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IN THE  
APPELLATE COURT OF ILLINOIS  
SECOND DISTRICT

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THE PEOPLE OF THE STATE	)	Appeal from the Circuit Court
OF ILLINOIS,	)	of Du Page County.
	)	
Plaintiff-Appellee,	)	
	)	
v.	)	No. 11-CF-2090
	)	
GEORGE L. HOOPER,	)	Honorable
	)	Blanche Hill Fawell,
Defendant-Appellant.	)	Judge, Presiding.

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JUSTICE SCHOSTOK delivered the judgment of the court.  
Justices Zenoff and Spence concurred in the judgment.

**ORDER**

¶ 1 *Held:* The State proved defendant guilty beyond a reasonable doubt of residential burglary: the trial court could find that, although the victim consented to defendant's entry, she subsequently communicated the revocation of her consent and he remained with the intent to harass her, thereby committing the felony of harassment of a witness.

¶ 2 After a bench trial, defendant, George L. Hooper, was convicted of, among other offenses, residential burglary (720 ILCS 5/19-3(a) (West 2010)). The trial court sentenced defendant to six years' imprisonment on this conviction. On appeal, he argues that the evidence did not prove him guilty beyond a reasonable doubt. We affirm.

¶ 3

### BACKGROUND

¶ 4 The State charged defendant with six counts of home invasion (720 ILCS 5/2-11(a)(1), (a)(2) (West 2010)) (counts I-VI); three counts of armed violence (720 ILCS 5/33A-2(a) (West 2010)) (counts VII-IX); one count of armed robbery (720 ILCS 5/18-2(a) (West 2010)) (count X); two counts of residential burglary (720 ILCS 5/19-3(a) (West 2010)) (counts XI, XII); two counts of aggravated domestic battery (720 ILCS 5/12-.33(a), (a-5) (West 2010)) (counts XIII, XIV); and one count each of harassment of a witness (720 ILCS 5/32-4a (a)(2) (West 2010)) (count XV), aggravated battery (720 ILCS 5/12-4(b)(1) (West 2010)) (count XVI); and harassment by telephone (720 ILCS 135/1-1(2), (4) (West 2010)) (count XVII). The State nol-prossed counts V, VI, VIII, and XII. The trial court found defendant not guilty of counts I-IV and guilty of the remaining counts.

¶ 5 The trial court initially sentenced defendant to consecutive 10-year prison terms on the remaining armed-violence counts (counts VII, IX). The other sentences, all to run concurrently with the sentence on count VII, were six years for armed robbery (count X); six years for residential burglary (count XI); five years for aggravated battery (count XVI); and four years for harassment by telephone (count XVII). The court vacated the convictions on counts XIII, XV, and XVI. On defendant's motion, the court subsequently vacated both armed-violence convictions (counts VII, IX); reinstated the convictions on counts XIII, XV, and XVI, but merged count XII into count XVI; and let stand the sentences on counts XI, XIV, and XVII. The court then resentenced defendant to seven years on count XIII and six years on count XV. All of defendant's remaining sentences were made concurrent.

¶ 6 The residential-burglary charge alleged that, on September 3, 2011, defendant, without authority, entered or remained in the residence of Kimberly Bozich with the intent to commit a felony, harassment of a witness, therein. We set out the evidence that is pertinent to this appeal.

¶ 7 The State first called Steven Zamiska, a Glendale Heights police officer. He testified as follows. On September 3, 2011, at about 12:28 a.m., he drove to Bozich's townhome at 1130 Harbor Court. Martin Vaughan met him in the driveway. Zamiska called for assistance and entered the townhome. Inside, Bozich was standing in her living room; a bloodstained towel was wrapped around her left arm. She was wearing a T-shirt and jeans. Her dog was in a cage near the kitchen area. Paramedics treated Bozich and took her to the hospital.

¶ 8 Zamiska testified that he secured the scene and stepped out onto the patio with Vaughan. There was a brown baseball cap on a table by the patio door. At Zamiska's request, Vaughan wrote out a statement. As Vaughan was writing, his cell phone rang four or five times. He answered and put the phone on speaker so that Zamiska could listen. In each call, either there was silence or a man was laughing. Zamiska had the dispatcher "ping" the caller's number and stayed on the scene until other officers arrived. At trial, he identified several photographs, later admitted into evidence, showing blood drops on the threshold and living-room floor of the townhome.

