



against him nor its admissibility, we discuss the evidence and the case's procedural history only to the extent necessary to put his arguments in context.

¶ 5 The defendant was charged with possession of less than 15 grams of a substance containing cocaine. At a preliminary hearing on July 9, 2010, the defendant told the court that he wished to proceed *pro se*. The trial court asked him if he had any experience with the court process and emphasized that the State would have an advantage because of its familiarity with the law and his lack of legal knowledge. The defendant opted to represent himself. The defendant waived the preliminary hearing. The court then moved to his arraignment. The defendant pled not guilty.

¶ 6 On January 20, 2011, the assistant State's Attorney told the court that her predecessor had asked the court to order the defendant to undergo an evaluation by Dr. Cuneo and the court had complied. She stated that there was no report on file and "there is nothing in that prior order that says there's a *bona fide* doubt as to his fitness or that there was any type of insanity defense that the defendant had." The State stated that there was no need for an evaluation by Dr. Cuneo and requested that the case go forward without one. The court asked the defendant if he still wished to proceed *pro se*. He replied in the affirmative.

¶ 7 On February 22, 2011, the State filed a motion for a fitness exam. In its motion, the State acknowledged that on January 20, 2011, it represented to the court that fitness was not an issue and that the defendant seemed to understand the nature of the proceedings against him. The State alleged that since January 20, 2011, it had reviewed the file in more depth and that it had received correspondence from the defendant that indicated he may not understand the proceedings against him and may not have the capacity to represent himself at trial. The State expressed a *bona fide* doubt as to the defendant's fitness to stand trial.

¶ 8 On February 24, 2011, at the final pretrial hearing before trial, the court heard arguments on the motion for a fitness exam. The State told the court that at the previous court date it spoke to the defendant and, after speaking to him, felt "that he understood who I was, he understood who you were, he knew what the charge was against him, and that there were no issues as far as being able to identify what's going on in front of the court." The State indicated that it had received several emails from the defendant that created a *bona fide* doubt as to whether he had the capacity to assist in his own defense or to proceed *pro se*. The State asked the court to order the defendant to have a fitness evaluation. The defendant told the court his version of his arrest and the events leading up to it. He informed the court that he had a problem with a "fake substance" and that he went to the Veteran's Administration Hospital to seek help. He told the court that six days later when he went to East St. Louis, he was "picked up by the FBI, St. Clair County, ISP for one-tenth of a gram of what they say was crack cocaine." The defendant told the court he did not want or need a fitness evaluation and that he wanted to proceed with his case. The court denied the State's motion and set the case for trial.

¶ 9 On February 24, 2011, the defendant, as part of his "Answer to Prosecution's Motion for Discovery," submitted a psychological report from Dr. Daniel Loiterstein, a psychiatrist at the Veteran's Administration Hospital. Dr. Loiterstein wrote in his progress notes dated March 22, 2010, that he was evaluating the defendant at the request of his primary care psychologist for his ability to tolerate vocational rehabilitation. Dr. Loiterstein wrote that the defendant's primary concern related to incidents at his former place of employment that led to his termination. The defendant also told Dr. Loiterstein that he was "addicted to fake crack" and that he believed he was buying it from undercover police officers in East St. Louis. Dr.

Loiterstein noted that the defendant "recognizes bizarre parts of story, uninterested in any further treatment." He also noted that the defendant had "little insight into the oddity of the description." Dr. Loiterstein diagnosed the defendant with paranoid/schizotypal personality disorder. Dr. Loiterstein wrote that he discussed care options with the defendant, but he "is unwilling and unmotivated for psychiatric medication." Dr. Loiterstein felt that the defendant's motivation for presenting to the appointment was to gather his opinion regarding his termination from employment and the related court case and to obtain approval to enter vocational rehabilitation. The defendant was to follow up in one month.

¶ 10 The State filed two motions *in limine*. The first requested that the defendant make no comment or inquiry to the jury concerning the possible punishment or sentence he faced. The second sought to prohibit the defendant from entering into evidence a blog which the defendant referred to in his answer to the State's motion for discovery, the psychological report from the Veteran's Administration Hospital, and assessments or fines pertaining to the passenger in his car on the day he was arrested.

