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IN THE
APPELLATE COURT OF ILLINOIS
SECOND DISTRICT

THE PEOPLE OF THE STATE)	Appeal from the Circuit Court
OF ILLINOIS,)	of Lake County.
)	
Plaintiff-Appellee,)	
)	
v.)	No. 12-CM-4874
)	
LAKEISHA S. SMITH,)	Honorable
)	Joseph R. Waldeck,
Defendant-Appellant.)	Judge, Presiding.

JUSTICE ZENOFF delivered the judgment of the court.
Justices McLaren and Jorgensen concurred in the judgment.

ORDER

¶ 1 *Held:* Defendant's right to a fair trial was not violated where she failed to preserve the issue of the State's alleged improper cross-examination of her; the State did not misstate evidence in closing argument; and defendant invited the State's rebuttal closing argument.

¶ 2 Defendant, Lakeisha S. Smith, appeals from her conviction of resisting a peace officer (720 ILCS 5/31-1(a) (West 2012)) following a jury trial. We affirm.

¶ 3 I. BACKGROUND

¶ 4 The State presented the following evidence at trial. On October 20, 2012, at 1:30 a.m., Waukegan, Illinois, patrol officer Alfonso Cancino was dispatched to a fight in progress at J's

Reggae Bar on Grand Avenue in that city. While he was en route, an officer already on the scene announced an active shooting over Cancino's radio. Cancino arrived to find a chaotic situation with a lot of people screaming and yelling and "moving different directions." Thirteen to sixteen police officers were at the scene looking for shell casings related to the shooting incident. Cancino set up a perimeter by placing himself between shell casings on the ground and the crowd in order to protect the crime scene. He testified that cameras in his and Officer Vasquez's squad cars captured the scene. Those videos were introduced into evidence and played for the jury. Cancino also testified that other squad cars at the scene "should be" similarly equipped with video cameras.

¶ 5 Cancino testified that he encountered defendant at the scene on multiple occasions as she attempted to walk through the crime scene. According to Cancino, she was "very aggressive, very irate, screaming loudly," and she appeared to be intoxicated. Cancino ordered her to leave the scene. The third time he ordered her to do so and she refused, he arrested her for obstructing a peace officer. He testified that he placed his hands on her shoulders and began moving her toward Officer Vasquez's squad car. Defendant "began pulling away." She yelled at Cancino to take his hands off her. In order to gain control of her, Cancino "pinned" her against the squad car. He testified that she continued to resist by pulling away, squirming, and screaming. He was not able to place her inside the squad car because she was kicking at him and a fellow officer, so they again "placed her back onto" the hood of the squad car. According to Cancino, she was still resisting, and she "hit the car pretty hard." When they lifted her off the hood, she kicked at the officers. Eventually, they got her inside the car and took her to the station. At the station, defendant was still highly intoxicated and yelling. The video taken by Vasquez's car camera

corroborated Cancino's description of defendant's actions after she was detained at the squad car. Neither video depicted defendant before that time.

¶ 6 On cross-examination, Cancino admitted that he did not include in his written report that defendant smelled of alcohol or that she was intoxicated. Cancino explained that, because he did not charge defendant with an alcohol-related offense, he did not "think" to add those details to his report. He also did not include in his report that he asked defendant to leave the scene multiple times. His report indicated that he grabbed defendant as she walked by him. Cancino testified that, although he did not use more force than usual, he later noticed that defendant had a black eye, bruises on her face, and cuts on her lip from her face squarely striking the hood of the squad car. Cancino believed that her diminutive size caused her to hit the car harder than a larger person would have. On redirect examination, Cancino testified that defendant left the police station in an ambulance.

¶ 7 Waukegan officer Brian Maschek testified that he recovered the shooter's gun at the scene. As he was reaching under a van for the gun, defendant and two other girls came up to him. He testified that he told them to leave the parking lot. The girls left. Maschek saw defendant again while the officers at the scene were looking for spent shell casings. According to Maschek, defendant was arguing with one or two other officers and "darting" into the protected crime scene. On cross-examination, Maschek testified that he did not include the incident in his written report because it was not pertinent to his case against the shooter.

