2011,

following a hearing, the court denied defendant's posttrial motion and sentenced him to concurrent 20- and 5-year prison terms for unlawful delivery of a controlled substance and unlawful possession of a controlled substance, respectively.

¶ 3 Defendant appeals, arguing (1) the State failed to prove him guilty of unlawful delivery of a controlled substance beyond a reasonable doubt and (2) the trial court erred by denying his motion *in limine* to redact certain portions of a video-recorded police interview of defendant. We affirm.

¶ 4 I. BACKGROUND

¶ 5 In May 2011, a McLean County grand jury returned three bills of indictment charging defendant with (1) unlawful delivery of a controlled substance (720 ILCS 570/401(d)(i) (West 2010) (less than 1 gram of a substance containing heroin)), (2) unlawful possession of a controlled substance with intent to deliver (720 ILCS 570/401(d)(i) (West 2010) (less than 1 gram of a substance containing heroin)), and (3) unlawful possession of a controlled substance (720 ILCS 570/402(c) (West 2010) (less than 15 grams of a substance containing heroin)).

¶ 6 A. Defendant's Motion *In Limine*

¶ 7 In June 2011, the State tendered discovery pursuant to Illinois Supreme Court Rule 412 (eff. Mar. 1, 2001). The tendered evidence included, among other things, a "DVD [(digital video disk)] video interview of defendant." The approximately 16-minute video recording depicted Detective Edward Shumaker of the Bloomington police department vice unit interviewing defendant at the police station following defendant's arrest.

¶ 8 In October 2011, defendant filed a motion *in limine* requesting the trial court to bar any evidence which might inform the jury of the following facts:

- "1. That Defendant was interviewed following his arrest as well as the content of any interview of Defendant following his arrest.
2. If any of Defendant's post-arrest statement is introduced, the question by the interviewing officer 'When was the last time that you sold drugs,' (found at approximately 8:00 mark of redacted statement) and the statement of Defendant that 'These guys bring in 50-100 grams of Heroin' (found at approximately 14:29 mark of redacted statement)."

At a hearing on the motion *in limine* on the morning of defendant's trial, defense counsel argued the entire interview recording should be barred because defendant made no admissions or "statements against interest that would overcome the hearsay nature of the statement." In the alternative, defense counsel argued Shumaker's question to defendant regarding the last time he sold drugs should be redacted because it "is highly prejudicial and implies to the jury that Shumaker knew that this Defendant had sold drugs in the past \*\*\*." Defense counsel further argued defendant's statement, "These guys bring in 50-100 grams of Heroin," should also be redacted because "that has nothing to do with this delivery that he's charged with and is clearly highly prejudicial." The court denied the motion *in limine*.

¶ 9 B. Evidence Presented at Defendant's Trial

¶ 10 1. *Lora Lindoerfer's Testimony*

¶ 11 Lora Lindoerfer testified she was employed at a Denny's restaurant in Bloomington, Illinois, in May 2011. On May 16, 2011, she stole \$40 from a drawer in the office

of the restaurant for the purpose of purchasing heroin. Lindoerfer admitted she was a heroin addict at that time. She testified she knew her actions would be captured on the restaurant's security camera, but she did not care because "[she] was a heroin addict."

¶ 12 At approximately 9 a.m. the next day, Lindoerfer used heroin. Shortly thereafter, members of the Bloomington police department went to Lindoerfer's home to question her about the previous day's theft. Lindoerfer's mother, who lived with Lindoerfer, gave the officers consent to conduct a search of the home. The search led to the discovery of heroin. Lindoerfer was arrested for the theft and possession of heroin and transported to the Bloomington police station.

¶ 13 Later that morning, Detective Shumaker met with Lindoerfer at the Bloomington police station to obtain her cooperation in identifying her heroin dealer. Lindoerfer agreed to participate in a "controlled buy." Shumaker made no promises to Lindoerfer in exchange for her cooperation. Lindoerfer identified defendant as her heroin dealer and gave Shumaker the phone number she used to contact defendant.

¶ 14 In preparation for the controlled buy, Detective Shumaker transported Lindoerfer to her home so she could change into her Denny's uniform. Shumaker did not observe Lindoerfer changing. Lindoerfer testified she was searched after she was initially arrested, but she was not searched after she changed into her Denny's uniform.