¶ 11 The defendant's jury trial commenced on March 7, 2011. The court verified with the defendant that he still wished to proceed *pro se*. The court considered the State's motions *in limine*. The defendant had no objection to the first motion, and the court granted it. The defendant objected to the second motion. The State argued that the blog and psychological report were hearsay and irrelevant. The court explained hearsay to the defendant and informed him that while he may wish to present something as part of his defense, it may be inadmissible. The trial court ruled that the blog was inadmissible hearsay. The State argued that the psychological report was hearsay and irrelevant. The defendant argued that the report shows he sought help for his "fake crack" addiction. The court ruled that the document was an extrajudicial

statement being offered for the truth of the matter and was inadmissible as hearsay. The court explained to the defendant that he could testify about going to the Veteran's Administration Hospital, but could not testify about what was said there.

¶ 12 The State sought to prohibit the defendant from introducing evidence of prior court fines and assessments against the passenger in the defendant's car on the day he was arrested on the ground that they were not relevant to whether the defendant possessed drugs that day. The defendant argued that the passenger was an informant who still owed the court money. He stated that he planned to talk about the passenger's involvement and to introduce the police report. The State informed the court that it was not going to introduce any evidence or statements from the passenger. It argued that the police reports were hearsay. The court ruled the police reports inadmissible. The following conversation took place:

"DEFENDANT: Oh, I'm absolutely—I'm dumbfounded. I'm not going to lie to you. What are they there for then? I mean, what—

COURT: Mr. Chipman, I suggest that you better slow things down, because you're facing possible contempt of court already. Now, I'm ruling in the State's favor. Police reports are not admissible. They are hearsay.

DEFENDANT: So I can't discuss anything in the police report. What can I talk about, Judge?

COURT: Well, that's up to you. You're the one that decided to go *pro se*.

DEFENDANT: Well, I don't know. Everything I hear—

COURT: Well, I'm not here to advise you—

DEFENDANT: I don't want to step out of line.

COURT: —to advise you as to how to proceed with your case.

DEFENDANT: I want to be respectful. I want to be respectful to your court.

What can I talk about?

COURT: Well, then start being respectful.

DEFENDANT: Well, Judge, you know, he's here too, Judge. He's here too. And you know, you're talking about convicting somebody of a felony, you know. And when that's the case that person should have every right to, you know, try it within the realm of decency.

COURT: Maybe we better have another bailiff in here."

¶ 13 The State informed the court that it intended to introduce the defendant's videotaped statement to the police. The defendant requested the entire videotape be played, including the traffic stops that did not involve him. He argued that the other stops show the individual from the time he is pulled over until the conclusion of his statement, while his stop showed only his statement. He argued that it is "like coming into a movie halfway through." He then argued: [W]hen you watch Cops you don't come in the middle of it. You see them pull up and the very beginning is what everybody wants to see what's going on." The trial court explained to the defendant that it was the State's prerogative to choose what evidence it wished to present. The defendant complained, " [S]o they get to present everything, and I get to present nothing?" The court told the defendant that he could introduce evidence that was relevant and properly presented.

¶ 14 The trial proceeded to *voir dire*. The trial court instructed the panel of potential jurors that the defendant had chosen to proceed *pro se*, and that was his right. The defendant challenged a juror for cause. The State disagreed. The court excused the juror for cause. The defendant expressed a concern that the jury lacked diversity. The State pointed out that it struck only one African-American person, that the alternate was African American, and that the jury pool they selected from was not

diverse. The issue was discussed, and it was determined that the State accurately described the situation and the African-American juror was struck for cause without opposition from the defendant.

¶ 15 The defendant presented an opening statement. He explained that he had been addicted to "fake drugs" for approximately 10 years. He told the court that he went to the Veteran's Administration Hospital to seek help and that several days later he was "brought down by the FBI, the St. Clair County's Sheriff's Department and the Illinois State Police." He told the jury that they will see a videotape of his statement to the police. He pointed out that the videotape does not start until he is sitting in the squad car. He stated that he purchased the "fake crack" from an informant.

¶ 16 Carrol Rinehart testified that he worked for the St. Clair County sheriff's department assigned to the WAVE unit (Working Against Violent Elements). He explained that the unit is a violent crime suppression task force made up of the FBI, the ATF, the sheriff's department, and the Illinois State Police. He stated that he was patrolling a neighborhood in East St. Louis known for drug activity when he saw a vehicle come to a stop. The individual in the passenger seat exited the car, about 30 seconds later came running up to the vehicle, leaned inside the passenger side window, and handed something to the driver. From his experience, Officer Rinehart believed it was a hand-to-hand drug transaction. The passenger then walked away, and the car drove off. Officer Rinehart said he made contact with the passenger and radioed other units with a description of the car. He stated that another unit made contact with the defendant. FBI Special Agent Manns contacted Officer Rinehart and informed him that a small rock of crack cocaine and a crack pipe were found in the vehicle. Officer Rinehart field-tested the small rock and it tested positive for cocaine.

