2014 IL App (1st) 123369-U

FOURTH DIVISION
March 26, 2015

No. 1-12-3369

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 15946
	)	
JUSTIN WALKER,	)	The Honorable
	)	Jorge Alonso,
Defendant-Appellant.	)	Judge Presiding.

PRESIDING JUSTICE FITZGERALD SMITH delivered the judgment of the court. Justices Howse and Cobbs concurred in the judgment.

ORDER

HELD: Trial court properly denied motion to suppress in light of fact that probable cause for defendant's warrantless arrest did exist, as investigative alert issued by police was based on sufficient evidence to justify the belief that a law had been broken and that he was the one who broke it. Moreover, trial court properly denied defendant's request for a withdrawal instruction, as it was not applicable in the instant cause based on the evidence presented. Finally, the trial court did not err in admitting the redacted videotape of defendant's statements to police, as a proper foundation for it was, indeed, established.

¶ 1 Following a jury trial, defendant Justin Walker (defendant) was convicted of first degree murder and sentenced to 30 years in prison. He appeals, contending that the trial court erred in denying his motion to suppress based on a lack of probable cause, in refusing to issue a jury instruction on withdrawal, and in admitting a redacted portion of his videotaped statements to police without a proper foundation. He asks that reverse and vacate his conviction and sentence, "order the suppression of evidence seized as a result of his illegal arrest," and take any other action deemed just and proper. For the following reasons, we affirm.

¶ 2 BACKGROUND

¶ 3 The victim, Clarence "Red" Harrington, was beaten and robbed in the hallway of an apartment building at 10 South Mason in Chicago on January 6, 2008. As a result, he slipped into a coma and succumbed to his injuries, dying on March 9, 2008. Defendant was charged with two counts of first degree murder and one count of robbery.

¶ 4 Prior to trial, defendant filed a motion to suppress evidence, including lineup and photo array results and statements he made to police, asserting there was no probable cause for his arrest, that his statements were made in violation of *Miranda* and that the lineup was conducted in violation of his rights. With respect to the probable cause portion of the motion, Detective John Valkner testified that on April 4, 2008, three months after the crime, he and his partner, Detective Graham, were informed that a woman named Lakesha Royal, who lived in the apartment building at 10 South Mason and who had just been arrested on unrelated narcotics charges, had information about the victim's murder. After telling her that they could not give her any leniency for her arrest, the detectives spoke to Royal at the police station. Detective Valkner

stated that Royal, who told them she was coming forward now because "she felt bad" about what happened to the victim, proceeded to recount that, in January 2008, there was a knock on the door of her and her boyfriend's third floor apartment at 10 South Mason. When they opened the door, the apartment building janitor, James Williams, also known as J.B., told them that there were four people beating up a man on the second floor. She and her boyfriend followed Williams to the second floor, where she saw four young black males running down the stairs and out of the building. She did not know them by name, but told Detective Valkner that she recognized all four of them as members of the "Mayfield Boys," a group that loitered in the area of Mayfield Avenue between Washington and West End, including in her apartment building. Detective Valkner averred that Royal told him she did not see any of the four men actually touch or take anything from the victim; she only saw them running. He showed Royal a photo array which did not include defendant's picture; she identified two individuals, Marquinn Dunning and Dennis Donaldson, as two of the four men she saw that day.

¶ 5 Detective Reuben Weber testified at defendant's suppression hearing that he also interviewed Royal, who described the offenders to him as four young black males she knew as the Mayfield Boys. Detective Weber averred that Royal told him that she saw them beating the victim, but he did not include this in his report. He showed Royal two photo arrays: from the first, she identified William Howard, and from the second, she identified defendant, telling Detective Weber he was the last of the offenders she saw flee the scene. Detective Weber knew defendant lived on North Mayfield Avenue at that time, approximately one block from the murder scene. Detective Weber averred that Royal was cooperative and “friendly” throughout

his interview with her.

¶ 6 Detective Michael Landando testified that after he and his partner, Detective Robert Cordero, had received the information collected by Detectives Valkner and Weber, they went to 10 South Mason and spoke with Williams. Detective Landando stated that Williams recounted that, on the day in question, he heard a commotion coming from the second floor and went upstairs to see what was happening. He saw several individuals standing over someone who was lying on the floor, and they were beating and punching him. Williams did not know the assailants by name, but identified them as young black males that regularly loitered in the building. Williams knocked on Royal's door and asked her and her boyfriend to help him break up the fight. When they came out, all four offenders ran. Williams approached the victim and found him to be unconscious, bleeding from the mouth, and with his pockets turned inside out. Detective Landando also testified that after recounting what happened, Williams showed him and his partner the location of the fight, whereupon the detectives saw blood spatter on the carpet and baseboards; they ordered an evidence technician to take swabs and photograph the scene. Williams also showed them the location of Royal's apartment in relation to the crime scene, which he identified as apartment 201. Detective Landando stated that he wanted to show Williams a photo array at that time, but Williams refused to look at it while they were still in the building and told them he would come to the police station to do so. Detective Landando and his partner continued their investigation by returning to 10 South Mason regularly over the next 10 days in order to locate the assailants as identified by Royal and Williams as regular loiterers, but were unsuccessful. They were also unable to locate defendant around the area of his home on

Mayfield Avenue during this time.

¶ 7 Detective Landando further testified that, instead of obtaining an arrest warrant from a court, on April 21, 2008, he issued an "investigative alert with probable cause" for the arrest of defendant, Dunning and Donaldson.[1] Detective Landando averred that he issued this alert based on the identifications provided by Royal and the interview with Williams, which corroborated what Royal saw in the hallway. He also considered the evidence recovered, including the blood in the hallway and the medical examiner's report that indicated the victim had died of multiple blunt force trauma injuries. Defendant was arrested the next day on the street about two miles from his home, based solely on the investigative alert. Detective Landando stated that, upon his arrest, defendant made statements to police and then took police to the homes of others who may have been involved in the crime. Detective Landando also placed defendant in lineups, which were viewed by Royal and Williams, who both identified him as one of the assailants.

¶ 8 At the close of the suppression hearing, the trial court identified the issue as whether "probable cause exist[ed] at the time of the arrest." Citing Royal's statement to police, as well as Williams' statement which corroborated Royal's statement "regarding where it happened, how it happened, [and] when it happened," the court found that there was. It also noted that "[p]hysical evidence was obtained," and it considered "other circumstantial evidence," particularly, defendant's address. While it did not believe defendant's absence from 10 South Mason during the police investigation was significant, the court concluded that the remainder of the evidence, when "[t]aken together, all of it taken together, is enough to provide probable cause."

