FIFTH DIVISION
October 23, 2015

No. 1-13-2364

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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. 10 CR 19922
	)	
ANTHONY ADAMS,	)	Honorable
	)	Clayton J. Crane,
Defendant-Appellant.	)	Judge Presiding.

JUSTICE LAMPKIN delivered the judgment of the court.
Presiding Justice Reyes and Justice Gordon concurred in the judgment.

O R D E R

¶ 1 *Held*: Evidence of defendant's prior acts of domestic violence against the murder victim was properly admitted despite the trial court's failure to expressly articulate its balancing of the probative value of the evidence against the danger of unfair prejudice, and the evidence was relevant to show defendant's ongoing hostility toward the victim and propensity to commit acts of violence upon her.

¶ 2 Following a bench trial, defendant Anthony Adams was found guilty of first-degree murder and sentenced to 36 years in prison. On appeal, he contends that the trial court erred in allowing the introduction of evidence of prior acts of domestic violence against the victim where the court failed to weigh the probative value of the evidence against the risk of undue prejudice

and where the evidence was not relevant to any issue in the case. We affirm.

¶ 3 Defendant was charged with two counts of the first-degree murder of his long-time domestic partner, Clara Bryant, known as Chris. It was undisputed that in May 2010, defendant subjected Chris to a savage beating and she died four days later from her injuries. The issue at trial was whether the State could prove defendant had the requisite intent or knowledge to be found guilty of first-degree murder. To that end, the State filed a pretrial motion *in limine* pursuant to section 115-7.4 of the Code of Criminal Procedure of 1963 (the Code) (725 ILCS 5/115-7.4 (West 2010)), asking the court to admit evidence of five instances of "other crimes, other acts and conduct evidence on the issues of defendant's motive, state of mind, intent, continued hostility and propensity to commit domestic violence."

¶ 4 Immediately prior to addressing the section 115-7.4 motion, the court also heard argument on another State pretrial motion *in limine* pursuant to *People v. Montgomery*, 47 Ill. 2d 510 (1971), seeking to offer defendant's prior conviction for driving while license suspended or revoked in the event defendant testified. The court denied the motion, stating: "In addressing the issue under *Montgomery*, there's a balancing test required as to the probative nature versus the prejudicial value of it. Using that balancing test, I don't find that it's an appropriate matter to be raised should the defendant choose to take the stand in this case." Immediately after ruling on the *Montgomery* motion, the court conducted a hearing on the State's section 115-7.4 motion. At the outset, the trial court declared: "I believe I know what the state of the law is in this particular matter."

¶ 5 The first allegation of other-crimes evidence occurred in September 1997 when defendant was being arrested for a traffic violation and became combative with the arresting officers. The

court refused to admit the evidence, ruling: "As concerns the initial encounter with the police officers in the balancing test in that particular matter, I am not going to allow that incident to be [admitted]." The second other-crimes allegation occurred in the winter of 1997 when Chris's brother, Anthony Selmon (Anthony), and his girlfriend, Vivian Travis (Vivian), witnessed defendant punching, pushing, and hitting Chris. The court ruled: "Recognizing there is a substantial period of time that's transpired, I still in using the appropriate tests in this matter find that that's an appropriate matter to be addressed." In the third instance, in September 1998, defendant allegedly pushed Anthony in the chest. The court allowed that incident to be admitted. In the fourth instance, occurring in August 2001, defendant allegedly struck Anthony several times about the head and body with a closed fist during a verbal argument. The court allowed admission of that incident, but reserved ruling on a fifth incident.

