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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 McHenry County.
)	
Plaintiff-Appellee,)	
)	
v.)	No. 12-CF-1048
)	
ERIC S. SORENSON,)	Honorable
)	Sharon L. Prather,
Defendant-Appellant.)	Judge, Presiding.

JUSTICE HUDSON delivered the judgment of the court.
Justices Burke and Birkett concurred in the judgment.

ORDER

¶ 1 *Held:* Although the trial court did not err in preventing defendant from asking a State witness whether she had been subpoenaed, which was irrelevant to her credibility, it did err in preventing him from asking whether she had been led to believe that she might lose her children if she did not testify, which indeed might have affected her credibility; nevertheless, the error was harmless, as the evidence of defendant's guilt was overwhelming.

¶ 2 Following a jury trial in the circuit court of McHenry County, defendant, Eric S. Sorenson, was found guilty of armed robbery (720 ILCS 5/18-2 (West 2012)) and was sentenced to a 25-year prison term. On appeal, he argues that the trial court improperly restricted his cross-

examination of one of the State's witnesses, thereby violating his right to confront that witness. We affirm.

¶ 3 At trial, Ketan Patel testified that on September 2, 2012, he was working as a pharmacist at a CVS store in Crystal Lake. At about 9:30 p.m., a man with facial hair walked up to the prescription counter. The man was wearing jeans, a hooded sweatshirt, sunglasses, and a hat. He handed Patel a note demanding all of the pharmacy's stock of oxycodone pills. Patel testified that he was not sure exactly what the note said. He acknowledged, however, that, in connection with the investigation of the incident, he prepared a written statement indicating that the note demanded 30-milligram oxycodone pills. While Patel was reading the note, the man placed a handgun on the counter. Patel testified that the weapon was not a revolver, but was "like one of those automatic kind of things." In an attempt to obtain defendant's fingerprints, Patel offered him containers of various medicines. The man wanted only 30-milligram immediate-release oxycodone pills. Patel gave him three full bottles of the pills. Each bottle contained 100 pills. The man then walked out of the store.

¶ 4 A video recording of the incident from a security camera was admitted into evidence and was played for the jury. In addition, a hooded sweatshirt and a handgun were admitted into evidence as People's exhibits 14 and 15, respectively. Patel testified that People's exhibit 14 appeared to be the sweatshirt that the robber had worn. People's exhibit 15 resembled the handgun that Patel had seen during the robbery.

¶ 5 Two other CVS employees—Courtney Almen and Hermila Schlueter—also testified for the State. On the night of the robbery, Almen was working in the front of the store. She testified that the man shown in the security video exited the store and drove off in a silver four-door sedan with a rear spoiler. The vehicle had no rear license plate. Schlueter testified that, on the night of

the robbery, she observed a man at the pharmacy counter wearing sunglasses, a hat, and a hoodie. After the man left the store, he walked quickly to a silver sports car with no license plates and then drove off. Schlueter believed that the Mazda insignia appeared on the vehicle. Almen and Schlueter both identified People's exhibits 20 and 22 as photographs of the vehicle they had seen the suspected robber drive off in.

¶ 6 Erin Dorsey testified that she lived in Missouri, where she worked as a teacher. She had known defendant for about 14 years. In September 2012, Dorsey had a romantic relationship with defendant. She was married to someone else at the time. Early in the afternoon of September 2, 2012, defendant contacted Dorsey. He told her that he wanted to get away from Crystal Lake. Dorsey traveled to Crystal Lake and met with defendant at a Holiday Inn in the early morning hours of September 3, 2012. Defendant had a gun with him. The gun was in a box that had the "Glock symbol" on it. Defendant was acting nervous. Later on September 3, 2012, they drove to Missouri. A few days later, defendant told Dorsey that he had heard from his friend Nick that the CVS store in Crystal Lake had been robbed. Defendant related that Nick said that a photograph of the suspect resembled defendant. Defendant told Dorsey that Nick had sent him a newspaper photograph of the suspect.

¶ 7 At trial Dorsey was shown a still photograph from the CVS store's surveillance video of the individual who committed the robbery. Dorsey identified the individual in the photograph as defendant. She recognized the shape of defendant's hands, his body language, his facial hair, and the lines around his mouth. Dorsey testified that on October 23, 2012, two detectives from the Crystal Lake police department met with her in Missouri and showed her a still photograph of the suspect taken from the surveillance video. The meeting took place at the school where Dorsey taught. She told the detectives that the individual in the photograph resembled

defendant. At that time, she believed that. However, she later spoke with defendant and he told her that he was incapable of committing an armed robbery. On October 26, 2012, Dorsey had a telephone conversation with one of the detectives. She advised the detective that the photograph did not show defendant's face. She indicated that the facial hair was different. Dorsey testified that, although the photograph "always resembled [defendant]," she wanted to give defendant the benefit of the doubt.

¶ 8 During cross-examination, defense counsel asked Dorsey if she was testifying pursuant to a subpoena. The trial court sustained the State's objection to the question. On recross-examination, defendant's attorney asked Dorsey whether she had children. After the trial court sustained the State's objection, defense counsel advised the trial court that he had spoken with Dorsey and she had indicated that a detective had shown Dorsey pictures of her children and that she was afraid that her children would be taken from her. Defense counsel added, "I think that's relevant *** to explain why she would *** give the statement that she gave." The trial court reiterated that it was sustaining the State's objection. Defense counsel asked Dorsey whether she was afraid that her job was in jeopardy when she was asked to testify. She responded as follows:

"This has cast a negative light on me. I went from being known for being a good teacher to having a principal now that has made it very difficult for me. So I guess, yeah, it does concern me."