¶ 9 The State next called Vaughan, who testified on direct examination as follows. He and Bozich were friends, and he had visited her residence many times. He also knew defendant and had seen him once before September 3, 2011. On August 21, 2011, Vaughan was visiting Bozich. She had found a gun inside a backpack in her bedroom. She and Vaughan went to the police station and turned the gun over to officers there. Early the next day, August 22, 2011,

defendant came over to Bozich's townhome but left soon. Vaughan stayed at Bozich's residence for the next three to four evenings but did not see defendant at all.

¶ 10 Vaughan testified that, on September 2, 2011, he accompanied Bozich and Ken Flowers to Sycamore Speedway for the evening. They left the speedway in Vaughan's truck at about 10 p.m. and drove to his home in Carol Stream. From there, they picked up Bozich's vehicle, drove her car back to her place, and parked it down the street. Vaughan then drove Flowers home, in his truck. He returned and dropped Kimberley off around the corner from 1130 Harbor Court. Vaughan testified that he dropped her off there because she did not want anyone to see that he had been driving her around. After dropping Bozich off, Vaughan arrived home at about 11:45 or 11:50 p.m.

¶ 11 Vaughan testified that, shortly after he got home, he went onto Facebook and, at about 12:05 a.m. on September 3, 2011, received an instant message from Bozich reading "help." Vaughan sent back several messages and phoned Bozich, but got no response. He drove to her townhome and parked 100 to 200 feet away from her front door. Vaughan walked up to the front door and tried to ring the bell, but "it didn't go." He used the keys that he had to open the screen door, then the single front door, and entered the apartment. The living room lights were on.

¶ 12 Vaughan testified that, on entering, he first saw Bozich's dog standing in the living room. He heard nothing. Vaughan then saw the bedroom door open. Defendant came out. He looked "shocked" to see Vaughan and appeared to be holding something in his left arm. Bozich then came out of the bedroom. Vaughan asked defendant what he was doing there and said that he was not supposed to be there. As Vaughan made his remarks, Bozich walked away toward the corner of the hallway to go to her garage. Defendant followed her. Defendant did not touch her

at first, but they had “a little scuffle over in the entryway”; defendant was trying to make contact with Bozich, and she was trying to keep him away.

¶ 13 Vaughan testified that, after the “scuffle,” defendant walked back to the bedroom, and Bozich followed. Defendant said that he was going to get his gun and kill Vaughan and Bozich. He entered the bedroom, stayed for about a minute, then came out. Vaughan noticed that defendant had his shoes in one hand and a long, sharp object in his right arm. Vaughan tried to grab defendant’s shirt collar but missed. Defendant was walking toward the front door, in the direction of Bozich, who was in the middle of the living room. As defendant faced Bozich, he raised his right arm, which still contained the sharp object; she raised her arms to shield herself; defendant stabbed her in the arm with the object, lowered his arm, and went out the front door; and Bozich lowered her arms. Her left arm was bleeding. Vaughan called 911. Later, he went outside but did not see defendant. Vaughan then spoke to Zamiska.

¶ 14 Vaughan testified that Bozich had a personal phone and a work phone. Vaughan had seen the personal phone in her bedroom; the screen was cracked and the back cover was off. As Vaughan wrote a statement for Zamiska, his phone rang several times; he could tell that the caller was using Bozich’s work phone. Vaughan put the calls on speaker so that Zamiska could hear. Vaughan heard a male voice breathing heavily and laughing. Vaughan identified several photographs, later introduced into evidence, that showed bloodstains that he had seen on the evening of the stabbing. He had seen blood on the sheets and on the floor near the bed.

¶ 15 Vaughan testified on cross-examination as follows. As of September 3, 2011, he and Bozich had not had more than a friendly relationship, although he did have keys to her home. On September 2, 2011, at about 6:30 p.m., they left for the speedway. They spent the evening there together. Vaughan saw Bozich talking on her phone but did not know with whom she was

talking. Afterward, Vaughan dropped Bozich off at the corner about 300 to 400 feet from her front door. She did not want him to escort her to the door, as she did not want anyone to know who he was.