¶ 6 At trial, Bobbie Lloyd testified that she was the mother of the victim, Clara Bryant, who was known as Chris, and Chris's brother, Anthony Selmon. At the time of her death, Chris and defendant had been in a relationship for about 20 years. In May 2010, Chris and defendant were living in an apartment at 67th and Jeffery. On May 21, a Friday, Chris borrowed Bobbie's car. On the following day, Saturday, Bobbie spoke with Chris by phone; Chris sounded fine. On Sunday, Bobbie made numerous unsuccessful attempts to phone Chris. On Monday morning, defendant brought Bobbie's car to her; Bobbie was not expecting him to come by. Defendant told Bobbie that Chris was not going to work that day. Late Monday afternoon, Bobbie phoned Chris's apartment and defendant answered the phone. Then Bobbie spoke with Chris briefly. Chris told Bobbie that she and defendant had gone to a party on Saturday, they both had been drinking, and when they returned home, she started a fight with defendant and the argument had been her fault.

That was the last conversation Bobbie had with Chris. Bobbie testified that she had "known all along" for the last 15 or 20 years of previous instances where Chris and defendant had entered into arguments and they would often fight.

¶ 7 On Tuesday afternoon, May 25, defendant phoned Bobbie and asked her to bring him Bengay, Epsom salts, and her Tramadol pain pills that she used for arthritis. She drove to the apartment Chris and defendant shared and phoned defendant on her cell phone when she arrived. Defendant came out of the apartment and took the medications. Bobbie did not go inside the apartment. On Wednesday afternoon, when Bobbie arrived home from work, she called Chris between 4 and 6 p.m. but was not able to speak with her. Defendant answered the phone and said Chris was resting. At about 10 or 10:30 that evening, defendant phoned Bobbie. He told her Chris was not responding and Bobbie needed to come over. Bobbie phoned her pastor, who accompanied her to Chris and defendant's apartment. Several members of defendant's family were there. Bobbie went to the bedroom and saw Chris on the bed. She was dead. Her face was "all bruised and battered[,] looking like a monster." Defendant said to Bobbie, "I'm sorry. I'm sorry." Then he sat down in a fetal position on the floor. He was crying. He repeated that he was sorry, and said, "I'm dead. I'm dead." When Bobbie saw defendant on Monday morning, Tuesday afternoon, and Wednesday evening, defendant did not appear to have any injuries to his face or have trouble walking.

¶ 8 Traci Adams, defendant's sister, testified that at about 10 a.m. on Saturday, May 22, defendant and Chris came to Traci's apartment. There did not appear to be anything physically wrong with Chris at that time. She was in good spirits and was drinking a couple of beers. When

Chris was drinking, sometimes she was "real fun" and "sometimes she got really evil." Later that day, Traci spoke with Chris on the phone; Chris sounded drunk.

¶ 9 On the following Wednesday, May 26, at about 4:30 or 5 p.m., defendant telephoned Traci and said Chris was not responding; she was very lethargic and listless and not saying anything. Traci asked him if he had called the paramedics, and he said no. He told Traci that Chris did not want him to call the paramedics, that she was going to call her mom and ask her to bring Chris some medicine. Defendant told Traci that he and Chris had had a fight the previous Saturday. Traci and her daughter went to defendant's apartment. As they were approaching the apartment, defendant called Traci on her cell phone and told her not to come in. Traci responded that they were almost there and were going to come in. The women entered the apartment and Traci went into the bedroom. Chris was lying on the floor. Defendant said Chris wanted to lie on the floor, that he had been putting her in and out of the tub all that day and she asked him to just let her lie on the floor. Traci knelt down by Chris and told her she needed to go to a doctor. Chris did not speak; she just moaned. Defendant said Chris had some bruises. Being nearly totally blind, Traci could not tell whether Chris had any bruises. Traci said they had to get Chris up off the floor, so defendant lifted her up onto the bed. Traci told defendant to call the paramedics, but he told her that Chris's mother had brought over some medication and Ben Gay. Defendant said he and Chris had gone to a wedding when he and Chris "had got into it." Traci left and went home. At about 10:30 or 11 p.m. defendant phoned Traci and said that Chris was dead. Traci returned to the apartment. Defendant was very distraught and crying. The next morning defendant came to Traci's home. He told her that he should have called the paramedics and admitted he never should have hit Chris.