¶ 8 Waukegan police lieutenant Michael Quinn testified that defendant kept walking into the area that the police were trying to secure at the scene of the shooting. According to Quinn, defendant was boisterous. He observed other officers dealing with her. On cross-examination, Quinn admitted that he did not make a report of the incident.

¶ 9 The State rested, and the court denied defendant's motion for a directed verdict.

¶ 10 Defendant testified on her own behalf. She was at J's Reggae Bar for a party on the night of October 19, 2012. She was not drinking. The bar was so crowded that people were standing shoulder to shoulder. When a fight broke out, with people throwing bottles and men hitting women, she was scared and tried to get out the door, but it was locked. According to defendant, "somehow" the door opened, and "everybody just rushed out." Defendant was looking for her family and friends. Then shots were fired. Defendant ducked behind a car for five or six minutes. When the police arrived, she resumed looking for her family. People were still arguing and fighting, and some were arguing with the police. While defendant was searching for her little brother, Officer Vasquez told her to go to her car and leave the scene. Defendant turned and walked away in the opposite direction. She did not see any crime scene tape or anything on the ground.

¶ 11 Defendant testified that she encountered Cancino while she was yelling across the parking lot to a friend. According to defendant, Cancino told her to "shut the fuck up" and get out of there. Defendant started walking toward her car to leave. It was loud in the parking lot, and defendant was yelling at her little brother, whom she had located, to leave with her. As she was walking, someone came up behind her, lifted her off her feet, and slammed her into a car. She became aware that it was Cancino. According to defendant, she did not try to get away from him or struggle with him, because she was unable to move. Another officer handcuffed her. She was taken to the police station. From there, she went to the hospital and then home. A day or two later, she filed excessive force and misconduct charges against Cancino with the police department, which were still pending at the time of trial.

¶ 12 On cross-examination, the prosecutor took defendant through her testimony again. Then he confronted defendant with Cancino's, Maschek's, and Quinn's testimony and asked her nine separate times if those officers were lying. Defense counsel objected twice through this sequence that the questions were argumentative, and the court overruled the objections. Defense counsel objected a third time on the ground of relevance, which the court sustained. Defendant then rested.

¶ 13 In closing argument, defendant argued that Cancino overreacted due to a stressful situation when he slammed her face into the hood of the squad car and then had to make up a story about her violating the crime scene and being disrespectful to explain why he did it. Defendant also argued that Quinn, who had served 11 years with Cancino, backed up Cancino's story. Further, defendant argued, Cancino's job was in jeopardy because of defendant's complaints of misconduct and excessive force. Referring to testimony that the marked squad cars were equipped with cameras, defendant rhetorically asked where all of the videos showing defendant violating the crime scene were.

¶ 14 In rebuttal, the State argued that there were no boom microphones in the parking lot and that cameras were not "all around" the parking lot. The State also argued that the defense theory was that the three officers who testified and the 13 to 15 others at the scene had decided to come up with a particular story. At a sidebar conference, defendant objected that the State's argument violated a ruling *in limine* prohibiting the State from arguing to the jury that, in order to believe defendant, the jury would have to find that the police were lying. The court overruled the objection, noting that defendant had raised the argument in her closing argument. Before the jury, the State argued: "Again, in order for you to believe the defense's theory, you have to take it [at] face value that three officers who testified before you, the 13 to 15 officers that were there

decided they were going to have a particular version of events.” Continuing on, the State argued that it was unlikely that Cancino and all of the other officers would jeopardize their careers for a misdemeanor. The court initially overruled defendant’s objection to that argument, but then sustained a second objection as to the charge being a misdemeanor.

¶ 15 The jury found defendant not guilty of obstructing a peace officer but found her guilty of resisting a peace officer. After denying defendant’s posttrial motion, the court sentenced her to a 12 months’ conditional discharge and 150 hours of public service. Defendant filed a timely appeal.