¶ 17 The defendant cross-examined Officer Rinehart. He asked if the passenger in his vehicle was an informant. Officer Rinehart responded, "Not to my knowledge." The State made several objections and on the third objection asked to approach the bench. The court advised the defendant that "this isn't where you make comments and make comments." It instructed him to ask questions. The defendant again started to testify rather than question the witness. The State objected, and the court asked the defendant if he had a question. The court and the defendant discussed proper procedure. The defendant continued with a question, then began testifying again. The court asked him if he had a question for the witness. The following exchange took place:

"DEFENDANT: I'm asking him if he saw when I was yelled at not to look over my shoulder and watch what they're doing. I'm asking him did you see that? Can you verify that? That's all I'm asking, does anything that I'm saying have any validity to the truth? Because it is the truth. I am talking the truth here and I'm getting--"

COURT: Again, I believe we're going on a diatribe. Do you have a question for this witness?"

The defendant declined to ask more questions.

¶ 18 Trooper Derek Wingle testified that he was a special agent with the Illinois State Police. He stated that on March 30, 2010, while on patrol, he was contacted by another officer for assistance. He went to the scene of the stop and conducted a videotaped interview of the defendant. The videotape was played for the jury. The defendant cross-examined Trooper Wingle. Again the State objected numerous times because the defendant was testifying and not asking questions. The court admonished the defendant, "All right, instead of making speeches, ask a question and we'll have the witness answer." Finally the defendant asked Trooper Wingle why the video

started with his statement and not his stop. He replied that to maintain their cover, unmarked FBI vehicles are not equipped with video cameras. He explained that the defendant was stopped by an FBI car and the FBI agent had no video equipment in his car. Trooper Wingle stated that the defendant was videotaped in his squad car when he arrived at the scene some time after the initial traffic stop. The defendant continued to testify. The State objected. The court told him to ask a question. The defendant made another statement. The State objected, the court started to say something, and the defendant made another statement. The following conversation ensued:

"COURT: Mr. Chipman, enough.

DEFENDANT: I'm just not getting to represent myself right, sir.

COURT: Excuse me?

DEFENDANT: If I was a juror this is stuff I would want to know as a juror.

Where is the—it's a movie.

COURT: You keep rambling on and we're going to talk about your contempt of court. Now, do you have a question for this witness?"

¶ 19 The defendant then asked Trooper Wingle if he thought he was an honest person. The State objected as to speculation and relevance. The court sustained the objection. The defendant again started making statements, and the State objected that he was testifying. The defendant continued to talk. The State objected. The court told the defendant that he needed to stop talking to give the witness an opportunity to answer.

¶ 20 On the second day of trial, prior to the jury being called in, the court admonished the defendant that when he questioned a witness the purpose is to "elicit testimony, not to make statements." The defendant told the court that he did not feel

that he had been treated properly. He complained that he had been yelled at the previous day and that when the court was not yelling at him, the State was objecting. He stated that he "got beat up in front of the jury." The court acknowledged that "all right, that's your opinion as to how you were treated."

¶ 21 Nicholas Manns, a special agent with the FBI, testified that on March 30, 2010, he received a call from the Illinois State Police asking for assistance with a suspected drug transaction. He stated that as he pulled up to a car in the area of the suspected drug transaction, he saw the defendant put what he believed to be a glass crack cocaine pipe to his lips. He then approached the defendant and asked him to step out of the vehicle. When the defendant exited the vehicle, Special Agent Manns observed what he believed to be a piece of crack cocaine on the front passenger seat of the car. The defendant cross-examined Agent Manns. He asked if the passenger in his car was an informant. Agent Manns responded, "He was not an informant, to my knowledge."

¶ 22 The defendant decided not to testify and opted to just make a closing argument. The State moved to withdraw jury instruction 10. The defendant objected and made an argument for its inclusion. The State then said it had no objection to its inclusion and the court allowed the instruction.