¶ 10 The parties stipulated to the following: Chris was employed at an office on West 119th Street for five years prior to her death. On Monday morning, May 24, Chris phoned Lavonne Banks, an office coworker, and said she was not feeling well and needed a day off. Chris sounded sick, tired, and exhausted. On Tuesday, Latonia Johnson, the office assistant administrator, received a call from Chris who said she had hurt her shoulder and needed the day off. Chris did not go to work or call the office on Wednesday. On Thursday, Banks sent employees to Chris's residence to do a wellbeing check.

¶ 11 Police Officer Babette Murray testified that at about 11:45 p.m. on May 26, 2010, she responded to a request for a wellbeing check at 6923 South Jeffery and found that the subject was deceased. Paramedics, defendant, and family members were present in the apartment. Murray saw bruises about the victim's chest area, and bruising and swelling on her face. Defendant told Murray that the victim's injuries were the result of a physical altercation she and defendant had the previous Saturday. Defendant said that the victim was lethargic and in and out of consciousness and he was trying to care for her by giving her medicine. She had urinated in the bed, and he asked his sister, Traci Adams, to help him change the bed sheets. Defendant said his sister encouraged him to call for help or 911, but that he refused to do so because he feared being arrested for battery. At that point, other family members spoke to Murray about defendant's safety, as they felt there would be another altercation when the victim's brother arrived. Consequently, Murray and her partner acted to remove defendant from the scene for his safety by calling for a squad car to assist.

¶ 12 Detective Don McGrath testified that he arrived at the South Jeffery apartment at about 1:45 a.m. on May 27 and observed the body of the victim on a bed. He observed bilateral

contusions to her face, swelling of her face and neck, and subcutaneous hemorrhaging across her upper chest area. McGrath's preliminary physical investigation revealed that the victim was cool to the touch and rigor mortis had begun to set in. McGrath spoke with Officer Murray and also with the victim's mother, Bobbie Lloyd. McGrath learned that defendant had been removed from the scene for his own safety, and located him in the back seat of a police vehicle. Defendant was handcuffed, and McGrath ordered the handcuffs removed. Defendant told McGrath that he and the victim had had an on-and-off relationship for over 20 years. On May 22 they had attended a wedding where both of them had been drinking. When they returned home, defendant heard the victim talking on the telephone with a man. After that, an argument ensued and escalated to a physical altercation during which time defendant struck the victim at least three times. McGrath did not see black eyes or any other visible injuries on defendant's face. When defendant left the police vehicle, he was not limping and he did not complain of any injuries. McGrath told defendant he was free to leave. After McGrath interviewed other witnesses, he attempted to contact defendant seven or eight times but was unsuccessful and initiated a stop order or investigative alert for defendant, who was arrested on October 8, 2010.

¶ 13 Joseph Cogan, M.D., a forensic pathologist, conducted the autopsy on the victim. She was 67 inches tall and weighed 144 pounds. Toxicology reports indicated the presence of Tramadol, a narcotic pain killer administered a few hours before her death, and aspirin; neither pain killer was present in an overdose amount.

¶ 14 Cogan's external examination of the victim revealed multiple blunt force injuries primarily to the face, neck, torso, and upper extremities, as well as a few more injuries to the torso and lower extremities. The external examination injuries were consistent with being caused

at the same time, during one incident or assault. Both eyes were blackened, most likely by punches with some kind of blunt object like a fist. The face showed blunt force injuries to the right eye and right side of the head, as well as linear contusions caused by a man-made instrument such as a belt. The injuries were consistent with having been sustained four days prior to the victim's death. Bruising under the chin area was consistent with being caused by blunt force trauma, while neck injuries were consistent with a choke-hold. Petechial hemorrhaging evidenced in the victim's eyes indicated strangulation or neck compression. There were contusions in the arms, chest, and shoulders, indicating the injuries were more than 24 hours old; numerous contusions around the abdomen and lower ribs; and abrasions on the back. Contusions to the right side of the chest were consistent with punching with the fist or kicking with a foot; the outer contusions correlated to a fracture on the right side of the ribs. Contusions over the right ankle area due to blunt force trauma could be a defensive injury caused by bringing up the lower extremities to block blows. There were a number of defensive injuries, mainly on the upper left arm. Discoloration of the skin was consistent with the body having been immobile for a period of time.