[1]Howard was already in custody at this time.

Accordingly, the court denied defendant's motion to suppress for lack of probable cause.[2]

¶ 9 The cause then proceeded to trial. Evidence was introduced demonstrating that on January 6, 2008, an ambulance responded to a call from 10 South Mason, where the victim was found unconscious. He was transported to the hospital in a coma and was in critical condition. He injuries were consistent with having been beaten and kicked. The victim ultimately died on March 9, 2008, from blunt trauma suffered on the day in question.

¶ 10 Lakesha Royal testified that on January 6, 2008, she lived with her boyfriend at 10 South Mason in apartment 308. That evening, the building janitor, Williams, knocked on her door and told her that someone "had got knocked out on the second floor." She and her boyfriend followed Williams downstairs; Williams then proceeded to go out the back of the building and her boyfriend continued down the stairs to open the door for emergency responders. Lakesha went to the second floor, whereupon she saw "someone standing there and someone lying there," but all she could see "was his feet." She recognized the man who was standing in the hallway from having seen him several times in the lobby of the building, and she identified him in open court as defendant. After seeing him, Lakesha ran back to her apartment and waited for her boyfriend to return. She did not go to police that day, but only reported what she saw approximately four months later, in April 2008, when she was arrested on felony narcotics

[2]As noted earlier, defendant also sought suppression based on *Miranda* and sixth amendment arguments. Following hearings, the trial court denied his motion on these grounds as well. Defendant does not raise any issue concerning these latter arguments on appeal, but chooses to challenge only the trial court's ruling that there was sufficient probable cause for his arrest. As such, we need not concern ourselves with these other portions of his motion to suppress as decided in the underlying hearing.

charges. After speaking with detectives who did not promise her any leniency, she viewed multiple photo arrays and identified defendant as the man standing in the hallway. She also later viewed a lineup and identified defendant as the same man. On cross-examination, Lakesha admitted that she never saw defendant touch or have any contact with the victim.

¶ 11 Williams, the janitor of 10 South Mason on January 6, 2008, testified that on that day, he had been outside cleaning up around the building when he saw several teenagers coming out from the lobby. Williams averred that this was a common sight, as many of them would come and go from the building. As he was taking the garbage out of the building, he heard a noise in the second floor hallway. He then went to the third floor to find Lakesha's boyfriend; he knocked on their door and told them he heard a noise on the second floor. Williams testified that, at this point, he went all the way downstairs and outside the back of the building, walked through an adjoining vacant lot and came back to the front of the building. When he reached the front door, Williams saw a young man coming out, who he identified as defendant. A fire engine and ambulance then arrived, and Williams let them inside; he followed them upstairs and saw blood and the victim lying on his back with his shoes off and his pockets turned inside out. Williams further testified that, several days later, he went to the police station, viewed a lineup and identified defendant as the person he picked out as the man he saw leaving the building that day.

¶ 12 William Howard testified that he, too, was charged with first degree murder regarding the incident of January 6, 2008; he entered into a plea agreement stating that, in exchange for his testimony, he would plead guilty to conspiracy to commit murder and robbery and would receive a sentence of ten years in prison to be served at 50% time. He stated that in January 2008, he

lived on Mayfield Avenue and knew defendant; they lived in the same apartment building and were friends, though he admitted that they did not hang around with the same people. Howard averred that he often went to 10 South Mason, which was located a block away from his home, and purchased marijuana there. On the day in question, Howard went to 10 South Mason by himself and purchased marijuana on the second floor. He then stayed in the building's lobby. After about an hour, defendant arrived with Nathan Clark, also known as DJ Nate, whom Howard also knew. Howard had seen both defendant and Clark other times before in the same building. The three men began to talk, whereupon defendant asked Howard if he wanted "to hit this thing with us?," or do a "stain," which Howard explained meant getting or making some money such as by "shoot[ing] dice, rob[bing] somebody, anything;" defendant did not say how this was going to happen. Howard declined, as he had just been released from jail, but he agreed to be a "lookout" for defendant and Clark. Howard recounted that defendant and Clark went upstairs and he saw them again about 30 to 45 minutes later when they came running down the stairs and out the door. Howard followed, and the group stopped at a laundromat across from the building. Howard stated that defendant's knuckles were red, "like he just punched someone." Defendant handed Howard a five dollar bill and thanked him for being a lookout. Howard did not speak of the incident until May 2008, when detectives spoke to him while he was in jail (on unrelated charges). On cross-examination, Howard admitted that his testimony and plea agreement eliminated potentially 55 years in prison he was facing for charges in the instant matter. He also confirmed that a "stain" did not necessarily mean a robbery, but simply that one was going to obtain money, and could include gambling or retrieving a loan. Howard averred

that, when they spoke, defendant never told him he was going to commit or be involved in a robbery, and defendant never told him afterwards he had robbed, hit or touched anyone that day.

¶ 13 Detective Robert Cordero, Detective Michael Landando's partner at the time of the crime, corroborated much of Detective Landando's testimony from the motion to suppress. Briefly, they received the case following the victim's death, interviewed Royal and Williams, and went to 10 South Mason where they saw blood spatter along the baseboards in the second floor hallway. They then frequented the building for several days looking for defendant, whom Royal and Williams had identified as being a loiterer, as well as his home on Mayfield Avenue. After they were unsuccessful in finding him, they issued an investigative alert and defendant was arrested the next day. Detective Cordero testified that defendant was brought to the station and placed in an interview room equipped with audio and video devices, whereupon he was questioned about the incident and gave a statement.

¶ 14 At this point, the State presented a videotape and transcript of defendant's statement via Detective Cordero's testimony, which he affirmed was a true and accurate portrayal of defendant's statement to police. The State clarified for the court that the video was approximately 22 minutes long and was not the entirety of the conversation between defendant and detectives. Before showing the video for the jury, Detective Cordero testified that defendant provided three different versions of the events at issue. Detective Cordero stated that first, defendant told him he was approached by a man named Shannon Carr, who asked him to accompany him to the second floor of 10 South Mason; defendant did so, and they came upon the victim who was at someone's door, whereupon Carr started to "steal on him," that is, punch him

and knock him to the ground; defendant stated that he was alarmed, he stopped Carr and they ran away. Detective Cordero then recounted that defendant provided a second version, wherein Carr approached him, but he agreed only to be a lookout for Carr while Carr performed a "stain," which he confirmed to detectives meant a robbery; he further stated that he did not strike or take any money from the victim. Detective Cordero averred that in defendant's third version of events, he stated that he was the lookout for Carr and Clark, that he saw money in the victim's hands once they started beating him, that he grabbed the money and that all three of them fled the building; the total amount of money was $23. The State then asked that the videotape be admitted into evidence. Defendant objected, stating there was not a proper foundation for it. The court overruled the objection and allowed the videotape into evidence, whereupon it was played for the jury.