¶ 16 Vaughan testified that, after receiving the Facebook message and driving back to Bozich's residence, he saw that the lights were on outside. Both doors were locked. The front door was about 20 feet from the living room. Once inside, Vaughan stood about 30 seconds before the bedroom door opened; in the meantime, everything was quiet. He heard no screaming, yelling, scuffling, or disturbances. When defendant exited the bedroom, he was walking at a casual pace and showed no expression other than shock at seeing Vaughan. Vaughan did not notice defendant sweating or breathing heavily. Defendant had no shoes on. Bozich followed defendant out; she was not yelling or screaming. Vaughan did not recall her saying anything to him. She was wearing gray pants and a pinkish tank top, "[b]edtime clothing," which was not what she had worn at the speedway. As defendant and Bozich walked to the garage, she did not appear panicked. As best Vaughan could recall, after the scuffle and defendant's return to the bedroom, Bozich did not attempt to walk out through the patio door or the garage. She did not ask Vaughan to call the police, and he saw no reason to do so.

¶ 17 Bozich testified on direct examination as follows. She met defendant in July 2011, and they began dating. Around the second or third week of August, however, she ended the relationship. On August 21, 2011, around 10 p.m., she was home alone, cleaning, when she found defendant's backpack. A large handgun was inside. Bozich removed the gun, put the other things back into the backpack, and called Vaughan. Defendant had possession of Bozich's truck at the time; although she had allowed him to use it for an hour, he had not returned it yet. Vaughan drove her in his truck to the police station, where she turned in the gun and learned that

there was a court case involving defendant and the gun. Vaughan then drove her home. He stayed there with her for the next two days.

¶ 18 Bozich testified that, at about 2:30 a.m. on August 22, 2011, she and Vaughan heard somebody try to open the locked garage door. Bozich called the police, looked out, and saw that defendant was trying to unlock the front door by using the house keys that were in the center console of her truck. Because Bozich had called the police, she opened the front door. Defendant came inside and demanded to know where his things were. Bozich told him that they were outside by a bush. Defendant told her that if his bag was out there with the gun he would kill her. Eventually, the police arrived and defendant was arrested.

¶ 19 Bozich testified that, on August 22, 2011, she obtained an order of protection against defendant. Between August 22, 2011, and September 2, 2011, she and defendant did not see each other but did call each other a number of times. Bozich used her personal cell phone; defendant used several numbers, including his personal cell phone and his mother's home phone. Although they were no longer dating, Bozich talked with defendant "to appease" him.

¶ 20 Bozich testified that, on September 2, 2011, at about 6 or 7 p.m., Vaughan drove her and Flowers to Sycamore Speedway. The three left the speedway at 10:30 or 11 p.m. They stopped first at Vaughan's house so that she could pick up her father's truck. Next, she drove her father's truck, following Vaughan, and parked in an overflow parking spot. Bozich did not park in her driveway because she did not want anything to happen to the truck. The three people then got into Vaughan's truck and drove to Flowers' home and dropped him off. Vaughan then returned to the vicinity of Bozich's townhome but dropped her off around the corner. She testified that he did so because she had once been "threatened" and did not want others, especially defendant, to know where the truck was. After Vaughan dropped her off, he drove home.

¶ 21 Bozich testified that she then walked around the corner toward her house. She got to the front door and inserted the key into the screen door. She heard some noises behind her, turned around, and saw defendant lying behind her in her bushes. He got up and told her to get inside the house. Both of them had their hands on the keys. They got the screen door unlocked, then unlocked the main door. Defendant shoved Bozich inside; she hit the wall. Defendant said that he was going to kill her for turning in his gun.

¶ 22 Bozich testified that, as of September 2, 2011, she had had an alarm system in her home for perhaps three days. She had armed the system when she went to the speedway earlier that night. After defendant made his threat, however, she disarmed it because she was “in panic mode.” Next, she put her purse onto the couch. By this time, defendant had asked her repeatedly for her phone and she had told him that her phone was dead. Defendant took both of her phones out of her purse, put her work phone in his back pocket, and tried to turn on her personal phone. Bozich went into the kitchen to get something to drink. Defendant cornered her with her back to the counter. He said that he would kill her and tried to approach her and choke her. She fled over the countertop, hitting her back.