¶ 15 After Lindoerfer changed into her Denny's uniform, Detective Shumaker and Sergeant Brian Brown of the Bloomington police department transported her in an undercover police vehicle to a parking lot near Denny's. There, with Shumaker watching, Lindoerfer sent a text message to the number she identified as belonging to defendant. The text message read,

"What's good? Can you come to Denny's to drop something off?" A text message came back from the number in response, which read, "Yes." Lindoerfer then called the phone number and spoke with defendant. Lindoerfer told defendant she had \$100 and needed "two 50s." She described a "50" as 0.2 grams of heroin. Defendant responded, "Okay." Defendant told Lindoerfer he could not come to Denny's and instructed her to call Chad Boitnott, who could give Lindoerfer a ride to defendant's house. Lindoerfer then called Boitnott, who agreed to give her a ride to defendant's house. Shumaker provided Lindoerfer with \$100 to purchase heroin and several dollars to give to Boitnott for gas money. Shumaker dropped off Lindoerfer near the Dumpster at Denny's to await Boitnott's arrival.

¶ 16            Approximately 10 to 15 minutes later, Boitnott arrived in a white truck. Lindoerfer got in the passenger seat of the truck and Boitnott drove her to defendant's house. Defendant was outside his house when Boitnott and Lindoerfer arrived. Defendant approached the driver's side of the truck. The driver's window was open. Lindoerfer leaned over the center console and gave defendant the \$100 provided to her by Detective Shumaker. Defendant said, "I'm going to trust that this is \$100" and then placed two folded foil packets in Lindoerfer's hand. Defendant went back inside his house and Boitnott drove away with Lindoerfer in his truck. Boitnott drove Lindoerfer to a cigarette store near Denny's and dropped her off. After Boitnott drove away, Lindoerfer got into Shumaker's undercover vehicle. Lindoerfer then gave the foil packets to Shumaker. At trial, Lindoerfer identified the foil packets placed into evidence by the State as the packets defendant gave to her. The State and defense stipulated the foil packets contained heroin.

¶ 17            Lindoerfer testified she had been clean for five months as of defendant's trial.

After she participated in 30 days of drug rehabilitation and paid \$40 in restitution to Denny's, the State dismissed the theft charge against her (McLean County case No. 2011-CM-0720). The State never charged her for possession of heroin. At the time of trial, Lindoerfer was attending meetings at Recovery Church and staying with sober friends. On cross-examination, Lindoerfer testified her six-month-old child was present in her home when the police arrested her and discovered heroin. The State took no action to remove her child from her custody.

¶ 18

## 2. *The State's Further Evidence*

¶ 19 Detective Shumaker testified he initially met with Lindoerfer between 10 a.m. and noon on May 17, 2011. Lindoerfer seemed to have a hangover but Shumaker did not think she was high on heroin. Shumaker's testimony conflicted with Lindoerfer's regarding the search of Lindoerfer's person prior to the controlled buy. Shumaker testified he searched Lindoerfer's pockets, shoes, socks, and waistband *after* Lindoerfer changed into her Denny's uniform. However, he admitted his search was limited due to the fact Lindoerfer was female, and a possibility existed she could have hidden contraband in some places he did not search.

¶ 20 Prior to the controlled buy, Shumaker made a photocopy of the cash he provided to Lindoerfer to purchase the heroin.

¶ 21 Sergeant Brown, Officer Kenneth Bays, and Detective Kevin Raisbeck of the Bloomington police department each testified they acted as members of the surveillance team assigned to the controlled buy involving Lindoerfer and defendant. All members of the surveillance team remained in plain clothes and drove undercover vehicles to avoid detection. The officers communicated over radio on a mutual frequency, meaning all officers could hear each other's communications with one another. The officers recorded their observations and the

exact time of events in a surveillance log, which some of them used as a reference during their trial testimony. Their testimonies established a continuous "eyes on" chain of surveillance of Boitnott's truck beginning with its arrival at Denny's to pick up Lindoerfer, continuing through the journey to and from defendant's residence, and concluding at the cigarette store near Denny's where Lindoerfer exited Boitnott's truck.