¶ 15 The internal examination revealed evidence of strangulation. Dr. Cogan observed an obvious fracture of the seventh cervical vertebrae being torn off of the fifth thoracic vertebrae. He testified that it looked "as if that head and neck were just literally torn off of the thoracic spine." A very good explanation was that the person's head was in a V-neck choke-hold in which the victim's neck was held in the crook of the aggressor's elbow, and the victim's limp body slumping down pulled all its weight on the spine. Dr. Cogan's internal examination of the fracture was associated with the external injuries he observed and was consistent with having

occurred several days prior to death. The neck fracture was of such severity that the victim would have been paralyzed from the shoulders down, immobilizing her. She could talk, perhaps move her head a bit, "but otherwise probably nothing." The fracture was not immediately lethal. With medical intervention she possibly could have lived, but she would have been paralyzed. There were both recent and old fractures to the ribs. Examination of the skull showed blunt force trauma to the head consistent with having occurred several days prior to death. Examination of the brain revealed old previous head trauma, mainly over the orbits above the eye which, in addition to old fractured ribs, neck organs, hyoid, thyroid cartilage, indicated that she was a victim of trauma and strangulation in the past. Hemorrhage over the right side of the tongue was consistent with being held in a chokehold or strangulation.

¶ 16 Dr. Cogan's opinion within a reasonable degree of forensic and scientific certainty was that the victim died as a consequence of multiple blunt force injuries due to an assault. The manner of death was classified as homicide.

¶ 17 Anthony Selmon and Vivian Travis testified about prior incidents of uncharged domestic violence involving defendant. Anthony Selmon was Clara "Chris" Bryant's brother. They were eleven months apart in age and Chris was Anthony's "best friend." Both Anthony and Vivian described an incident in the winter of 1997 when Chris was dating defendant and Anthony was living with Vivian in Joliet. Anthony received a telephone call from his teenage cousin Willette[1]. Willette and her brother were at the apartment defendant and Chris shared. Willette told Anthony that defendant and Chris were starting to fight and asked Anthony to come and get her and her brother. Anthony and Vivian drove to Chicago and Willette let them into the apartment. Anthony

[1] Her name is also given as "Rolette" in the report of proceedings.

took Willette and her brother down to his car. When Anthony returned to the apartment, he heard his sister Chris screaming and yelling, "Stop, stop it." Defendant had Chris pinned against a wall and was striking her. Anthony moved Vivian out of the way, grabbed defendant, and placed him in a bear hug. Defendant broke loose and started hitting Chris again, and Anthony grabbed defendant again in a tighter bear hug. Chris pleaded with Anthony not to hurt defendant. Anthony assured her that defendant was all right. Defendant slumped down on the floor. Anthony tapped defendant in the face and he woke up. Anthony took Chris down to the car. Chris stayed with Anthony and Vivian in Joliet for the whole weekend.

¶ 18 Vivian Travis testified to essentially the same facts about the incident. When she and Anthony arrived at the apartment, Anthony took the teenagers to his car and Vivian remained in the kitchen of the apartment. She heard noises and walked into the living room. She saw defendant punching, pushing and hitting Chris. Then she saw defendant put his hand around Chris's throat in a choke hold and pushed her up against the wall. Chris was screaming and crying. Vivian screamed and ran toward them. Anthony, who had re-entered the apartment, pushed past her and grabbed defendant. Chris screamed at her brother, "Don't hurt him." Vivian grabbed Chris, pulled her into the bedroom, and threw clothes in a bag to remove Chris from the situation. Vivian and Anthony took Chris and the two teenagers to their residence in Joliet.