¶ 23 Bozich testified that, after jumping over the counter, she entered her bedroom to use the “panic button” that went with the new alarm. She pressed it, but it did not activate. Defendant had been coming up slowly behind her. As Bozich was taking off her jeans and sweatshirt, defendant entered the bedroom and told her not to get dressed until he had done a “sniff test”—smelled her vagina to check whether she had been out with other men. Bozich complied, defendant performed the test, and Bozich changed into gray pants and a tank top. Defendant then threw her partially onto the bed, straddled her legs, and tried to choke her with one hand.



With his free hand, defendant tried to see whether there were any messages on Bozich's personal cell phone. He repeatedly said that he was going to kill her.

¶ 24 Bozich testified that defendant stopped choking her, left the bedroom, and returned with her letter opener. He stood over her as she lay on the bed and he told her that he would stab her. He drew his hand up; Bozich put her hand on his chest and pleaded with him not to stab her. Defendant put his hand down but said that he still wanted to kill her. Bozich managed to move to the other side of the bed. Defendant continued to question her. He wanted to know why there were no messages on her cell phone. Bozich told him that she could prove that there were no messages by checking her laptop on the living-room couch. Both of them left the bedroom.

¶ 25 Bozich testified that she showed defendant that her laptop had no messages. He said that he did not believe her. She offered to open a different page to prove it. Then she noticed that Vaughan was on chat, so she typed the message "Help" to him, sent it, and closed the laptop. Defendant threatened to break the laptop. Both he and Bozich were standing at this point; he chased her, and she ran back into the bedroom. Defendant followed her in, closed the door, and repeated that he would kill her. He threw her personal cell phone against a wall, shattering it.

¶ 26 Bozich testified that, at that point, she heard Vaughan's truck and saw her dog coming in through the open door from the bathroom. Defendant opened the bedroom door and saw Vaughan standing right outside. The two men exchanged words. Bozich got between them and ran toward her alarm, which was located between the front door and the garage door. She wanted to hit the "panic button" on the wall. Defendant was holding the letter opener in his right hand. He chased after her and pushed her against the wall. He made a "stabbing motion" and stopped because Vaughan was running toward him from behind. Bozich had her back to the

garage door. Defendant turned around as though to stab Vaughan. Bozich tried to pull down both of defendant's arms and kick him, but to no effect.

¶ 27 Bozich testified that defendant then said that he was going back to the bedroom to get his shoes and that he also had a gun there. As he walked back, Bozich did not try to exit through the front door; she was concerned for Vaughan's safety. Defendant came out of the bedroom, holding his shoes, as Bozich and Vaughan stood near the front door. Defendant approached Bozich and was facing her. He put on his shoes. He was still holding the letter opener. He raised his arm and made a stabbing motion with the letter opener. Bozich raised her left arm and realized that she had been stabbed; blood was flowing out of two holes in her shirt. Defendant ran out the door, still holding the letter opener. Vaughan called 911. Defendant still had Bozich's work phone. Bozich washed her wounds, wrapped a towel around her arm, and entered her bedroom and gathered the remnants of her personal cell phone.

¶ 28 Bozich testified that, when she borrowed her father's truck in late August 2011, she was afraid that defendant or his friends would harm it, which was why she parked it away from her home. She did continue to talk to defendant by phone between August 22, 2011, and September 2, 2011, but only "to save face and keep [her] enemies closer" and to placate him. When she tried to enter her home on September 2, 2011, both she and defendant had their hands on the keys. She did not invite him in and never consented to his entry into her home. She asked him "[p]robably a good ten times" to leave. Asked why she turned off the alarm when she entered the home along with defendant, Bozich testified, "Panic mode. Just the normal routine of what I did when I came into the house." She was also afraid that, because defendant was already angry, she would be in even greater danger from him if she let the alarm go off.

¶ 29 Bozich testified on cross-examination as follows. After she started dating defendant, they saw each other every day, and he frequently spent the night in her home. On the afternoon of August 21, 2011, she told him that she was breaking off the relationship. After she turned his gun over to the police, she did not tell him what she had done. On August 22, 2011, Bozich obtained an order of protection against defendant. Between August 22, 2011, and September 3, 2011, she never made contact with defendant in person. On August 27, 2011, she was at the Fox and Hound in Aurora; defendant was outside, but Bozich did not make contact with him. Bozich agreed that Jessica Meyer had been with her that evening, but she denied having told Meyer to tell the police that Bozich had not been with defendant that night. Bozich denied having been in a vehicle with Meyer and defendant on the evening of August 27, 2011.