¶ 23 The defendant presented his closing argument. During the argument, the State objected that he was testifying to facts not in evidence. The court explained to the defendant that he could not testify to matters not in evidence. The defendant again made comments that the State objected to, and the court sustained the objection. The defendant then referred to "a 15-page police report that you never got to see." The State objected. The defendant interjected that as a juror he would want to see it. The court told him to "quit referring to things that are not introduced into evidence. Let's

have another bailiff in here also." The defendant continued with his closing argument. At one point he asked why he was not allowed to talk about the facts and medical records without being objected to and pointed out that he never objected to anything the State presented. The State objected. The court admonished the defendant that his references were improper. The defendant then continued and stated that all he was doing was telling the truth. He admitted that he had a problem and said that when he "started talking about it and naming them I got hung." The State objected, and the court informed the defendant that it was an improper argument. The defendant again reiterated that he was telling the truth and continued with his version of events. The following transpired:

"STATE: Objection, Your Honor. The defendant is testifying.

DEFENDANT: I'm talking about what has been discussed already in the case here. I mean, all she's done is object. What is it she doesn't want you to hear?

COURT: Mr. Chipman, that is her prerogative to object.

DEFENDANT: Have I ever objected once? I let her lay out everything.

COURT: Mr. Chipman, I'm not going to keep warning you. That's why we have bailiffs here. Now, either you make proper argument or you sit down."

¶ 24 The defendant continued with his closing argument and stated that he was not allowed to present any of his evidence because the State had it all thrown out. He went on to say that he never objected to the State's evidence because "when you tell the truth, you don't have to object." He then started describing how people develop a "fake addiction" like his. The State objected. The defendant explained that he wanted the jury to know about his problems. The following took place:

"COURT: Well, I don't care what you want to do.

DEFENDANT: Well, this should be

COURT: Mr. Chipman, I'm talking.

DEFENDANT: Yes, sir, I'm listening, sir.

COURT: What you say to the jury needs to be proper and probative and within the realm of what is normally presented at trial. You are going everywhere with this.

DEFENDANT: It all pertains—

COURT: Now stay with what is proper or sit down."

¶ 25 The defendant continued with his closing argument. He told the jury that he had volunteered to take a polygraph test, but one was never administered to him. The State objected on the ground that polygraphs are inadmissible in the courtroom, it was improper, and it assumed facts not in evidence. The court sustained the objection. The defendant concluded his oral argument without further objections.

¶ 26 The State presented its rebuttal closing argument. It stated that the defendant called a known drug dealer to arrange a buy. The defendant objected, stating that the drug dealer was an informant. The court informed the defendant that his objection was not a proper objection. The defendant responded, and the court overruled his objection. The State started its closing argument again, and the defendant interjected. The court told the defendant that he was "real close to contempt." The State concluded its closing argument with one objection from the defendant which was overruled.

¶ 27 The jury found the defendant guilty of unlawful possession of a controlled substance. The defendant was sentenced to 24 months' probation plus court costs. The defendant filed a timely notice of appeal.

¶ 28 ANALYSIS

¶ 29 The defendant argues that the trial court erred when it denied the State's motion for a fitness examination. The State argues that the defendant forfeited review of the

trial court's denial of its motion requesting a fitness hearing because he failed to object to the court's ruling when it was decided and he did not raise the issue in a posttrial motion. Because fitness for trial is a fundamental right, the plain error doctrine permits review of fitness issues that would otherwise be forfeited. *People v. Lucas*, 388 Ill. App. 3d 721, 726 (2009). Thus, we will examine the issue for plain error.

¶ 30 "[T]he plain-error doctrine allows a reviewing court to consider unpreserved error when (1) a clear or obvious error occurs and the evidence is so 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 occurs 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. Piatkowski*, 225 Ill. 2d 551, 565 (2007). The first step a reviewing court takes in a plain error analysis is to determine whether any error at all occurred. *People v. Tolefree*, 2011 IL App (1st) 100689, ¶ 51.

¶ 31 "Due process bars the prosecution of an unfit defendant." *People v. Brown*, 236 Ill. 2d 175, 186 (2010). A defendant is unfit to stand trial if, "because of his mental or physical condition, he is unable to understand the nature and purpose of the proceedings against him or to assist in his defense." 725 ILCS 5/104-10 (West 2010). The trial court must order a fitness hearing if a *bona fide* doubt of the defendant's fitness is raised. 725 ILCS 5/104-11(a) (West 2010). The test as to whether a *bona fide* doubt as to a defendant's fitness exists is an objective one that examines whether there were facts in existence which raised a real, substantial, and legitimate doubt as to his mental capacity to meaningfully participate in his defense. *People v. Eddmonds*, 143 Ill. 2d 501, 518 (1991). Relevant factors which a trial court may