¶ 19 Anthony testified to another incident on September 28, 1998, when Chris phoned Anthony and told him she wanted to leave the apartment she was sharing with defendant. Anthony drove a U-Haul to the apartment to move Chris's property out. Defendant became abusive, punching Anthony and pushing him around, but Anthony was able to move Chris out of the apartment.

¶ 20 Anthony also testified about an incident on August 14, 2001, at his mother's residence on South Kimbark. Chris was staying there at that time because she did not want to be with defendant. Defendant came there and demanded to see Chris, and he spoke with Anthony on the front lawn. Anthony told him Chris did not want to see him or speak with him. When defendant approached the residence in an attempt to see Chris, Anthony blocked his progress. Defendant began throwing punches at him, hitting him in the face and on the chest. Anthony was able to hold defendant down and call the police.

¶ 21 After the State rested its case in chief, the defense proceeded by way of stipulation that Vivian Travis had told an investigator of the Cook County State's Attorney's office about the incident in the winter of 1997. Vivian stated she saw Chris crying in the living room while defendant was punching, pushing, and hitting her as she covered herself with her arms and was screaming for defendant to stop hitting her. Vivian did not mention to the investigator that she had seen defendant choking Chris. Following the stipulation, the defense rested.

¶ 22 At the conclusion of the trial, the court found that the cause of Chris's death was the vicious beating administered by defendant in a fit of "incredible rage," and that there was no intervening cause of death. The court noted Dr. Cogan's testimony that there were extensive points of injury on the victim's body, including a severe spinal cord injury. The court found defendant guilty of first degree murder in that he, without lawful justification, beat and choked Chris and killed her with his hands, knowing that his act created a strong probability of death or great bodily harm. The court sentenced defendant to 36 years in prison.

¶ 23 On appeal, defendant contends that the trial court committed reversible error because it failed to weigh the probative value of evidence of prior acts of domestic violence against the

danger of unfair prejudice to defendant. Defendant also asserts the evidence should not have been admitted because it was not relevant to any contested issue where he admitted he injured Chris.

¶ 24 When a defendant is tried on an offense of domestic violence, section 115-7.4(a) allows the State to introduce evidence that the defendant also committed another offense of domestic violence. 725 ILCS 5/115-7.4(a) (West 2010). Section 115-7.4(a) expressly permits this other-crimes evidence to be admitted for any relevant purpose, including the defendant's propensity to commit crimes of domestic violence. *People v. Peterson,* 2011 IL App (3d) 100513, ¶ 60. Before the other-crimes evidence may be used, however, the statute requires the court to apply a balancing test, weighing the probative value of the evidence against the undue prejudice it may produce against the defendant. 725 ILCS 5/115-7.4(b) (West 2010); *People v. Dabbs,* 396 Ill. App. 3d 622, 628 (2009), aff'd, 239 Ill. 2d 277 (2010). Section 115-7.4(b) lists three factors that may be considered in applying such a balancing test, namely, the proximity in time to the charged offense, the factual similarity between the acts, and "other relevant facts and circumstances." The evidence will be excluded if its probative value is substantially outweighed by the risk of undue prejudice. Ill. R. Evid. 403 (eff. Jan. 1, 2011); *Dabbs,* 239 Ill. 2d at 291, 293. We review the propriety of a ruling on the admission of other-crimes evidence for an abuse of the trial court's discretion. *People v. Ward,* 2011 IL 108690, ¶ 21.