¶ 30 Bozich testified that, on August 25, 2011, she placed four calls to defendant; on August 26, at least three calls to him; on August 27, at least five calls to him; on August 28, at least six calls. She did not deny that, on August 30, 2011, she made 12 calls to defendant, although she did not remember making that many. She did not remember how many calls she made to defendant on August 31, 2011, or September 1, 2011. She admitted that, on September 2, 2011, she made approximately six calls to him. Bozich denied having called defendant while she was at the speedway on September 2, 2011, but she acknowledged that he called her and she tried to call back, although she gave up because she “couldn’t hear.” Bozich also admitted that, while the order of protection was in effect, she had some communication with his family, including conversations with his sister, Telissa. Bozich said that she did so to avoid problems with Telissa.

¶ 31 Bozich testified that she never had a dating relationship with Vaughan, but he had keys to her townhome and sometimes spent the night there. Despite her safety concerns, she let him drop her off around the corner from her home and not walk her to the door. When she showed

up, the townhome's lights were on. As she walked past the patio, she noticed nothing on the patio table. After defendant surprised her, he spoke, but she noticed no weapons in his hands. Although the alarm had been activated, when he shoved her inside she deactivated the alarm.

¶ 32 Bozich admitted that, after moving to her couch to show defendant her laptop, she made no effort to get out the front door. She talked him out of breaking the laptop, and they returned to the bedroom. When she moved toward the alarm near the garage door and defendant followed, she never tried to get out through the front door.

¶ 33 In the remainder of her testimony, Bozich stated as follows. She had Vaughan drop her off around the corner from her townhome because she did not know whether defendant or a member of his family was waiting for her or stalking her. However, she was not afraid to walk the extra distance without Vaughan's escort, as "[n]othing had happened prior" and she had thought that she was safe. Bozich had had the alarm installed either late in August or early in September. Once she opened her front door, the alarm started beeping, so she shut it off. Both she and Vaughan told defendant "probably five or six times" to leave her home.

¶ 34 After the State rested, defendant testified on direct examination as follows. He and Bozich began dating in June or July 2011. After August 22, 2011, when defendant was arrested at Bozich's townhome, the relationship continued; they called each other and, although defendant resided with his mother, he spent at least one night at Bozich's townhome at her request. Defendant met Meyer, Bozich's coworker, one night in August when Bozich, Meyer, and a friend named Rachel picked him up at his mother's home and went with him to Kimberley's residence, where they drank and used drugs. Afterward, they went to the Fox and Hound, then Rachel's home and Meyer's home. Defendant spent the night at Bozich's home.

¶ 35 Defendant testified that, at about 7 a.m. on September 2, 2011, he left Bozich's home after spending the night there. She called him from the speedway and asked him to be at her home later that evening. He arrived at about 11:20 p.m. Bozich had not come home yet. When she came around the corner and onto her patio, they conversed briefly; she calmly unlocked the screen door and the inner door without his assistance; and she entered the home. Defendant did not push or threaten her at all. He followed her inside. She disabled the alarm without any prompting from defendant and entered her bedroom. Defendant followed her in.

¶ 36 Defendant testified that, as Bozich changed her clothes, he started "look[ing] through her phone," which made Bozich angry. She yelled at defendant, swung at him, and pushed him. Bozich then exited the bedroom, took her laptop, opened it, and tried to show defendant that she had not been "talking" to anyone. Bozich then returned to her bedroom and closed the door; defendant followed her in; and she jumped into bed. They started to talk calmly, without arguing or pushing. Next, defendant heard the front door slam. Defendant, who was barefoot, left the bedroom, opened the front door, and saw Vaughan standing by the patio table. Bozich had followed defendant there. Defendant tried to run after Vaughan but did not get far, as he did not have his shoes on. He was carrying nothing in his hands.

¶ 37 Defendant testified that next he returned to her bedroom, where he put on his shoes. Bozich was near the front door, and Vaughan was in the living room near the patio. Defendant ran out of the bedroom toward the front door, trying to leave the townhome. He had nothing in his hands. At that point, Bozich jumped on his back and wrapped her arms around his neck. She had her letter opener in her right hand; defendant did not see where she had gotten it. Defendant eased her off his back by grabbing and twisting her right hand, which knocked the letter opener to the floor. Bozich then charged at him, and he ran out the front door. During the encounter,

defendant never stabbed her with the letter opener; never saw her get stabbed; and did not know how she got stabbed. He never told Bozich that he was going to kill her; never ordered her to remove her clothes; and never told her that he was going to check her to see whether she had been with another man.