¶ 22            Detective Raisbeck's surveillance position was 20 to 30 yards away from defendant's house. At 1:52 p.m., Raisbeck saw a white truck stop in front of defendant's house. Defendant emerged from the truck and went inside his house. The truck drove away. At 2:01 p.m., Sergeant Brown watched a white truck pull into the Denny's parking lot. Lindoerfer got into the truck and the truck left the parking lot. At 2:13 p.m., Raisbeck saw the same white truck he watched defendant emerge from earlier return to defendant's house and stop in the street out front. Defendant, who was already outside his house, walked up to the driver's side window of the truck. Raisbeck could clearly see the faces of Lindoerfer and Boitnott in the truck. Raisbeck saw Lindoerfer lean toward the driver's side window and exchange something with defendant. Raisbeck used his cellular phone to video-record the entire transaction. That video recording was played for the jury and admitted into evidence. At 2:26 p.m., Detective Shumaker saw the white truck pull into the parking lot of the cigarette store near Denny's. Lindoerfer emerged from the truck, walked directly to Shumaker's undercover vehicle, and handed him two folded foil packets containing heroin.

¶ 23            Meanwhile, shortly after his interaction with Boitnott and Lindoerfer concluded, defendant drove away from his house in a Chevrolet Trail Blazer. Officer Brice Stanfield of the Bloomington police department, driving a marked squad car, initiated a traffic stop of defendant's

vehicle. Stanfield removed defendant from his vehicle and placed him in handcuffs, at which time defendant dropped a cellular phone on the ground. Stanfield picked up the cellular phone and placed it on the windshield of his squad car. Detective Raisbeck arrived at the scene of defendant's arrest and took custody of the cellular phone. Raisbeck later used his own phone to call the phone number Lindoerfer had contacted to arrange the heroin deal. The cellular phone defendant dropped rang, showing Raisbeck's telephone number as the source of the incoming call.

¶ 24 Detective Raisbeck also searched defendant's pockets at the scene of defendant's arrest and located \$220 in cash. Raisbeck compared the bills recovered from defendant's pocket with the photocopy Detective Shumaker made of the bills he provided to Lindoerfer to purchase heroin. The serial numbers on the bills found in defendant's pocket matched those of the photocopied bills.

¶ 25 At the police station, Detective Shumaker conducted a more thorough search of defendant's person than the search conducted at the scene of defendant's arrest. In defendant's front left jacket pocket, Shumaker discovered four folded foil packets. The State and defense stipulated the foil packets contained heroin. At trial, Shumaker identified both the foil packets Lindoerfer gave him after the controlled buy and the foil packets found in defendant's jacket pocket. Both were admitted into evidence. The trial court permitted the jury to examine both sets of foil packets from the jury box.

¶ 26 Detective Shumaker interviewed defendant at the police station after informing him of his *Miranda* rights (*Miranda v. Arizona*, 384 U.S. 436 (1966)) and telling him the interview would be audio and video recorded. The interview lasted approximately 16 minutes.

Throughout the interview, defendant denied selling drugs to anyone, although he admitted using drugs. Defendant admitted knowing Lindoerfer and Boitnott. To explain the source of the cash found in his pocket, defendant claimed he sold his car to a used car dealer in Bloomington the previous day and received a check for \$300. He brought the check to a currency exchange company and received cash. When Shumaker asked about the heroin found in defendant's coat pocket, defendant claimed he had let a friend wear the jacket. Shumaker then asked, "So somebody put that in your pocket? Is that what you're telling me?" Defendant then claimed the jacket was not his.

¶ 27            Approximately eight minutes into the interview, Shumaker asked defendant, "When was the last time you sold heroin?" Defendant replied, "Come on man. I ain't sold no drugs." Later in the interview, Shumaker said to defendant, "Why do I want to sit here and listen to you when I know you're lying to me? When you tell me the truth then we can talk about something. But you're not telling me the truth." Defendant replied, "Yeah, well, these guys bringing in fifty to a hundred grams of heroin. So, I'm willing to help myself that way." Shumaker responded, "The only way you can help yourself out is you tell me the truth."

¶ 28            Prior to trial, the State redacted portions of the interview video in which Shumaker and defendant discussed defendant's time in prison and a previous arrest. That redacted version of the interview video was played for the jury and admitted into evidence over defendant's objection on the same grounds as alleged in his motion *in limine*. Following presentation of the video, the State rested.

¶ 29            Defendant presented no evidence.