consider in assessing whether a *bona fide* doubt of fitness exists include a defendant's irrational behavior, demeanor at trial, any prior medical opinion on the defendant's competence, and any representations by defense counsel on the defendant's competence. *Brown*, 236 Ill. 2d at 186-87. The mere fact that a defendant suffers from mental disturbances or requires psychiatric treatment does not necessarily raise a *bona fide* doubt as to his fitness because he may be competent to participate at trial even though his mind is otherwise unsound. *Eddmonds*, 143 Ill. 2d at 519. To be competent to stand trial, the defendant must have a rational as well as a factual understanding of the proceedings against him. *People v. Weeks*, 393 Ill. App. 3d 1004, 1009 (2009).

¶ 32 Whether a *bona fide* doubt as to a defendant's fitness exists is a matter within the discretion of the trial court. *Tolefree*, 2011 IL App (1st) 100689, ¶ 53. The trial court is in the best position to observe the defendant and evaluate his conduct. *Id.* A trial court abuses its discretion only where no reasonable person would take the view adopted by the court or where its ruling is arbitrary, fanciful, or unreasonable. *Id.*

¶ 33 After reviewing the relevant factors, we cannot say that there is sufficient evidence in the record to support an independent finding of a *bona fide* doubt as to the defendant's fitness. While a cold record may be an imperfect means of evaluating a defendant's behavior and demeanor, we note that the trial court had the opportunity to observe the defendant's conduct and demeanor during the proceedings, yet it expressed no concerns about his ability to understand the nature of the proceedings.

¶ 34 The defendant argues that the court should have been alerted to his need for a fitness examination because of the State's motion requesting a fitness examination. Although the State expressed that it had a *bona fide* doubt as to the defendant's fitness, the trial court retained the discretion to determine whether a *bona fide* doubt

had arisen. The assertion by counsel that a defendant is unfit does not, by itself, raise a *bona fide* doubt of competency. *People v. Hanson*, 212 Ill. 2d 212, 224 (2004). At the pretrial hearing, the State told the court that it had received emails from the defendant that raised a *bona fide* doubt whether he had the capacity to assist in his own defense or to proceed *pro se*. None of the correspondence was presented to the trial court, the substance of the emails was not revealed to the court, nor is the correspondence included in the record.

¶ 35 At the hearing on the State's motion for a fitness examination the defendant articulated his version of the case and suggested that the State was trying to delay his trial. He stressed that he just wanted to move forward with his life and that the case was dragging on. He again reaffirmed that he wished to proceed *pro se*. Throughout these proceedings, the defendant's interactions with the court were interested, rational, and appropriate. While it may have been unwise for him to proceed without counsel, and while he may have pursued an unpersuasive defense strategy, nothing suggests he was unable to understand the nature and purpose of the proceedings against him or to assist in his defense.

¶ 36 The defendant argues that the Veteran's Administration report dated March 22, 2010, should have alerted the trial court to his need for a fitness examination. The Veteran's Administration report was not presented to the trial court for the purpose of a fitness determination. The defendant included it as part of his answer to the State's motion for discovery. He did so to corroborate his defense that he told his doctor he was addicted to a "fake substance" and that his examination there somehow led to his arrest six days later. While this may have been an unpersuasive defense theory, it does not indicate he was unfit for trial. Fitness refers only to a defendant's ability to function within the context of a trial and not to his sanity or competence in other

areas. *People v. Easley*, 192 Ill. 2d 307, 320 (2000). "A defendant can be fit for trial although his or her mind may be otherwise unsound." *Id.* Even if a defendant suffers from mental disturbances or requires psychiatric treatment, if he understands the proceedings against him and can cooperate in his defense, he will be deemed fit to stand trial. *Id.* at 322-23. The defendant failed to show how the physician's diagnosis in March 2010 rendered him unable to understand the nature and purpose of the proceedings against him or to assist in his defense. Additionally, the question of fitness may be fluid, and someone who appeared to have difficulty understanding his plight on one date may be rational one year later. *Weeks*, 393 Ill. App. 3d at 1010. The defendant failed to show how the physician's diagnosis in March 2010 related to his mental condition at the time of his trial in March 2011.