¶ 15 On cross-examination, Detective Cordero admitted that, in the videotaped statement, defendant averred that he did not take money from the victim's hands; rather, defendant recounted that Clark went through the victim's pockets and he (defendant) at one point saw the money laying on the ground, whereupon he picked it up. Detective Cordero also affirmed that defendant consistently maintained that he never touched the victim and that he tried to pull Carr off the victim after Carr started beating him, stating that "he grabbed [Carr] and flung him off" the victim, and that he "grabbed [Carr] by the throat in order to pull him off" the victim.

¶ 16 At the conclusion of the State's case-in-chief, defendant moved for a directed verdict, but the trial court denied his motion. As for his case, defendant presented Howard's plea agreement for impeachment purposes, and then rested.

¶ 17 During the jury instruction conference, defendant requested that the jury be instructed on withdrawal, pursuant to Illinois Pattern Jury Instruction (IPI) 5.04, stating that there was "certainly some evidence in this case" that defendant grabbed Carr and tried to prevent the beating by pulling him off the victim. The State countered by arguing that the instruction did not apply because defendant's actions did not constitute withdrawal. The trial court agreed with the State, concluding that it did not believe a withdrawal instruction applied.

¶ 18 The cause was then passed to the jury. During deliberations, the jury sent a note to the court stating,

> "We want to know if he [defendant] is legally responsible for the conduct of the other parties regardless of how limited his involvement. If yes, is he still legally responsible if he tried to stop the beating?"

The court informed the parties of the jury's note and heard argument on how it should be answered. The State asked the court to tell the jury that they have the law and to continue to deliberate. Defendant, meanwhile, renewed its request to provide the jury with the standard IPI on withdrawal. The trial court denied defendant's request again. It stated that it believed if it were to answer the question, it "would be expressing an opinion which likely would direct a verdict one way or the other." Thus, though it acknowledged that the jury was looking for clarification, it believed they were "also asking for [the court's] opinion" and it believed an answer "would be telling them what their verdict should be." Finding the instructions as given to be clear, the court informed the jury in response to the note only that they had received the instructions as to the law and to continue deliberating. At the close of trial, the jury returned a

verdict finding defendant guilty of first degree murder.

¶ 19 ANALYSIS

¶ 20 As noted, defendant presents three issues for our review. We address each separately.

¶ 21 I. Motion to Suppress and Probable Cause

¶ 22 Defendant's first contention on appeal is that the trial court erred in denying his motion to suppress based on a lack of probable cause. He asserts that the investigative alert issued by Detectives Landando and Cordero, which formed the sole basis of his arrest, was not comprised of sufficient evidence to justify the belief that a law had been broken and that he was the one who broke it. Relying heavily on *People v. Wilson*, 260 Ill. App. 3d 364 (1994), defendant complains that neither Royal nor Williams identified him as the assailant who beat the victim but only, at most, indicated he was present at the scene and fled the area and, thus, without any connection between him and the crime, the trial court should have suppressed any later identifications, lineup results, statements and evidence resulting from his arrest. We disagree.

¶ 23 A warrantless arrest is valid if police have probable cause to arrest. See *People v. Sims*, 192 Ill. 2d 592, 614 (2000); accord *People v. Wetherbe*, 122 Ill. App. 3d 654, 657 (1984) (while warrant is generally required for arrest, a warrantless arrest is proper if probable cause exists). Probable cause to arrest exists when the facts known to the officer at the time of the arrest are sufficient to lead a reasonably cautious person to believe a crime has occurred and that the person to be arrested committed the crime. See *People v. Wear*, 229 Ill. 2d 545, 563-64 (2008); see also *People v. Chapman*, 194 Ill. 2d 186, 215-16 (2000); *People v. Williams*, 305 Ill. App. 3d 517, 523 (1999). Whether probable cause existed is not a legal or technical determination, but one of

practicality and common sense which analyzes the totality of the circumstances at the time of arrest. See *Sims*, 192 Ill. 2d at 615; *People v. Robinson*, 299 Ill. App. 3d 426, 431 (1998); see also *People v. Love*, 199 Ill. 2d 269, 279 (2002) (totality of circumstances is central focus for determination of existence of probable cause). Though more than mere suspicion is required to justify a warrantless arrest, evidence beyond a reasonable doubt or sufficient to sustain a conviction is not. See *Sims*, 192 Ill. 2d at 615; see *Chapman*, 194 Ill. 2d at 218 (determination of probable cause rests only on probability of criminal activity); accord *People v. Lee*, 214 Ill. 2d 476, 485 (2005). The defendant has the ultimate burden of showing a lack of probable cause. See *Williams*, 305 Ill. App. 3d at 523.

¶ 24 We further note that in reviewing a trial court's decision on a motion to suppress based, as here, on a claim of lack of probable cause, we are presented with a mixed question of law and fact. See *People v. Novakowski*, 368 Ill. App. 3d 637, 640 (2006). Therefore, we apply a two-part standard of review. See *People v. Grant*, 2013 IL 112734, ¶ 12. That is, while we accord great deference to the trial court's factual findings and credibility determinations and will reverse those only if they are against the manifest weight of the evidence, we review *de novo* the trial court's ultimate determination of whether the evidence should have been suppressed. See *Grant*, 2013 IL 112734, ¶ 12; accord *People v. Pitman*, 211 Ill. 2d 502, 512 (2004)*; Novakowski*, 368 Ill. App. 3d at 640.

¶ 25 Essentially, then, we are called in this cause to conduct a review of the totality of the circumstances to determine whether probable cause existed at the time of Detectives Landando and Cordero's issuance of the investigative alert, which the record establishes was the sole basis

for defendant's warrantless arrest in public a couple miles from his home.[3] Upon our analysis of the facts at hand, we find that the totality of them, as known to the detectives at the time they issued the investigative alert, clearly supported a finding of probable cause.