¶ 38 Defendant testified on cross-examination as follows. On August 21, 2011, he left a backpack, with a gun inside, at Bozich's residence. He also borrowed her truck to run some errands, but he did not return until 3 a.m. on August 22. He tried to unlock the garage door with the keys that he had gotten from Bozich, but the door would not open, and she started yelling. Defendant testified that he was not looking for his backpack and gun when he returned, but he admitted that the police arrested him later that day. Defendant told the police that he was "kind of" suicidal, so they took him to the hospital. At the hospital, defendant escaped to his mother's house, where he called Bozich. She came over, picked him up, and drove him to her townhome, where he stayed overnight.

¶ 39 Defendant testified that, on the morning of August 23, 2011, Bozich drove him to his sister's home. Later, she drove him to her home, where he had some clothing. Defendant admitted that, on September 14, 2011, he told Rhonda Kirstein, a police detective, that he stayed at Bozich's home from August 22, 2011, through the confrontation of September 2, 2011.

¶ 40 Defendant testified that between August 22, 2011, and September 2, 2011, he and Bozich talked on the phone several times. On September 2, 2011, they exchanged calls while she was at the speedway. Defendant denied waiting in the bushes for Bozich, forcing her inside, or choking her in her bedroom. He also denied having told Kirstein that he choked Bozich, grabbed her by the throat, or looked at her cell phone and discovered that she had been talking to someone named Ken. He admitted that he demanded that Bozich take off her clothes so that he could

perform a “sniff test,” but he denied that he performed the test. He denied telling Kirstein that, while Bozich was changing in the bedroom, he took a letter opener from her office and asked whether she and Vaughan were going to use it on him the night that they turned in his gun.

¶ 41 Defendant denied that he ever told Bozich to turn off the alarm. He also denied having told Kirstein that he followed Bozich to the alarm and told her not to press the panic button because he knew that there was a warrant for his arrest for possessing the gun.

¶ 42 Defendant rested. The trial court admitted the *Miranda* waiver that defendant had signed and the statement that he had written on September 14, 2011. The State then called Kirstein, who testified as follows. On September 14, 2011, she interviewed defendant at the jail. She asked him whether he had choked or pushed Bozich; he responded that he never touched her. When Kirstein asked him how Bozich got the red marks that Kirstein had seen on Bozich’s neck, defendant admitted, “I did choke her,” then explained that he grabbed her with one hand and pushed her onto her bed after he saw on her phone that she had been talking to “Ken.” Defendant then admitted that, while Bozich was changing, he took a letter opener out of her office and asked her whether that was what she and Vaughan were going to use on him the night that they turned in his gun. He added that at one point he followed Bozich to the alarm and told her not to press the panic button because he knew that there was a warrant out for him. He never admitted having stabbed Bozich.

¶ 43 The trial court accepted the following stipulation. If called, Meyer would testify that she was a coworker of Bozich on August 27, 2011; that she made a statement to the police; and that she later told the State’s Attorney’s office that her report was not completely accurate. Meyer would testify that, on August 27, 2011, she and Bozich attended a party at the Fox and Hound. After two hours, Bozich drove to defendant’s mother’s home and picked up defendant, after

which the three drove to Bozich's residence and hung around for a while. In September 2011, Bozich told Meyer that the police might call her about the events of August 27, 2011. She told Meyer to tell them that defendant was not with them that night.

¶ 44 After hearing arguments, the trial judge stated the following. It did not make sense that Bozich was afraid of defendant yet let Vaughan drop her off around the corner from her townhome, or that she was afraid of defendant yet disabled her alarm as she entered the building. Thus, the judge could not find beyond a reasonable doubt that defendant entered Bozich's townhome without authority, and defendant was not guilty of home invasion. Nonetheless, the evidence did prove beyond a reasonable doubt that, once defendant entered, things did "go bad." In this respect, Bozich's testimony and the other pertinent evidence the State presented were credible. As relevant here, the court convicted defendant of residential burglary. After the posttrial proceedings detailed earlier, we allowed defendant to file a late notice of appeal.