¶ 37 The defense argues that the trial court should have been alerted to his need for a fitness examination because his behavior during the motion *in limine* hearing made it clear that he had no concept of courtroom decorum and procedure. The defendant specifically points out that his behavior prompted the trial court to threaten him with contempt of court and with being sent to jail. The defendant objected to the State's motion *in limine*, arguing that the evidence sought to be excluded was relevant to his case. The State argued that the evidence was inadmissible hearsay. The court attempted to explain hearsay to the defendant. The defendant continued to argue that the evidence was relevant to his case and that it was unfair that he was not allowed to present it to the jury. The defendant argued with the trial court about its rulings and interrupted the court repeatedly. This behavior is what prompted the trial court to tell the defendant that he was "close to going to jail on [his] own," and that he "better slow things down, because [he was] facing possible contempt of court already." The defendant's interaction with the trial court did not evidence unfitness for trial, but a

lack of proficiency as a lawyer. A defendant cannot be denied the right to represent himself because he does not have the legal knowledge and ability to do so. *People v. Woodson*, 2011 IL App (4th) 100223, ¶ 23. Competence to stand trial is measured by the same standard as competence to waive counsel. *People v. Redd*, 173 Ill. 2d 1, 23 (1996). Since a court may not deny a defendant the right to self-representation on the basis of his lack of legal knowledge, it may not use that same basis to find the existence of a *bona fide* doubt of a defendant's fitness.

¶ 38 Defense counsel argues that the fact that the defendant attempted to testify rather than question the witnesses and that he claimed to obtain most of his legal knowledge by watching the television show *Cops* should have indicated to the court that there was a *bona fide* doubt as to the defendant's fitness. The defendant did not claim to have obtained most of his legal knowledge by watching *Cops*. He did refer to the television show over the course of the trial, but did so to illustrate the point he was arguing. For example, the defendant referenced *Cops* to show how his arrest and the video of his traffic stop deviated from what a person would expect based on what is shown on *Cops*. The defendant's references to *Cops* do not raise a *bona fide* doubt as to his fitness. The references are the defendant's attempt to clarify his position. Furthermore, the defendant's attempt to testify when he questioned witnesses did not suggest that he did not understand the nature or purpose of the proceedings against him or indicate that he was unable to assist in his defense. They were his attempt to convey his theory of the case to the jury. While the defendant's cross-examination exhibits a lack of comprehensive knowledge of the law and principles of criminal procedure, it does not demonstrate a lack of understanding of the proceedings against him. The defendant's ability to articulate his case is a measure of his proficiency or lack thereof as a lawyer. His ability to represent himself is not indicative of his

fitness.

¶ 39 The defendant was able to perform the basic tasks necessary to present his defense without the assistance of counsel. He actively participated in jury selection, made an opening statement, cross-examined witnesses, asked intelligent questions concerning jury instructions, and presented a closing argument. During jury selection, the State opposed one of the defendant's challenges for cause. The defendant argued that the juror would be biased. The trial court agreed with the defendant and excused the juror. The defendant also expressed concern over the lack of diversity on the jury. The issue was discussed. Ultimately it was determined that the State only struck one African-American person for cause and that the lack of diversity reflected the jury pool. When the State moved to withdraw one of the jury instructions, the defendant argued for its inclusion. The State withdrew its objection and the instruction was included. During the instruction conference, the defendant asked questions to clarify certain instructions. Throughout the proceedings the defendant was interested and inquisitive, and he made intelligent decisions about his trial strategy. The defendant had a rational and factual understanding of the proceedings.

¶ 40 Our review of the record reveals that the defendant's interactions with the court before and during his trial did not raise a *bona fide* doubt as to his fitness. He exhibited no behavior during either pretrial or trial proceedings which would warrant a fitness hearing or a finding that the defendant did not understand the proceedings. The defendant's demeanor and behavior during the proceedings were interested, rational, and appropriate. The defendant vigorously presented his defense. On this record we believe that the trial court did not abuse its discretion when it denied the State's motion for a fitness examination.

¶ 41 The defendant next argues that the trial court's treatment of him improperly

influenced the jury and denied him a fair trial. The State argues that the defendant forfeited review of the trial court's treatment of him because he did not object to it at trial or raise it in a posttrial motion. The forfeiture rule is an admonition to the parties and does not impose a limitation on the reviewing court. *In re J.R.*, 342 Ill. App. 3d 310, 317 (2003). A reviewing court may review any issue so long as the record contains facts sufficient for its resolution. *Id* at 317-18. Accordingly, we will address the defendant's claim on its merits.