¶ 30            The jury found defendant guilty of (1) unlawful delivery of a controlled substance

(720 ILCS 570/401(d)(i) (West 2010)) and (2) unlawful possession of a controlled substance (720 ILCS 570/402(c) (West 2010)). The jury found defendant not guilty of unlawful possession of a controlled substance with intent to deliver (720 ILCS 570/401(d)(i) (West 2010)).

¶ 31 C. Defendant's Posttrial Motion

¶ 32 In November 2011, defendant filed a posttrial motion asking the trial court to set aside the jury's verdict and enter judgment of acquittal notwithstanding the verdict. In a memorandum of law in support of the motion, defendant argued the State failed to present sufficient evidence to sustain his conviction for unlawful delivery of a controlled substance (720 ILCS 570/401(d)(i) (West 2010)). Defendant asserted Lindoerfer was not a credible witness because she was under the influence of heroin during the controlled buy and she had a motive to lie. The motion did not raise the issue of the court's denial of defendant's motion *in limine*. In December 2011, following a hearing, the court denied defendant's posttrial motion and sentenced him to 20 years' imprisonment for unlawful delivery of a controlled substance and 5 years' imprisonment for unlawful possession of a controlled substance.

¶ 33 This appeal followed.

¶ 34 II. ANALYSIS

¶ 35 Defendant presents two arguments on appeal. First, he asserts his "conviction for unlawful delivery of heroin must be reversed where the heroin addict who testified against [him] was an unbelievable witness, had a motive to testify falsely, and where the police failed to establish that she was not already in possession of heroin prior to meeting [defendant]." Second, defendant contends the trial court committed reversible error by denying his motion *in limine* to redact the portions of the interview video in which (1) Shumaker asked, "When was the last time

you sold heroin?" and (2) defendant stated, "Yeah, well, these guys bringing in fifty to a hundred grams of heroin. So, I'm willing to help myself that way." We affirm.

¶ 36           A. The State Presented Sufficient Evidence To Sustain Defendant's Conviction for Unlawful Delivery of a Controlled Substance

¶ 37           Defendant essentially claims the State failed to prove beyond a reasonable doubt Lindoerfer did not frame him. According to defendant's argument, the State's evidence left open the reasonable possibility Lindoerfer concealed the foil packets of heroin on her person, or obtained them from Boitnott, and then presented them to Detective Shumaker as if they had been purchased from defendant.

¶ 38           When presented with a challenge to the sufficiency of the evidence, " 'the relevant question is 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.' " (Emphasis in original.) *People v. Collins*, 106 Ill. 2d 237, 261, 478 N.E.2d 267, 277 (1985) (quoting *Jackson v. Virginia*, 443 U.S. 307, 319, 99 S. Ct. 2781, 2789 (1979)).

"Therefore, a reviewing court will not substitute its judgment for that of the fact finder on questions involving the weight of the evidence or the credibility of the witnesses." *People v. Anderson*, 325 Ill. App. 3d 624, 634, 759 N.E.2d 83, 92 (2001). This is so because "[t]he trier of fact is best equipped to judge the credibility of witnesses, and due consideration must be given to the fact that it was the trial court and jury that saw and heard the witnesses." *People v. Wheeler*, 226 Ill. 2d 92, 114-15, 871 N.E.2d 728, 740 (2007). "Accordingly, a jury's findings concerning credibility are entitled to great weight." *Id.* at 115, 871 N.E.2d at 740.

¶ 39           Viewing the evidence in the light most favorable to the prosecution, we conclude

a rational trier of fact could have easily accepted Lindoerfer's testimony as credible and found the essential elements of the crime beyond a reasonable doubt.

¶ 40 Police officers maintained constant surveillance of the truck in which Lindoerfer traveled from Denny's to defendant's house, and then back to the area near Denny's. The jury saw a video of a very brief interaction between defendant and the occupants of the truck outside of defendant's house. Shortly after that interaction, defendant was arrested and found in possession of the cash Shumaker provided to Lindoerfer approximately an hour earlier for the purpose of purchasing heroin. The foil packets of heroin Lindoerfer gave to Shumaker matched the foil packets found in defendant's jacket pocket when he was arrested. The cellular phone found in defendant's possession was the same cellular phone Lindoerfer communicated with to arrange the purchase of heroin. The jury was entitled to reject the story defendant presented during the interview at the police station and find the version of events provided by Lindoerfer (which was corroborated by the testimonies of five police officers and consistent with the physical evidence) more credible.