¶ 26 We begin with Royal's statements and identifications to police, to which several detectives consistently testified at the hearing on defendant's motion to suppress. Detective Valkner testified that he and his partner were the first to interview Royal. Acknowledging that she would not receive any leniency for an unrelated arrest, Royal told these detectives that she had information on the victim's murder and wanted share it because she "felt bad" about what happened to him. She recounted for Detective Valkner and his partner that on the day of the crime, janitor Williams knocked on her apartment door and told her that four people were beating a man on the second floor. As Royal went to the second floor, she saw four young black males running down the stairs and out of the building. She did not know them by name, but did recognize all of them as members of the Mayfield Boys, a local group of young men who consistently loitered in the apartment building, which was within the area of Mayfield Avenue. Detective Valkner passed Royal's information on to Detective Weber, who corroborated much of his testimony at the suppression hearing. Detective Weber, just as Detective Valkner, interviewed Royal, who consistently identified to him that the assailants fleeing the apartment

[3]As the record demonstrates, Detectives Landando and Cordero issued the investigative alert and, based upon this, other officers effectuated defendant's arrest. We note that probable cause to arrest can be based on information of which an arresting officer does not have personal knowledge, as long as the officer who communicated the information did have the required probable cause to effectuate the arrest. See, *e.g.*, *People v. Crane*, 244 Ill. App. 3d 721, 724-25 (1993); *People v. Rimmer*, 132 Ill. App. 3d 107, 113 (1985); *People v. Crowell*, 94 Ill. App. 3d 48, 50 (1981).

building were four young black males who she knew as the Mayfield Boys. Detective Weber showed Royal two photo arrays, the second of which contained defendant's photograph. Royal identified defendant from this array and reaffirmed to Detective Weber that defendant was the last of the four offenders to flee the scene. Detective Weber passed this information on to Detectives Landando and Cordero, along with his knowledge that, at the time of the crime, defendant lived on North Mayfield Avenue, approximately one block from the crime scene.

¶ 27 With Royal's consistent interviews with Detectives Valkner and Weber, along with her recognition of defendant as a member of the Mayfield Boys, her identification of defendant from the photo array as the last assailant to flee the crime scene, and Detective Weber's information that defendant lived on North Mayfield Avenue, Detectives Landando and Cordero went to the crime scene to interview Williams, who corroborated Royal's recount. Williams told the detectives that he saw the victim being beaten by several individuals who were standing over him. Like Royal, Williams did not know them by name, but identified them as four young black males that regularly loitered in the apartment building. Williams sought aid and when he returned, all four offenders ran out of the building.

¶ 28 In addition to Royal's identification of defendant, Williams' detailed and specific corroboration of the events, and defendant's address, Detectives Landando and Cordero then compiled physical evidence to verify what occurred. They went to the second floor of 10 South Mason and examined the crime scene, where they found blood spatter on the baseboards and blood on the carpet, consistent with the crime. They also reviewed the medical examiner's report affirming that the victim died of multiple blunt force trauma injuries, consistent with the crime

scene. The detectives continued their investigation by returning to 10 South Mason regularly over the next 10 days in order to locate the assailants, who Royal and Williams identified as regular loiterers from the Mayfield Avenue area; none of them appeared. And, the detectives also monitored defendant's home on North Mayfield Avenue during this time; he was consistently absent.

¶ 29 As evidenced by the record, then, Detectives Landando and Cordero issued the investigative alert for defendant's arrest in relation to the victim's murder based on: Royal's consistent recount of the crime to Detective Valkner and separately to Detective Weber; her identification of defendant from a photo array as the last of the Mayfield Boys to flee the crime scene; Williams' corroborative interview and confirmation that the Mayfield Boys were the assailants; Detective Weber's notification of defendant's home address on North Mayfield Avenue; the Mayfield Boys and defendant's absence from 10 South Mason at which they regularly loitered during the next 10 days of the police investigation; defendant's absence from his home on North Mayfield Avenue during this same time; and the medical examiner's report and physical evidence from the scene which supported all this information gathered by police. With this clear and consistent evidence from multiple sources directly corroborating, as the trial court noted, what happened, where it happened, how it happened and when it happened, it is obvious to us that, when taken altogether, it was sufficient to provide probable cause for defendant's warrantless arrest via the investigative alert.

¶ 30 Defendant focuses his argument in support of his contention on two concepts. He spends much time in his brief on appeal discussing presence at a crime scene and flight therefrom,

noting our courts have concluded that these, alone, do not amount to probable cause supportive of a warrantless arrest. He also points to *Wilson*, wherein a reviewing court reversed a robbery conviction based on its finding that there was a lack of probable to justify that defendant's warrantless arrest, and urges us to find the same based on a comparison of those facts to his cause. However, neither of defendant's arguments here are persuasive or even applicable in light of the circumstances present in the instant cause.

¶ 31 Defendant is correct that mere presence at or flight from a crime scene, even in combination, is not enough to establish criminal liability. See *People v. Cowart*, 2015 IL App (1st) 113085, ¶ 31; accord *People v. Taylor*, 164 Ill. 2d 131, 140 (1995); *People v. Rivera*, 233 Ill. App. 3d 69, 77-78 (1992) (flight alone is not enough to establish reasonable suspicion to stop suspect); see, *e.g.*, *People v. Jones*, 278 Ill. App. 3d 790, 793 (1996), citing *People v. Reid*, 136 Ill. 2d 27, 61 (1990). However, our courts have held that these can be considered as factors in determining probable cause, along with what a police officer discovers during his investigation and his prior experience and knowledge as it relates to matters at hand. See, *e.g.*, *Cowart*, 2015 IL App (1st) 113085, ¶ 31; *People v. Brown*, 194 Ill. App. 3d 958, 964-65 (1989) (police officer's surveillance led to probable cause to arrest); *People v. Tisler*, 103 Ill. 2d 226, 237 (1984) (police officer's factual knowledge, based on prior law enforcement experience, is relevant to probable cause determination); see also *People v. Wright*, 286 Ill. App. 3d 456, 459-60 (1996). In the instant cause, contrary to defendant's contention, the investigative alert was based on more than his mere presence at and flight from the crime scene. Instead, here, the record indicates not only these things (as directly identified by eyewitness Royal), but also Detectives Landando and

Cordero's discovery of the victim's blood on the hallway carpet and baseboards which verified the medical examiner's report of the victim's injuries, and Detective Weber's factual knowledge that defendant lived on North Mayfield Avenue, one block from the crime scene and in the same area where the Mayfield Boys regularly loitered. Again, we find that all these factors, when taken together, along with Royal and Williams' eyewitness accounts, were sufficient to establish probable cause for the issuance of the investigative alert and defendant's resulting arrest.