¶ 42 The defendant objects to the trial court's treatment of him because throughout his cross-examination of witnesses it asked him whether he was asking a question; it told the defendant, "I believe we're are going on a diatribe"; it declared, "Mr. Chipman, enough"; it threatened the defendant with contempt of court; it requested an extra bailiff during his closing argument; and it informed him: "I'm not going to keep warning you. That's why we have bailiffs here. Now, either you make a proper argument or you sit down." The defendant argues that these comments prejudiced the jury against him. A criminal defendant has a fundamental right to a fair trial by an unbiased, open-minded trier of fact. *People v. Harris*, 384 Ill. App. 3d 551, 560 (2008). While a trial court has great discretion in conducting a trial, interjecting commentary or opinions that reflect prejudice against or in favor of a party is impermissible. *People v. Jimerson*, 404 Ill. App. 3d 621, 629 (2010). Because the trial court has great influence over the jury, it must take care to avoid displaying any unnecessary display of antagonism or favor toward any party. *People v. Johnson*, 2012 IL App (1st) 091730, ¶ 74. For a trial court's comments to constitute reversible error, the defendant must show not only that such comments are improper, but also that he has been thereby prejudiced. *Id*. To establish prejudice, the defendant must show that the comments were a material factor in his conviction. *Jimerson*, 404 Ill.

App. 3d at 629. Questionable behavior of a trial court is harmless error if there is no prejudice or the conduct was not a material factor in the outcome of the trial. *Id.*

¶ 43 The defendant argues that the trial court treated him improperly when it repeatedly asked him if he was asking a question during his cross-examination of witnesses. Frequently when the defendant questioned witnesses he would make comments on the theory of his case rather than ask questions. In response, the State would object and the trial court was obligated to make a ruling. In an effort to have the defendant clarify his question, the trial court often asked the defendant, "Is that a question?" The trial court has discretion to impose reasonable limits on cross-examination to limit jury confusion and repetitive or irrelevant questioning. *Harris*, 384 Ill. App. 3d at 565. The trial court allowed the defendant the opportunity to clarify his questions and ask them again. A *pro se* defendant cannot disregard the relevant rules of substantive and procedural law and is not entitled to favored treatment. *People v. Anderson*, 262 Ill. App. 3d 349, 352 (1992). The trial court's comments inquiring if the defendant was asking a question were precipitated by the defendant's attempt to testify while examining witnesses and his lack of legal experience. The comments were not improper.

¶ 44 The trial court's comment that "I believe we're going on a diatribe" was also related to the defendant's attempts to testify while questioning a witness. While cross-examining a witness, the defendant made an improper comment, and the State objected that he was "testifying again." The court asked the defendant if he had a question. The defendant then proposed several questions and started to complain about not being able to get the truth out, when the trial court interrupted: "Again, I believe we're going on a diatribe. Do you have a question for this witness?" The defendant asserts that this sent a message to the jury that the information he was

trying to put forth was meaningless. The record shows that the trial court was merely attempting to get the defendant to ask a question rather than to testify, in compliance with procedural law.

¶ 45 The defendant complains that when the trial court said "Mr. Chipman, enough" it indicated that it did not want to hear what the defendant had to say in his defense and implied to the jury that he was full of nonsense. This occurred after the State had objected six times to the defendant's questioning of Trooper Wingle on the ground that he was testifying rather than questioning the witness. The trial court did not say "enough" until the defendant interrupted while it was ruling on one of the State's objections. The comment was not made to prevent the defendant from presenting his defense. It is a trial court's responsibility to achieve a prompt and convenient dispatch of its business. *People v. Williams*, 201 Ill. App. 3d 207, 221 (1990). "[T]he court must see that the proceedings are conducted in an orderly manner with proper decorum, and the control of the conduct of the trial rests within its discretion." *Id.* The trial court's comment was made in an effort to obtain compliance with procedural law and to ensure that the proceedings were conducted in an orderly manner.

¶ 46 After the court told the defendant "enough," he proceeded to complain about the ruling and say that if he were a juror he would want to know the substance of the objected-to testimony. The trial court then stated: "You keep rambling on and we're going to talk about your contempt of court. Now, do you have a question for this witness?" The defendant argues that this prejudiced him in the eyes of the jury. The trial court was exercising its authority to ensure that the proceedings were orderly and efficient in light of the defendant's continued refusal to ask questions while cross-examining witnesses.