¶ 41 Moreover, defense counsel took full advantage of his opportunity to impeach Lindoerfer's credibility on cross-examination. The jury was apprised of the facts (1) Lindoerfer was a heroin addict who used heroin on the morning of the controlled buy, (2) the State later dismissed the theft charge against Lindoerfer due to her cooperation, and (3) Shumaker's search of Lindoerfer prior to the controlled buy was limited due to the fact Lindoerfer was a female. Defense counsel also used closing argument to attack Lindoerfer's lack of credibility as a witness.

¶ 42 The task of weighing Lindoerfer's credibility was a matter for the jury. It reasonably decided to accept her version of events, which was almost entirely consistent with the



closely balanced that the error alone threatened to tip the scales of justice against the defendant, regardless of the seriousness of the error, or (2) a clear or obvious error occurred and that error is so serious that it affected the fairness of the defendant's trial and challenged the integrity of the judicial process, regardless of the closeness of the evidence.' " *People v. Walker*, 232 Ill. 2d 113, 124, 902 N.E.2d 691, 697 (2009) (quoting *People v. Piatkowski*, 225 Ill. 2d 551, 565, 870 N.E.2d 403, 410-11 (2007)).

The first step of plain-error review is determining whether any error occurred. *People v. Thompson*, 238 Ill. 2d 598, 613, 939 N.E.2d 403, 413 (2010). We turn to defendant's claim the trial court erred by denying his motion *in limine*.

¶ 47

1. *Detective Shumaker's Question*

¶ 48

In the video-recorded interview shown to the jury, Detective Shumaker asks defendant, "When was the last time you sold heroin?" In his opening brief to this court, defendant characterizes this as a "loaded question" constituting evidence of "other crimes" and intended to show defendant's propensity to sell drugs. Defendant cites five cases in support of this contention, all five of which deal with the admissibility of other-crimes evidence. However, in his reply brief, defendant states, "[T]his was not 'evidence' of other crimes, which it is conceded can be admissible, but rather a pure innuendo that [defendant] was a drug dealer, without any supporting evidence whatsoever." In support of that argument, defendant cites two additional cases, both of which deal with the admissibility of other-crimes evidence. We interpret defendant to be arguing the trial court erred by admitting evidence of other crimes.

¶ 49 "The term 'other-crimes evidence' encompasses misconduct or criminal acts that occurred either before or after the allegedly criminal conduct for which the defendant is standing trial." *People v. Spyrès*, 359 Ill. App. 3d 1108, 1112, 835 N.E.2d 974, 977 (2005) (citing *People v. Illgen*, 145 Ill. 2d 353, 365, 583 N.E.2d 515, 520 (1991)). Such evidence may be admissible when it is relevant to show motive, intent, identity, absence of mistake or accident, *modus operandi*, or the existence of a common plan or design. *People v. Wilson*, 214 Ill. 2d 127, 135-36, 824 N.E.2d 191, 196 (2005). The State contends Shumaker's question does not constitute other-crimes evidence. We agree.

¶ 50 Shumaker's question was one of the most relevant things he could have asked defendant during the interview. The question was narrowly aimed at obtaining an admission to the specific criminal conduct for which defendant was arrested and under investigation. No "other crime" was suggested. In this sense, the question was no more prejudicial than the charge itself. Moreover, even if the question was "loaded" so as to suggest defendant had sold heroin in the past, the jury already heard Lindoerfer testify defendant was her heroin dealer. Defendant did not object to that testimony, nor did he seek to have it suppressed through a motion *in limine*. It was no secret the police suspected defendant of being a heroin dealer.