¶ 45

#### ANALYSIS

¶ 46 On appeal, defendant argues that he was not proved guilty beyond a reasonable doubt of residential burglary. A person commits residential burglary when he knowingly and without authority enters or knowingly and without authority remains within the dwelling place of another, or any part thereof, with the intent to commit therein a felony or theft. 720 ILCS 5/19-3(a) (West 2010). The State alleged that defendant entered and remained in Bozich's townhome with the intent to commit a felony, harassment of a witness. As pertinent here, a person commits harassment of a witness when, with the intent to harass or annoy one who may be expected to serve as a witness in a pending legal proceeding, he communicates directly or indirectly with her in such manner as to produce mental anguish or emotional distress or conveys a threat of injury or damage to her property or person. See 720 ILCS 5/32-4a (a)(2) (West 2010).



¶ 47 Defendant observes that, in acquitting him of home invasion and finding that Bozich consented to his entry into her townhome, the trial court negated any basis to find, beyond a reasonable doubt, that he entered her dwelling place without authority. Thus, he reasons, his conviction may be sustained only if the State proved beyond a reasonable doubt that he *remained* inside without authority *and* with the intent to commit harassment of a witness. Defendant asserts that, although the trial court could properly find that Bozich eventually revoked her consent to defendant's presence in her townhome, there was insufficient evidence that, by the time she did so, he still intended to commit harassment of a witness.

¶ 48 We set out the general principles of our review. In considering a challenge to the sufficiency of the evidence, we ask only whether, after viewing all of the evidence in the light most favorable to the State, any rational fact finder could have found the elements of the offense proved beyond a reasonable doubt. *People v. Ward*, 154 Ill. 2d 272, 326 (1992). The trier of fact is responsible for determining the witnesses' credibility, weighing their testimony, and deciding on the reasonable inferences to be drawn from the evidence. *People v. Hill*, 272 Ill. App. 3d 597, 603-04 (1995). We do not retry the defendant. *People v. Lamon*, 346 Ill. App. 3d 1082, 1089 (2004).

¶ 49 Defendant argues that, by the time Bozich revoked her permission for him to be in her townhome, he no longer intended to harass her. Defendant concedes that, at some points, he did annoy, threaten, or harass Bozich. However, noting the uncertainty in the evidence as to when Bozich told him to leave, defendant contends that, by that point, he had "already finished harassing [Bozich]" and intended to do no more (or at least that the contrary finding could not be made beyond a reasonable doubt). Thus, he reasons, there was a reasonable doubt that at any point he both (1) lacked authority to remain inside; and (2) intended to harass Bozich.

¶ 50 The State responds primarily that defendant posits a higher burden than the law required, in that he contends that the evidence had to prove an explicit revocation of authority, after which defendant still intended to commit the felony of witness harassment. The State contends that, in *People v. Dillavou*, 2011 IL App (2d) 091194, this court held that a person can lose authority to remain in a dwelling even if the possessor has not explicitly revoked the permission that she granted earlier. The State argues that, per *Dillavou*, the trial court could find beyond a reasonable doubt that Bozich implicitly revoked her authorization when defendant formed the intent to commit harassment of a witness.

¶ 51 We hold first that, even aside from *Dillavou*, the trial court could find beyond a reasonable doubt that, after Bozich revoked her permission for him to be in her home, defendant remained with the intent to commit harassment of a witness.

¶ 52 Whatever imprecision there might have been in the timeline, the trial court could find that Bozich twice communicated to defendant, by unmistakable implication, that she did not want him in her townhome anymore. The first time was when, in the kitchen, defendant cornered her; told her that he would kill her and tried to choke her and, in response, Bozich fled and attempted to activate the “panic button” in her bedroom. It was a fair inference that defendant’s actions soured Bozich on defendant’s presence and that he knew it. The second time was when Bozich left the bedroom, she moved toward her alarm in order to press the “panic button,” and defendant pursued her. (Notably, this occurred after defendant had followed her into the bedroom, tried to choke her, and said that he would kill her.) The court could infer that, when Bozich left the bedroom and moved toward the alarm, defendant knew that she was going to sound the alarm and thus he knew that she no longer desired his presence in her home. The court could also infer that, at that time, defendant had already formed the intent to harass Bozich, as shown by his

anger at her discovery of his gun, his statements to her that he would kill her, and his subsequent conduct in following her and stabbing her.