¶ 47 The defendant argues that he was prejudiced by the trial court's statements

during his closing argument. At the start of his closing argument, the defendant referred to the medical report from the Veteran's Administration Hospital which the trial court had ruled inadmissible as hearsay during the motion *in limine* hearing. The State objected that he was testifying as to facts not in evidence, and the trial court sustained the objection. The defendant then stated he was the victim of 10 years of police abuse. The State objected that there had been no testimony on the matter and the trial court sustained the objection. The defendant went on to state, "This is a 15-page police report that you never got to see." The State objected and the defendant said: "Wow, I would want to see that as a juror. You never saw—." At that point the trial court stopped the defendant, saying: "Mr. Chipman, quit referring to things that are not introduced into evidence. Let's have another bailiff in here also." The defendant continued with his closing and then started making statements about the passenger in his car. The State objected that he was presenting facts not in evidence and the trial court sustained the objection. Later during his closing argument the defendant pointed out to the jury that throughout the trial he never objected to any evidence presented by the State. The State objected and the trial court ruled that such references were improper. The defendant complained that he was only telling the truth and that whenever he started talking about the truth he "got hung." The State objected and the trial court admonished the defendant that he was making an improper argument. The defendant argued that the State's photograph of the substance he allegedly purchased was not the substance that was in his car when he was arrested. The State objected that the defendant was testifying. The defendant then said that all the State has done is object and asked, "What is it she doesn't want you to hear?" The trial court told the defendant that it was the State's prerogative to object, to which the defendant replied: "Have I ever objected once? I let her lay out everything." The trial

court responded: "Mr. Chipman, I'm not going to keep warning you. That's why we have bailiffs here. Now, either you make proper argument or you sit down." The trial court only made this statement after it had repeatedly warned the defendant that his arguments were improper. The trial court's comments were intended to maintain orderly proceedings.

¶ 48           The defendant argues that on the second day of trial he discussed his concerns over his treatment with the trial court. He expressed that he felt he was being yelled at and was treated horribly. The trial court acknowledged that "that's your opinion as to how you were treated." It explained that it was trying to "have a trial in the normal sense of the word, which means we have a dialogue, we don't have speeches being made all the time."

¶ 49           The trial court did not make improper remarks to the defendant during his trial. The remarks were made in an effort to maintain control. When a defendant is properly admonished by the court, the mere fact that such comments were directed at him does not demonstrate prejudice on the part of the court. *People v. Brown*, 87 Ill. App. 3d 368, 371 (1980). The remarks made by the trial court did not prejudice the defendant and were not a material factor in the outcome of the trial. Officer Rinehart testified that he observed the defendant pull up to a street corner, where a passenger exited, returned shortly, and exchanged an item with the driver. Special Agent Manns testified that when he arrived at the scene, he observed the defendant in his car putting a crack pipe to his lips. He asked the defendant to step out of his car at which time he observed what he believed to be a rock of crack in the front of the car. Officer Rinehart field-tested the rock and it tested positive for cocaine. Trooper Wingle testified that he interviewed the defendant on the day of arrest. A copy of the videotaped interview was played for the jury. In it, the defendant stated that he

bought "fake crack" from the passenger in his car and was smoking from a pipe when approached by an officer. The defendant did not present any countervailing evidence. He argued that the passenger in his car was an informant and that the substance found in his car was fake. When the defendant asked Officer Rinehart and Special Agent Manns if the passenger in his car was an informant, both stated that, to their knowledge, he was not an informant. Evidence was presented that established that the substance tested positive for cocaine. There was overwhelming evidence of the defendant's guilt.

¶ 50 The remarks complained of, when taken in context, were made within the court's discretion and were not attempts to demean the defendant, or to send a message to the jury that the information he presented was meaningless. It was the defendant's repeated refusal to adhere to the established procedures which caused the trial court to make these comments in an attempt to obtain compliance. We hold that the remarks were not improper and did not substantially prejudice the defendant or deny him a fair trial.

¶ 51 The trial court did not abuse its discretion when it denied the State's motion for a fitness examination. The court was in the best position to observe and evaluate the defendant's conduct. His demeanor and behavior during the proceedings were interested and appropriate. The defendant actively participated in his defense. He participated in jury selection, he made an opening statement and a closing argument, he cross-examined witnesses, and he took part in the jury instruction conference. He had a rational and factual understanding of the proceedings and there was no *bona fide* doubt as to his fitness.

¶ 52

#### CONCLUSION

¶ 53 For the foregoing reasons, the judgment of the circuit court of St. Clair County

is affirmed.

¶ 54      Affirmed.