¶ 32 Moreover, defendant's reliance on *Wilson* is entirely misplaced, as that case is wholly distinguishable. In *Wilson*, the victim was robbed by four young men outside a tavern; one whipped him with a pistol and the other three took two rings from him, rummaged through his pockets and took approximately $25. Immediately after the assault, neither the victim nor any eyewitness could provide police with a description of the assailants. Four days later, however, the victim's daughter gave him the names and addresses of three of the assailants, including the defendant's, and a description of the fourth. Later, the victim provided this information to police who, without contacting the victim's daughter to verify it in any way and without obtaining a warrant, located the defendant and arrested him. See *Wilson*, 260 Ill. App. 3d at 365-66. On appeal from his conviction in the matter, the defendant contended, in part, that the trial court erred in denying his motion to quash his warrantless arrest and suppress evidence due to a lack of probable cause. See *Wilson*, 260 Ill. App. 3d at 368. After reviewing the totality of the circumstances, the *Wilson* court agreed. It noted that at the time of the defendant's arrest, the police knew only that the crime had taken place, that the assailants were four young black males, and that the victim's daughter had provided him with the names and addresses of three of them

and a general description of the fourth. See *Wilson*, 260 Ill. App. 3d at 370. That was all; the police did not have any information, let alone an identification or even description, directly from the victim or any eyewitness, and they did not even question the victim's daughter to establish her veracity or the basis of her information. See *Wilson*, Ill. App. 3d at 370. Without even a minimal connection at the time of his arrest between him and the crime, then, the *Wilson* court held that there was no probable cause for the defendant's warrantless arrest and, thus, that the trial court had erred in denying his motion to quash and suppress. See *Wilson*, 260 Ill. App. 3d at 370-71.

¶ 33 Completely unlike *Wilson*, police in the instant cause were provided with facts about the instant crime from both Royal and Williams, two eyewitnesses. They corroborated each other with respect to the fact that the assailants were four young black males known as the Mayfield Boys, and they corroborated each other with respect to facts concerning where the crime happened, how it happened and when it happened. In addition, and quite significant, Royal specifically identified defendant from a photo array as one of the assailants. Moreover, detectives viewed the scene, gathered physical evidence which they compared to and found to be consistent with the medical examiner's report, recalled prior knowledge they had that defendant lived on North Mayfield Avenue, and conducted a 10-day investigation around the crime scene. Clearly, and in direct contrast to the police in *Wilson*, detectives here took multiple and substantial steps to verify and corroborate the information they received about the crime (from an eyewitness, no less) before issuing the investigative alert. Thus, *Wilson* provides no support for defendant's claims here.

¶ 34 Accordingly, again, we hold that, based on the record before us, and when considering the totality of the circumstances presented, there was sufficient probable cause for Detectives Landando and Coredero's issuance of the investigative alert leading to defendant's warrantless arrest and, thus, we find no error on the part of the trial court in denying defendant's motion to suppress.

¶ 35 II. Jury Instructions and Withdrawal

¶ 36 Defendant's next contention on appeal involves the legal concept of withdrawal. Citing the three versions of events he provided to police, as well as the contents of the jury's note submitted to the trial court regarding "legal responsibility," he asserts that the trial court erred in refusing to issue a jury instruction on withdrawal as he requested multiple times throughout these legal proceedings. Upon our review of the record, we disagree.

¶ 37 The purpose of jury instructions is to provide the jury with correct legal principles that apply to the evidence, thereby allowing it to reach the proper conclusion based on the applicable law and the evidence as presented. See *People v. Bannister*, 232 Ill. 2d 52, 81, 92008); *People v. Parker*, 223 Ill. 2d 494, 500 (2006); accord *People v. Hudson*, 222 Ill. 2d 392, 399 (2006). The State and defendant are both entitled to have a jury instructed on their theories of the case and, generally, an instruction is warranted if there is even slight evidence to support it. See *People v. Barnard*, 208 Ill. App. 3d 342, 349-50 (1991). At the same time, however, it is error to submit an instruction to the jury where there is no evidence to support it. See *People v. Williams*, 168 Ill. App. 3d 896, 902 (1988). Ultimately, the trial court has the discretion to determine whether the evidence of record raises a particular issue and whether an instruction on that issue should be

given. See *People v. Mohr*, 228 Ill. 2d 53, 65 (2008). Thus, on appeal, a reviewing court will reverse a trial court's determination as to what instructions to give only if it finds that the trial court abused its discretion. See *People v. Walker*, 392 Ill. App. 3d 277, 293 (2009) (we examine whether the instructions given, when taken as a whole, fairly, fully and comprehensively apprised the jury of the relevant law or whether they misled the jury and prejudiced the defendant).

¶ 38 A defendant's participation in a common criminal enterprise is presumed to continue until he detaches himself from it. See *People v. Jones*, 376 Ill. App. 3d 372, 386 (2007), citing *People v. Ruiz*, 94 Ill. 2d 245, 256 (1982). He withdraws, and thereby ends his accountability for the acts of another, if, " '[b]efore the commission of the offense, he terminates his effort to promote or facilitate such commission, and *** wholly deprives his prior efforts of effectiveness in such commission, or gives timely warning to the proper law enforcement authorities, or otherwise makes proper effort to prevent the commission of the offense.' " *People v. Trotter*, 299 Ill. App. 3d 535, 540 (1998), quoting 720 ILCS 5/5-2(c)(3) (West 1996); accord *Jones*, 376 Ill. App. 3d at 386, citing 720 ILCS 5/5-2(c)(3) (West 2000) (this is how to communicate the intent to withdraw). To properly effectuate withdrawal, then, so as to warrant such an instruction at trial, the defendant "cannot merely withdraw, but must communicate his intention to withdraw" in a timely manner as described (*Jones*, 376 Ill. App. 3d at 386), thereby "taking some step to 'neutralize' the effect of his conduct" (*Trotter*, 299 Ill. App. 3d at 540). Accordingly, without such evidence presented at trial, a withdrawal instruction is improper. See, *e.g.*, *People v. Tiller*, 94 Ill. 2d 303, 315 (1982) (withdrawal instruction not warranted where the defendant, who participated in robbery, did not wholly deprive his efforts of effectiveness by merely leaving store

and telling accomplice not to hurt victim because he did not show any affirmative act which would have deprive his efforts of their effectiveness); *Jones*, 376 Ill. App. 3d at 387 (withdrawal instruction not warranted where the defendant helped beat and move the victim but then stood outside and did nothing during the remainder of the murder); *Trotter*, 299 Ill. App. 3d at 540 (withdrawal instruction not warranted where the defendant merely walked away after hitting victim who was beaten and killed by remainder of group); *People v. Stachelek*, 145 Ill. App. 3d 391, 404 (1986) (withdrawal instruction not warranted where the defendant did not present any evidence that he neutralized effect of his conduct); *People v. Cooper*, 30 Ill. App. 3d 326, 332 (1975) (withdrawal instruction not warranted where the defendant testified he participated in victim's attack but merely left her apartment before she was killed); *People v. Richard*, 90 Ill. App. 3d 322, 333 (1980) (withdrawal instruction not warranted where the defendant presented no evidence that he tried to stop the crime).