¶ 16 II. ANALYSIS

¶ 17 Defendant contends that she was denied a fair trial by a combination of errors committed during the State’s cross-examination of her and during the State’s rebuttal closing argument. She first argues that the State’s cross-examination, in which it repeatedly asked defendant whether the police lied, was improper. Evidentiary rulings are within the sound discretion of the trial court, and we will not reverse them on appeal unless the trial court’s ruling was arbitrary, fanciful, unreasonable, or where no reasonable person would take the view adopted by the trial court. *People v. Maldonado*, 402 Ill. App. 3d 411, 416 (2010).

¶ 18 It is generally improper to ask a witness on cross-examination whether an adverse witness’s testimony was truthful. *People v. Kokoraleis*, 132 Ill. 2d 235, 264 (1989). The State asserts that defendant forfeited this argument by failing to make proper objections at trial. The record shows that the State asked defendant nine times during cross-examination whether the police officers lied. Defendant failed to object to the majority of those questions, and the three objections defendant made were on grounds of relevance and that the questions were argumentative. On appeal, a defendant cannot change or add to the basis for his objection.

People v. Watt, 2013 IL App (2d) 120183, ¶ 44. A specific objection at trial eliminates all grounds not specified. *Watt*, 2013 IL App (2d) 120183, ¶ 44. Defendant asks us to overlook that she did not preserve the issue, arguing that to apply the rule here elevates form over substance. It does not. Errors of this nature are amenable to correction by the trial court if proper objections are made. *Kokoraleis*, 132 Ill. 2d at 265. As defendant notes, there is no need for a plain-error analysis where, as here, the State confesses error. See *People v. Walker*, 232 Ill. 2d 113, 124 (2009) (the initial step in a plain-error analysis is determining whether error occurred). Rather, the question is whether the confessed error prejudiced the defendant. We observe that the jury was aware that credibility was the dispositive issue, and the evidence of defendant's guilt, bolstered by the video showing her yelling, struggling, and kicking, was strong. By the same token, having agreed with the State on appeal that such cross-examination was improper, we strongly condemn the tactics the State used in its cross-examination.

¶ 19 Next, defendant argues that the State misstated the evidence in its rebuttal closing argument when the prosecutor argued that there were not cameras "all around." We will not disturb the trial court's determination of the propriety of the State's closing argument absent an abuse of discretion that results in manifest prejudice to the defendant. *People v. Sangster*, 2014 IL App (1st) 113457, ¶ 120. Here, Cancino testified that his and Vasquez's squad cars were equipped with video cameras. In addition, Cancino testified that other squad cars at the scene "should be" similarly equipped. Defendant argues that the two videos in evidence did not capture her "darting" in and out of the crime scene or looking for her friends. She maintains that other squad cars may have recorded details that were not shown to the jury. For that reason, she concludes that the State's argument that there were not cameras all around prejudiced her. We are not persuaded. Cancino testified that other squad cars at the scene "should be" equipped with

cameras, not that they were. Moreover, there was no evidence that any other video recordings were made that were not shown to the jury. Therefore, we cannot agree with defendant that the State misstated the evidence.

¶ 20 Lastly, defendant contends that the State violated the court's ruling *in limine* when it argued in rebuttal that the defense theory required the jury to find that all of the police officers lied. Similarly, defendant asserts that it was reversible error for the State to argue that the officers would not jeopardize their jobs over a misdemeanor. We agree with the State that defendant invited both arguments.

¶ 21 Defendant argued extensively to the jury that Cancino had to make up a story about defendant darting into a crime scene in order to justify his manhandling of her that resulted in defendant lodging professional misconduct complaints against him, thus putting his job on the line. Further, defendant argued that Quinn conspired with Cancino. The prosecution's statements in rebuttal were a direct response to defendant's arguments and were not improper. See *People v. Coleman*, 158 Ill. 2d 319, 347 (1994) (prosecutor's comment that in order to believe the defendant, the jury must believe that all civilian witnesses, all of the police, and all of the experts lied was not improper where invited by defense counsel's closing argument). Accordingly, we hold that defendant's right to a fair trial was not violated, and we affirm her conviction of resisting a peace officer.

¶ 22

III. CONCLUSION

¶ 23 For the reasons stated, we affirm the judgment of the circuit court of Lake County.

¶ 24 Affirmed.