¶ 53 We therefore conclude that the trial court could find beyond a reasonable doubt that, after Bozich signaled that she no longer wanted defendant in her home, he nonetheless remained and intended to continue harassing, annoying, and threatening her. Moreover, the implicit requests to leave were not the sole ground for finding that defendant remained without authority and while intending to commit harassment of a witness. As defendant concedes, Bozich told him explicitly more than once to leave. The trial court could infer that, even so, defendant persisted in remaining and that he intended to harass her further. After all, defendant did not exit the townhome until after he had stabbed Bozich, and it was a fair inference from the evidence that, up until the moment of the stabbing, he intended to intimidate and threaten her over the matter of his lost gun (and perhaps for other reasons as well).

¶ 54 Defendant's argument that he could not have intended to harass Bozich, because he had already finished doing so, is a *non sequitur*. Defendant could harass and threaten Bozich more than once, and he could intend to do more of it even after he had already done so once.

¶ 55 We hold second that, under *Dillavou*, the trial court could find beyond a reasonable doubt that defendant remained in Bozich's townhome, without her authorization, and while he intended to commit harassment of a witness. In *Dillavou*, the defendant initially entered the victims' home with their permission in order to do work for a contractor. While there, he took a pouch containing the victims' personal property, a camera. The camera was later found in the defendant's car during a traffic stop. The trial court convicted the defendant of residential burglary, rejecting his testimony that he had thought that the pouch contained a tape measure. *Dillavou*, 2011 IL App (2d) 091194, ¶¶ 2-6.

¶ 56 This court affirmed, holding that the defendant had been proved guilty beyond a reasonable doubt of remaining in the victims' home without their authority and while intending to commit a theft therein. We rejected the defendant's argument that the State had failed to prove that the victims had revoked or withdrawn their permission for him to be in their home. We explained that no express revocation was needed, because "a defendant's authority to be in the home of another person is *implicitly* withdrawn when the defendant forms the intent to commit a crime." (Emphasis in original.) *Id.* ¶ 16; see *People v. Racanelli*, 132 Ill. App. 3d 124, 134 (1985). Also, the formation of the criminal intent need not precede the defendant's entry, as burglary can be predicated on unlawfully remaining in the dwelling. *Id.* ¶ 18; see also *People v. Bradford*, 2014 IL App (4th) 130288, ¶¶ 28-29, *appeal allowed*, No. 118674 (Ill. Mar. 25, 2015).

¶ 57 Defendant argues that *Dillavou* misapplied the doctrine of limited authority by extending it to remaining inside a dwelling instead of its original context, unlawful entry. We see no reason why the doctrine of limited authority need be "limited" to entering. In *Racanelli*, the defendants, who were convicted of both burglary and home invasion, entered the victim's apartment with his authority but then attacked him and removed his belongings. The appellate court affirmed, holding that the defendants' presence in the apartment was "without authority" (as required for a conviction of either offense) once they attacked the victim. *Racanelli*, 132 Ill. App. 3d at 134-35. The court cited *People v. Hudson*, 113 Ill. App. 3d 1041, 1045 (1983), in which the court held that the defendants, who had entered an apartment with the victims' authorization, exceeded their authority when they attacked their hosts and stole their property.

¶ 58 Defendant asserts that *Dillavou* erred in stating that *Racanelli* held that authority is implicitly withdrawn whenever the defendant forms the intent to commit an offense. Strictly speaking, defendant is correct. However, *Dillavou* is consistent with *Racanelli* and *Hudson* and,

equally important, with the residential-burglary statute. In practical terms, there is little difference between (1) the defendant exceeding the authority granted by the possessor and (2) the possessor implicitly revoking the authority that she granted under the assumption that the defendant would not commit, or intend to commit, a felony or theft. In the interest of *stare decisis*, we adhere to *Dillavou*. In any event, even without *Dillavou*, the trial court could find beyond a reasonable doubt that defendant remained in Bozich's dwelling without authority and with the intent to commit a felony.

¶ 59 For the foregoing reasons, the judgment of the circuit court of Du Page County is affirmed. As part of our judgment, we grant the State's request that defendant be assessed \$50 as costs for this appeal. 55 ILCS 5/4-2002(a) (West 2014); see also *People v. Nicholls*, 71 Ill. 2d 166, 179 (1978).

¶ 60 Affirmed.