¶ 51 Finally, "[w]e will not reverse the trial court's decision to admit other-crimes evidence unless we find that the court abused its discretion." *People v. Donoho*, 204 Ill. 2d 159, 182, 788 N.E.2d 707, 721 (2003). "[A] court's reasons for determining the admissibility of evidence are immaterial on appeal if there is a proper basis appearing in the record or law which would sustain the court's ruling." *Werner v. Botti, Marinaccio & DeSalvo*, 205 Ill. App. 3d 673, 679, 563 N.E.2d 1147, 1152 (1990); see also *People v. Caballero*, 179 Ill. 2d 205, 211, 688

N.E.2d 658, 661 (1997). Defendant was also on trial for unlawful possession of a controlled substance with intent to deliver (720 ILCS 570/401(d)(i) (West 2010)). The jury acquitted him of that offense. Even assuming, *arguendo*, Shumaker's question could be considered other-crimes evidence suggesting defendant sold heroin in the past, the court would have been within its discretion to allow the evidence in to show (1) defendant's intent to deliver the foil packets of heroin found in his pocket, (2) defendant's absence of mistake in having the foil packets of heroin in his pocket, and (3) defendant's identity as the person who delivered to Lindoerfer the identically packaged foil packets of heroin.

¶ 52 The court did not err in denying defendant's motion *in limine* as to Shumaker's question.

¶ 53 *2. Defendant's Statement*

¶ 54 During the interview, defendant said to Shumaker, "'Yeah, well, these guys bringing in fifty to a hundred grams of heroin. So, I'm willing to help myself that way.'" On appeal, defendant contends this statement was a plea discussion inadmissible under Illinois Supreme Court Rule 402(f) (eff. July 1, 1997). We disagree.

¶ 55 Illinois Supreme Court Rule 402(f) (eff. July. 1, 1997) provides, in pertinent part, as follows: "If a plea discussion does not result in a plea of guilty, \*\*\* neither the plea discussion nor any resulting agreement, plea, or judgment shall be admissible against the defendant in any criminal proceeding."

¶ 56 In *People v. Rivera*, 2013 IL 112467, ¶ 19, 986 N.E.2d 634, the supreme court described the appropriate analysis to determine whether a defendant's statements were made as part of a plea discussion, as follows:

"Not all statements made by a defendant in the hope of obtaining concessions are plea discussions. [Citations.] There is a difference between a statement made in the course of a plea discussion and an otherwise independent admission, which is not excluded by Rule 402(f). [Citation.] The determination is not a bright-line rule and turns on the factual circumstances of each case. [Citation.] In making this determination, we may consider the nature of the statements, to whom defendant made the statements, and what the parties to the conversation said. [Citation.] 'Before a discussion can be characterized as plea related, it must contain the rudiments of the negotiation process, *i.e.*, a willingness by defendant to enter a plea of guilty in return for concessions by the State.' [*People v. Friedman*, 79 Ill. 2d 341, 353, 403 N.E.2d 229, 236 (1980).] Where a defendant's subjective expectations to engage in plea negotiations are not explicit, the objective circumstances surrounding the statement take precedence in evaluating whether the statement was plea related. [Citation.]"

¶ 57 By making the statement at issue, defendant presumably believed he might improve his situation by helping law enforcement apprehend heroin dealers who were "bringing in fifty to a hundred grams of heroin." This was an independent admission made by defendant without any prompting. Shumaker said nothing to suggest he was seeking defendant's cooperation. Moreover, defendant made the statement to a police detective during the course of

an active investigation, before the State had filed charges against him. Defendant's statement, "I'm willing to help myself that way," cannot reasonably be interpreted as an offer to plead guilty in exchange for his cooperation. The conversation lacked the rudiments of the negotiation process because Shumaker offered no concessions and defendant had yet to be charged with a crime for which he could have actually offered to plead guilty in exchange for his cooperation.

¶ 58 We find no error in the trial court's denial of defendant's motion *in limine*, and we need not proceed to the rest of the plain-error analysis. For the same reason, we need not address defendant's claim his counsel was ineffective for failing to include the issue in a posttrial motion.

¶ 59 III. CONCLUSION

¶ 60 The State presented sufficient evidence to prove defendant guilty of unlawful delivery of a controlled substance (720 ILCS 570/401(d)(i) (West 2010)) beyond a reasonable doubt. The trial court did not err by denying defendant's motion *in limine*. Because the State successfully defended a portion of the criminal judgment, we grant the State its \$50 statutory assessment against defendant as costs of this appeal. See *People v. Smith*, 133 Ill. App. 3d 613, 620, 479 N.E.2d 328, 333 (1985) (citing *People v. Nicholls*, 71 Ill. 2d 166, 178, 374 N.E.2d 194, 199 (1978)).

¶ 61 Affirmed.