¶ 25 First, we agree with the State's assertion that defendant has forfeited review of the issue regarding the trial court's alleged failure to conduct the balancing test when the court allowed the State's motion to admit three prior instances of violence. Where a defendant fails to either make a timely objection at trial or file a written posttrial motion raising the claim, he has forfeited

review of the claim. *People v. Bannister*, 378 Ill. App. 3d 19, 36 (2007). The purpose of the forfeiture rule is to ensure that the trial court was given the opportunity to correct any errors before they are raised on appeal. *People v. Castillo*, 372 Ill. App. 3d 11, 16 (2007). Here, defendant did not make such an objection when the court ruled the prior incidents could be admitted and, more notably, he failed to raise the specific issue in his posttrial motion. Defendant's posttrial motion alleged "error in granting the State's pre-trial motion to allow use of other crimes" and referred to "the reasons and authorities cited in [his] response to the State's motion" and in arguments on the motion. It is axiomatic that "reasons and authorities" and arguments advanced by defendant *before* the court ruled cannot include any alleged error by the court *when* it ruled. Once the court ruled on the motion, it was incumbent on defendant to present to the trial court any objections to the court's analysis in making its ruling so the court, if necessary, could correct the omission complained of. Furthermore, defendant's posttrial motion did not raise the court's alleged failure to apply the balancing test in specific, or even general, terms. Accordingly, defendant has forfeited his contention that the trial court failed to apply the proper balancing test in considering the admission of the three prior incidents. *People v. Jackson*, 2014 IL App (1st) 123258, ¶ 41.

¶ 26 Having found the balancing-test issue has been forfeited, defendant asserts that the evidence was closely balanced to invoke plain error review and cites to *People v. Herron*, 215 Ill. 2d 167, 178-79 (2005), where the supreme court found that a forfeited error can be reached where the evidence in a case is so closely balanced that the guilty finding may have resulted from the alleged error and not the evidence. For the reasons that follow, we find there was no error and, even assuming an error, the evidence was not closely balanced.

¶ 27 The record established that the trial court was aware of the appropriate balancing test and did apply it, albeit implicitly. Immediately prior to ruling on the State's section 115-7.4 motion *in limine*, the court ruled on the State's *Montgomery* motion *in limine*, correctly stating the required test of balancing the probative value of the impeaching evidence of prior convictions against undue prejudice. The court then heard argument on the section 115-7.4 motion. The State's motion recited that the court was required to weigh the probative value of the evidence against undue prejudice to the defendant, and set forth the three factors the court could consider in conducting the required balancing test. Defendant's written response also carefully addressed the court's duty to weigh the probative value of the evidence against undue prejudice. In ruling on the section 115-7.4 motion, the court stated at the outset that it was aware of the applicable law and immediately referred to "the balancing test" and utilizing "the appropriate tests." Here, as in *People v. Abernathy*, 402 Ill. App. 3d 736, 750 (2010), in ruling on the State's motion, the court did not explicitly state that it had engaged in the required balancing test, but we believe the record shows that the court implicitly did so. Defendant asserts that *Abernathy* is inapposite because in the instant case the trial court failed to state it would "weigh" the other-crimes evidence against "what prejudicial effect" it would have on defendant. We do not agree that the failure to use that specific language was error, where in *Abernathy* we concluded that, "[d]espite the court's failure to specifically articulate that it engaged in the balancing process, we find no error." *Id.* See also *People v. Davis*, 319 Ill. App. 3d 572, 575 (2001) (the record showed that the trial court conducted the required *Montgomery* balancing test without specifically articulating it).

¶ 28 The State refers us to *People v. Groel*, 2012 IL App (3d) 090595, a criminal sexual assault prosecution where the trial court admitted evidence of other acts of sexual misconduct

under section 115-7.3 of the Code (725 ILCS 5/115-7.3 (West 2008)). That case states the principle that a trial judge is presumed to know the law, and a reviewing court will ordinarily presume the trial judge followed the law unless the record indicates otherwise. *Id.* at ¶ 43.