¶ 39 Upon our review of the record, it is clear that a withdrawal instruction was not applicable in the instant cause as defendant here presented no evidence that he communicated his intention to withdraw from the victim's beating and murder in a timely manner or that he took any steps to neutralize the effect of his conduct.

¶ 40 The crux of defendant's defense was that, although he was present, he never touched the victim during the crime and tried to stop it, principally, by pulling Carr off of the victim. The evidence supporting his defense was the three versions of the crime he provided to police. In the first, defendant told police Carr asked him to go to the second floor with him, which he did, whereupon they encountered the victim and Carr began to punch him and knocked him to the

ground; defendant stated he stopped Carr and they ran away together. In the second version, defendant told police he agreed to only be a lookout for Carr while Carr robbed someone, and he did not strike the victim or take any money from him. And, in the third version, defendant recounted that he was the lookout and that he grabbed the victim's money and fled together with Carr and Clark from the building. Defendant reaffirmed to police that, once the beating began, he grabbed Carr by the throat and pulled or "flung" him off the victim, and that he himself never touched the victim but only took the money from the ground and ran away.

¶ 41 None of the statements he provided to police satisfy the requirements for withdrawal. First, defendant's statements demonstrate that whatever actions he took were simply not timely. That is, defendant told police he pulled Carr off the victim and left the scene, never himself touching the victim. However, at the point he pulled Carr and "flung" him off the victim, as he recounts, the crime had already taken place; not only had the beating started but, as the medical evidence showed, it was from this precise beating that the victim died. Again, to properly effectual withdraw, defendant's efforts to thwart the crime needed to have occurred before its commission, not after it was complete. See *Trotter*, 299 Ill. App. 3d at 540. In addition, defendant did not terminate his effort to promote or facilitate the commission of the crime. As he described in his statements, he may not have touched the victim in an effort to take his money, but he did admit to taking the victim's money after it fell on the ground as a result of Carr's beating him. He also repeatedly stated that, after grabbing the money, he fled the building together with Carr. Clearly, defendant's actions demonstrate that, although he may have pulled Carr off the victim after the crime started, he actually continued in the commission of the crime

by stopping to obtain its proceeds and fleeing with the principal assailant. Moreover, defendant did not do any of the things required to communicate his intention to withdraw. He did not deprive his efforts of effectiveness, there was no evidence presented that he warned any law enforcement authorities of what was occurring, and he did not make any effort to prevent the commission of the offense but, rather, helped to complete the robbery, the resultant murder and the getaway. Thus, without having taken any affirmative step to neutralize the effect of his conduct, we find that the trial court did not abuse its discretion in determining that a withdrawal instruction was not warranted at defendant's trial.

¶ 42 Defendant makes much of the jury note involved in his cause, which stated:

> "We want to know if he [defendant] is legally responsible for the conduct of the other parties regardless of how limited his involvement. If yes, is he still legally responsible if he tried to stop the beating?"

He claims that this note conclusively required the submission of a withdrawal instruction to the jury since, as he claims, it indicates that at least one juror contemplated the legal concept of withdrawal and the trial court's refusal to give the instruction implied to the jury that this concept did not exist.

¶ 43 In line with defendant's argument here, the general rule is that, when a trial court is faced with a question from the jury, the court has a duty to provide instruction to the jury, particularly when the jury has posed an explicit question or requested clarification on a point of law arising from facts about which there is doubt or confusion. See *People v. Millsap*, 189 Ill. 2d 155, 160 (2000). However, a trial court may properly refrain from answering a jury question when the

question is ambiguous, when the instructions already given are readily understandable and sufficiently explain the relevant law, when further instruction would serve no purpose or would potentially mislead the jury, or when giving an answer would cause the court to express an opinion that would likely direct a verdict one way or another. See *Reid*, 136 Ill. 2d at 39-40; accord *Millsap*, 189 Ill. 2d at 161. In addition, a trial court must never answer a note in such a way that would submit new charges or new theories on the crime to the jury after it has commenced its deliberations. See *Millsap*, 189 Ill. 2d at 161; *People v. Wilson*, 312 Ill. App. 3d 276, 285-86 (2000). Ultimately, the trial court has discretion in determining how best to respond to a jury's note, and we will not reverse its decision absent an abuse of discretion. See *People v. Averett*, 381 Ill. App. 3d 1001, 1012 (2008); accord *Reid*, 136 Ill. 2d at 38-39; see also *People v. Hall*, 195 Ill. 2d 1, 20 (2000).

¶ 44 In the instant cause, after the jury sent out the note, the trial court conferred with both parties in open court as to how to proceed next, with defendant, obviously, asking that a withdrawal instruction be given and the State suggesting that the court tell the jury it has all the evidence and instructions it needs. After hearing arguments, the court declined defendant's request, reasoning that if it were to answer the note by giving the jury a withdrawal instruction, it "would be expressing an opinion which likely would direct a verdict one way or the other." It further found that the instructions as given, in light of the evidence presented, were clear and adequately informative as to the applicable law. Thus, the court instructed the jury to continue deliberating.

¶ 45 We find no error on the part of the trial court in this respect. As discussed, defendant was

not legally entitled to a withdrawal instruction because he presented no evidence to support one, *i.e.*, demonstrating that he properly and timely withdrew from the crime. In addition, had the trial court provided a withdrawal instruction at this point, it would have essentially been answering the jury's note in such a way that would have submitted to them new charges or new theories on the crime after it had commenced its deliberations. That is, from the beginning, the trial court had concluded that withdrawal was not applicable in defendant's cause. Thus, other than his three statements to police, neither side addressed this legal concept at trial, not even in their closing arguments. Therefore, the jury would have been presented with a legal theory on the case that was never addressed by either side. To the contrary, upon our review of the record, we find that the instructions as given, in light of the evidence presented at trial, were understandable and sufficiently explained the relevant law; anything further, as the trial court found, would have potentially misled the jury and would have forced the trial court to express an opinion that would have directed a verdict a certain way.

¶ 46 Accordingly, from all this, and based on the circumstances, we find a trial court properly exercised its discretion in refraining from answering the jury's note with a withdrawal instruction.

¶ 47 III. Defendant's Videotaped Statements

¶ 48 Defendant's final contention on appeal is that the trial court committed reversible error in admitting the redacted 22-minute video of his statements to police due to its inadequate foundation. Relying on *People v. Flores*, 406 Ill. App. 3d 566 (2010), and citing Detective Cordero's testimony that it did not include "the whole questioning" defendant faced from police while in custody, he only minimally asserts that the video was clearly altered and lacked a proper

"chain of custody" and, thus, that it should never have been admitted into evidence against him. Again, we disagree.

¶ 49 At the outset, the State presents a threshold matter which we find to be quite valid. That is, as part of its argument on this issue, the State contends that defendant has essentially forfeited this argument for review because he affirmatively waived any foundational challenge to the video when he used it as part of his defense. Indeed, the record shows that, while defendant did issue a foundational objection at the time the video was admitted, he, at various points throughout this litigation, referred to and used portions of it. For example, defendant made clear to the jury during opening arguments that his defense to the charges was that he actually tried to stop the crime, namely, by pulling Carr off the victim to end the beating. In presenting this, defendant told the jury that the State was "going to play this tape where he is interviewed by police where he tells the police what happened." He further told the jury that on the tape, he makes clear to police that "he had no intent for any harm to come" to the victim and that he instead fully cooperated with them, showing them where the other assailants lived and insisting that he never laid a hand on the victim but tried to stop "the beating from going any further." Next, while he cross-examined Detective Cordero, defendant actually used the video by playing several portions of it and discussing them with Detective Cordero to reaffirm that he did not take any money from the victim's person and that he repeatedly insisted to police that he pulled Carr off the victim and otherwise did not participate in the beating. Third, defendant relied on the video to argue to the trial court that the jury should be given a withdrawal instruction, repeatedly citing the video as sufficient evidence to merit it; defendant did this during the open court discussions regarding

whether the instruction should be given as well as in a written memorandum he submitted regarding this issue. Further, defendant relied on the video in his closing argument, telling the jury to "go back and look at that and watch it." He referred to it as a "key piece of evidence" which "told *** the truth" about "exactly what happened," insisting that his statements therein were "credible" and "supported by the evidence." Again, he told the jury that the video showed his consistent statements to police that he pulled Carr off the victim, that he never took money from his person, and that he did not intend the murder–the entire crux of his defense. In addition, defendant actually cited to the video to support his posttrial litigation, including referring to it in his posttrial motion as evidence of withdrawal, noting it in his sentencing memorandum as mitigating evidence, and relying on it here on appeal before our court in seeking reversal pursuant to the withdrawal instruction issue he raised.

¶ 50 From all this, and, particularly, based on his own conduct as described, it is clear to us that defendant has essentially forfeited any issue regarding the video's foundational propriety or validity, and he should not now be allowed to insist that the video is inadmissible. See *People v. Durgan*, 346 Ill. App. 3d 1121, 1131-32 (2004), citing *People v. Hill*, 345 Ill. App. 3d 620, 630-33 (2003) (a defendant forfeits any issue as to validity of evidence if she procures, invites or acquiesces to its admission); accord *People v. Muhammad*, 398 Ill. App. 3d 1013, 1017 (2010), citing *People v. Woods*, 214 Ill. 2d 455, 470-71 (2005) (application of waiver rule is especially important in context of foundation challenge to evidence at issue).

¶ 51 Apart from that, and in addressing the merits of this issue, we note that the admissibility of evidence at trial, including a defendant's videotaped statement, is a matter within the sound

discretion of the trial court and we will not overturn that court's decision absent a clear abuse of that discretion, which occurs only when the decision is arbitrary, fanciful or where no reasonable man would take the view adopted by that court. See *People v. Taylor*, 2011 IL 110067, ¶ 27; accord *People v. Illgen*, 145 Ill. 2d 353, 364 (1991). Moreover, and regarding videotapes in particular, these may be admitted if properly authenticated which, again, is an evidentiary question that is also within the sound discretion of the trial court. See *People ex rel. Sherman v. Cryns*, 203 Ill. 2d 264, 284 (2003).

¶ 52 A videotape can be admitted as demonstrative evidence against a defendant at trial, and its foundation properly established, if a witness can authenticate its contents based on his personal observation of the events on the recording or the workings of the device and the process that produced it. See *People v. Dennis*, 2011 IL App (5th) 090346, ¶ 22. In addition, a video can be admitted as substantive evidence if its authenticity can be established via other means, including an evaluation of several factors such as the device's capability for recording and general reliability; the operator's competency; the proper operation of the device and demonstrating the manner in which the recording was preserved; identifying the people, location and objects depicted therein; and explaining any copying or duplicating procedures. See *Dennis*, 2011 IL App (5th) 090346, ¶ 22; see also, *e.g.*, *Taylor*, 2011 IL 110067, ¶ 35; *People v. Montes*, 2013 IL App (2d) 111132, ¶ 62. The key here is that there is no exclusive or exhaustive list of factors that may be considered in determining a video's admissibility. See *Taylor*, 2011 IL 110067, ¶ 35; accord *Montes*, 2013 IL App (2d) 111132, ¶ 63. Rather, some factors may be more relevant than others and additional ones may arise; each case is to be evaluated of its own accord.

See *Taylor*, 2011 IL 110067, ¶ 35; *Montes*, 2013 IL App (2d) 111132, ¶ 62. Ultimately, "[t]he dispositive issue in every case is the accuracy and reliability of the process that produced the recording." *Taylor*, 2011 IL 110067, ¶ 35; see *Montes*, 2013 IL App (2d) 111132, ¶ 63.

¶ 53 We conclude that sufficient foundation existed here such that the trial court's decision to admit the videotape of defendant's statements to police was not an abuse of discretion. Specifically, Detective Cordero, a witness to defendant's statements at the time of their recording, testified that, after defendant was arrested, he was placed in an interview room at police headquarters that was equipped with audio and video devices that are meant specifically to record what occurs in that room. He further stated that the audio and video devices were working properly when defendant was in the room. Indeed, the very fact that the video existed affirms Detective Cordero's testimony–that the equipment was functioning properly and that he knew how to operate it. See, *e.g.*, *Montes*, 2013 IL App (2d) 111132, ¶ 64, citing *Taylor*, 2011 IL 110067, ¶ 39.