¶ 29 Defendant replies that *Groel* is distinguishable because in the instant case the record does indicate otherwise where the court did not engage in the required balancing test. Defendant contends the more persuasive authority is *People v. Boyd*, 366 Ill. App. 3d 84 (2006), a prosecution for aggravated criminal sexual assault involving other-crimes evidence admitted pursuant to section 115-7.3. There, as in the instant case, defendant argued below that the other-crimes evidence would result in unfair prejudice to defendant, but the trial court did not refer to that argument in ruling on the admissibility of the evidence. This court held: "The trial court never mentioned the risk of unfair prejudice. We see no indication the trial court considered the other side of the scale ***. That was error, no matter what the purpose of the evidence was." *Id.* at 94. Significantly, in *Boyd*, the trial court analyzed only the probative value of the other-crimes evidence and did not mention the prejudicial impact, indicating the possibility the court was unaware of the balancing test. In contrast, the comments of the trial court in the instant case clearly indicated the court understood the necessity of, and applied, the required balancing test.

¶ 30 We cautioned in *Boyd* that other-crimes evidence, even though relevant, must not become a focal point of the trial. *Id. Boyd* cited the supreme court's holding in *People v. Donoho*, 204 Ill. 2d 159 (2003), that trial judges should be cautious in considering the admissibility of other-crimes evidence offered to prove propensity by engaging in a meaningful balancing of the probative value and the prejudicial impact. *Boyd*, 366 Ill. App. 3d at 94-95. However, neither

Donoho nor any other authority has gone so far as *Boyd*'s pronouncement that a trial court's failure to include such an explicit balancing analysis in its findings amounts to error *per se*.

¶ 31 We also held in *Boyd* that a trial court's failure to conduct a meaningful analysis of the prejudicial effect of other-crimes evidence may be considered harmless "if it is unlikely the evidence influenced the jury." *Boyd*, 366 Ill. App. 3d at 95. We determined there that the other-crimes evidence was relevant and that the trial court's failure to conduct the balancing test was harmless error. *Id.*

¶ 32 In contrast to *Boyd*, the instant case involved a bench trial where the record reveals the basis for the factfinder's decision. In announcing its findings, the trial court placed heavy emphasis on the savage nature of the beating administered to Chris and the extent of her injuries, and it made no reference to defendant's prior acts of violence against Chris and her brother. It is clear that the other-crimes evidence did not become the focal point of the trial. Rather, the focus of the trial was concentrated on the vicious nature of the attack on the victim and the extent of her injuries, exacerbated by the fact that defendant allowed her to suffer a slow and agonizing death for four days instead of summoning medical assistance because he feared he would be charged with battery. Furthermore, *Boyd* does not require us to find that error occurred where the court's announced findings demonstrate that the other-crimes evidence was not a determining factor in the trial court's guilty finding.

¶ 33 Next, defendant also contends that the three prior instances of violence were not relevant to any contested issue and, therefore, should not have been admitted. This issue was properly preserved.

¶ 34 Evidence is relevant if it has any tendency to make the existence of any fact that is of consequence to the determination of the action more probable than it would be without the evidence. *People v. Harvey*, 211 Ill. 2d 368, 392 (2004). The issue of whether evidence is relevant and admissible is left to the sound discretion of the trial court, and its ruling will not be reversed absent an abuse of discretion. *People v. Pelo*, 404 Ill. App. 3d 839, 864 (2010).

¶ 35 It is well settled as a common law rule of evidence in Illinois that evidence of other crimes is admissible only if relevant for any purpose other than to show a defendant's propensity to commit crimes. *People v. Dabbs*, 239 Ill. 2d 277, 283 (2010). Such purposes include but are not limited to motive, intent, identity, and accident or absence of mistake. *Id.* Thus, In *People v. Heard*, 187 Ill. 2d 36 (1999), where the defendant was convicted of murdering his ex-girlfriend, other-crimes evidence of several prior episodes of violence against her by the defendant was admissible to show the defendant's motive and intent. *Id.* at 59. The relevance of a history of an abusive relationship in a first-degree murder prosecution was also demonstrated in *People v. Illgen*, 145 Ill. 2d 353 (1991), where it was uncontested that the defendant shot and killed his wife. At trial, the defendant presented the defense that the weapon, a handgun, accidentally discharged. The supreme court held that the evidence of prior incidents of physical abuse of his wife by the defendant over a 17-year period "was relevant to show their antagonistic relationship and, thus, tended to establish the defendant's motive to kill her." *Id.* at 367. In the instant case, defendant's prior assaults, on Chris and on her brother in her defense, were sufficiently similar to the fatal assault to render them admissible on the issue of intent, as they tended to establish defendant's hostility toward Chris. Thus, the other-crimes evidence of prior acts of domestic

violence was relevant to prove that defendant had the requisite mental state for first-degree murder. See *People v. Abraham*, 324 Ill. App. 3d 26, 34-35 (2001).

¶ 36 The instant case is closely similar to *People v. Chapman*, 2012 IL 111896, where defendant was convicted of the first-degree murder of Cassandra Frazier, his long-time girlfriend with whom he shared an apartment. The murder occurred in 2005, prior to the enactment of section 115-7.4. The evidence at the defendant's jury trial revealed that the defendant and Frazier had an altercation, defendant stabbed and sliced Frazier 18 times, and then prevented her from getting lifesaving aid. The defendant previously had been convicted of domestic battery against Frazier, and the jury was so informed. The trial judge instructed the jury that it could consider the prior conviction "for its bearing on any matter to which it was relevant." The appellate and supreme courts affirmed the defendant's conviction. The supreme court held that the defendant's prior domestic battery conviction, "an act of hostility toward Frazier ***, was relevant to show defendant's intent and inclination to harm Frazier during the course of the instant crime." *Id.* at ¶ 33. The evidence supported the State's theories that defendant had a proclivity to harm Frazier and that he did not commit the murder as a result of self-defense or a fit of passion. *Id.*

¶ 37 The common law rule has been abrogated in part by section 115-7.4 which expressly permits other-crimes evidence to be admitted for any relevant purpose, including the defendant's propensity to commit crimes of domestic violence. *Dabbs*, 239 Ill. 2d at 284-85, 291. Here, the evidence was also admissible under section 115-7.4 to show defendant's propensity to physically abuse Chris. Consequently, there was no error in admitting the evidence.

¶ 38 Even assuming *arguendo* that the trial court did err in admitting other-crimes evidence, the error was harmless beyond a reasonable doubt where the alleged error did not contribute to

the conviction and the other properly admitted evidence overwhelmingly supported the conviction. See *People v. Deramus*, 2014 IL App (1st) 130995, ¶ 29. Defendant was tried in a bench trial. The rule generally barring other-crimes evidence is based on the belief that such evidence may over-persuade a jury to convict a person only because the jury believes the defendant is a bad person deserving punishment. *Donoho*, 204 Ill. 2d at 170. In a bench trial, however, it is presumed that the trial court considered the other-crimes evidence only for the limited purpose for which it was introduced. *People v. Nash*, 2013 IL App (1st) 113366, ¶ 24. Here, the court's decision was based on its determination that the significant and compelling evidence of defendant's guilt was the extent and severity of the injuries he inflicted on his victim. The court made no mention of the evidence of other acts of domestic violence, and there is no indication in the record that the trial court considered that evidence for any purpose other than that for which it was introduced. Furthermore, the evidence against defendant—which included the extensive testimony of Dr. Cogan as to the nature of Chris's injuries, defendant's admissions that he hit Chris and should have called 911, and defendant's statement that he did not call the authorities for fear of prosecution—was overwhelming. Because the alleged error did not contribute to the conviction and the other properly admitted evidence overwhelmingly supported the conviction, any error was harmless.

¶ 39 For the reasons stated above, we affirm the judgment of the trial court.

¶ 40 Affirmed.