¶ 54 Detective Cordero further testified that he, along with Detective Landando, questioned defendant several times during the duration of his custody–April 22-23, 2008–and that their entire conversation had been videotaped, as well as transcribed. He stated that he had viewed the video and read the transcript in their entirety. With respect to the portion presented at trial, he noted that it was not the entirety of his conversation with defendant but, rather, explained that it was a 22-minute tape of defendant's statements to him and his partner during that time and that the transcript of it "truly and accurately portray[ed]" what had been said during their entire conversation. Further, Detective Cordero identified defendant in open court and confirmed that

he was the one who made the statements as represented in the video. He then testified as to the contents of defendant's statements, as contained in the 22-minute portion, before it was shown to the jury.

¶ 55 Clearly, then, it was established that the recording system was working properly, and Detective Cordero was able to testify as to its contents and identified defendant as the maker of the statements presented. Detective Cordero also verified the accuracy of the video by explaining that he had seen both it and its transcript in their entirety and that the transcript of the 22-minute portion to be introduced at trial "truly and accurately" portrayed what defendant told police at that time.

¶ 56 Defendant's argument on this issue is notably short and does not clearly flush out his claims of error. He seems to be attacking, perhaps, both the accuracy of the video in light of the fact that only a redacted portion was presented for admission into evidence, and its "chain of custody," as he tersely mentions. However, first, with respect to accuracy, where a defendant fails to present any actual evidence of tampering, substitution, or contamination of a video, the State need only establish the probability that those things did not occur. See *Montes*, 2013 IL App (2d) 111132, ¶ 67, citing *Dennis*, 2011 IL App (5th) 090346, ¶ 28 (any deficiencies go to the weight, and not the admissibility, of the evidence). And, our supreme court has already made clear that redacted videos are admissible, as long as the edits do not affect the reliability or trustworthiness of the recording. See *Taylor*, 2011 IL 110067, ¶ 44 (noting that it is too restrictive to expect that no deletions would be made when an original recording is copied; in fact, unimportant, irrelevant or prejudicial material should be removed and the focus must remain

on the video's reliability and trustworthiness); accord *Montes*, 2013 IL App (2d) 111132, ¶ 67 (editing goes to the weight, and not the admissibility, of the evidence). In the instant cause, defendant presented no evidence of tampering or that the edits affected the reliability of the video; to the contrary, Detective Cordero certified the opposite during his testimony. In addition, it is, in a practical sense, unthinkable to have a jury sit through a video of an interrogation that lasts for several periods over two days, full of irrelevant and confidential information that has nothing to do with the statements at issue. Second, with respect to defendant's assertions regarding chain of custody, we note our courts have held that, as long as there are other factors demonstrating the authenticity of the recording, it is not necessary to prove a strict chain of custody at trial. See *Montes*, 2013 IL App (2d) 111132, ¶ 66, citing *Taylor*, 2011 IL 110067, ¶ 41. Again, in the instant cause, we have already discussed several factors demonstrating the redacted video's authenticity; accordingly, a chain of custody argument necessarily fails.

¶ 57 Finally, we note defendant's singular reliance on *Flores*; he only briefly cites to it and fails to go into any real detail of what occurred, but insists it is on point with his cause. However, his reliance on that case is wholly misplaced. In *Flores*, the defendant was charged with a traffic offense after the complaining witness, his long-time feuding neighbor, reported him to police. The neighbor claimed that he had recorded video of the incident, as he happened to have his camcorder in his car. Not wanting the police to view "personal information" on the tape, the neighbor showed, but did not give, the tape to police at that time. At trial, the defendant objected to the tape's admission on the ground that its foundation was insufficient. Despite the video's lack of a time stamp, momentary flashes and shaky scenes, as well as the neighbor's

testimony that he purposely erased portions of it and his failure to provide any information regarding how he produced the tape, the trial court allowed it into evidence and, in finding the defendant guilty, specifically relied upon it. See *Flores*, 406 Ill. App. 3d at 567-571.

¶ 58 On appeal, the defendant alleged that the trial court improperly admitted the videotape against him without a proper foundation. The *Flores* court agreed. It immediately noted that the neighbor had testified that he altered the video by omitting portions of the original recording. See *Flores*, 406 Ill. App. 3d at 576. However, he offered nothing more on the subject. Rather, after his testimony that there had been a different, original tape that he altered, the neighbor gave no other explanation of how the tape was produced. In fact, as the *Flores* court stated, he "seemed to go out of his way to make obscure the process by which he produced the evidence tape, so reconstructing the process that he used is a matter of guesswork." *Flores*, 406 Ill. App. 3d at 577. Based on this lack of information, the *Flores* court held that the video should not have been admitted to prove the defendant's guilt. See *Flores*, 406 Ill. App. 3d at 577 (where evidence that video was not substantially altered was not presented, video was inadmissible).

¶ 59 We take no issue with the holding of *Flores*. To the contrary, we find that it was a proper application of the law regarding foundational requirements for the admission of videos at trial. However, what defendant here neglects to consider in his reliance on that case is exactly that–namely, the outcome in *Flores* depended heavily on the foundational facts presented or, more precisely, on the lack of these facts. Conversely, the instant cause is completely distinguishable from *Flores*. We are not dealing with a video produced, without any explanation, by a third, uncontrolled party who clearly had a long-held grudge with the defendant, a video that

is shaky, unclear and admittedly pieced together in a particularly, and purposefully, edited order. Quite differently, the video at issue in the instant cause was produced in a controlled environment by seasoned legal authorities using established recording techniques and tested equipment. It was also transcribed in written form and presented at trial. In addition, Detective Cordero took the stand and testified in this cause directly to the video's production, contents, speaker and edits. He not only reaffirmed how the video was made and that the equipment used had been functioning properly at the time, but he also identified that defendant was the maker of the statements, testified independently as to the contents of the video before it was even admitted, and certified that the accompanying transcript truly and accurately portrayed what had occurred during the time the video was taken. This set of facts is so far different from those presented in *Flores* that the two causes are wholly incomparable.

¶ 60 Based on all this, we find that the trial court did not abuse its discretion in admitting the redacted videotape into evidence at defendant's trial. Detective Cordero, a witness to the recording, was present to testify as to its accuracy, and several other factors presented demonstrated its reliability. Thus, we find no error here.

¶ 61 CONCLUSION

¶ 62 Accordingly, for all the foregoing reasons, we affirm the judgment of the trial court.

¶ 63 Affirmed.