¶ 9 Three detectives with the Crystal Lake police department—Russell Ford, Brett Nystrom, and Frank Houlihan—testified for the State. Ford spoke with Patel, Almen, and Schleuter. Schleuter drew a picture of the insignia she thought she saw on the back of the suspect's vehicle. The drawing depicted a circle with a "V" inside it. On September 5, 2012, Ford observed and photographed a silver 2003 Toyota Corolla that was parked at the home defendant shared with

his parents. Ford testified that the vehicle fit the general description of the vehicle used in the robbery. Ford identified People's exhibit 20 as a photograph of the vehicle at defendant's home. On September 12, 2012, Ford saw the same vehicle in a parking lot. He noticed that the bolts had been removed from the rear license plate. Ford pulled on the license plate and it easily came off into his hands. It had been attached to the vehicle with a magnet. Ford again photographed the vehicle. The photographs were admitted into evidence as People's exhibits 21 and 22. On October 22, 2012, Ford searched defendant's home pursuant to a warrant. In defendant's bedroom, Ford discovered bottles of 30-milligram oxycodone pills that had been prescribed to defendant. On November 2, 2012, Ford met with Nick Marmitt, who turned a Glock handgun, along with its case, over to Ford. Ford characterized Marmitt as an "associate" of defendant. The handgun was admitted into evidence as People's exhibit 15.

¶ 10 Nystrom testified that, on September 24, 2012, defendant was under surveillance. Nystrom observed defendant and Dorsey at the Country Inn and Suites hotel in Elgin. On October 31, 2012, Nystrom visited defendant's home, where he recovered a hooded sweatshirt. Nystrom identified People's exhibit 14 as the sweatshirt.

¶ 11 Houlihan testified that he spoke with defendant on October 21, 2012. Houlihan asked defendant if he was taking any medication. Defendant responded that he took 30 milligrams of instant-release oxycodone. During Houlihan's testimony, an audio recording of a telephone call placed from the McHenry County jail was played for the jury. Houlihan identified defendant and his father, Keith Sorenson, as the parties to the conversation, which took place on October 23, 2012, while defendant was in custody on a separate matter. He and defendant discussed the need to locate a missing gun. One day earlier, Keith Sorenson had reported to Houlihan that a gun he

owned was missing. Houlihan testified that People's exhibit 15 was the gun that Keith Sorenson had reported missing.

¶ 12 Defendant's parents testified for the defense. His mother, Cindy Sorenson, testified that, during the week prior to the robbery, defendant exhibited erratic behavior. He appeared to be anxious. He was worried about the government being overthrown and was in what Cindy Sorenson described as "like a survival mode." He had bought a lot of dehydrated food. On the day of the robbery, she and Keith Sorenson had been visiting her father in Wisconsin. They returned home at about 7:30 p.m. Defendant was at home when they arrived. He told them that he was going to stay with his girlfriend for about a week. She did not believe that defendant left the home later that evening. Keith Sorenson testified that, throughout the evening of the robbery, the family's Corolla remained parked in the driveway of his home and was visible from the room where he was working on his computer. On cross-examination, he acknowledged that he had reported that a gun was missing.

¶ 13 On appeal, defendant argues that the trial court abused its discretion in restricting his cross-examination of Dorsey about whether she had been subpoenaed to testify and whether she had children. Defendant maintains that the questions were designed to elicit evidence that she was not testifying willingly and that she perceived pressure to give testimony favorable to the State or risk having her children taken from her. According to defendant, the restriction violated his constitutional right to confront the witnesses against him. The following general principles govern our review:

"The defendant's right to confront witnesses against him, including cross-examination for the purpose of showing any interest, bias, prejudice, or motive to testify falsely, is guaranteed by both the federal and state constitutions. [Citations.] The

exposure of hostile motivation of a witness in testifying is a proper and important function of the constitutionally protected right of cross-examination. [Citation.] Such cross-examination may concern any matter that goes to explain, modify, discredit, or destroy the testimony of the witness. [Citation.] The jury is entitled to the details of the theory of defense so it can make an informed judgment, and thus the right to cross-examine is satisfied when counsel is permitted to ‘expose to the jury the facts from which jurors, as the sole triers of fact and credibility, could appropriately draw inferences relating to the reliability of the witness.’ [Citation.]

The discretionary authority of the trial court to restrict the scope of cross-examination comes into play after the court has permitted as a matter of right sufficient cross-examination to satisfy the confrontation clause. [Citation.] Limitation of a defendant’s cross-examination of the bias or motive of a witness may violate a defendant’s constitutional right to confront the witnesses against him. [Citation.] The test is whether the limitation on cross-examination created a substantial danger of prejudice by denying the defendant his right to test the truth of the testimony. [Citation.] To determine the constitutional sufficiency of cross-examination, a court looks not to what a defendant has been prohibited from doing, but to what he has been allowed to do. [Citation.] If the entire record shows that the jury has been made aware of adequate factors concerning relevant areas of impeachment of a witness, no constitutional question arises merely because the defendant has been prohibited on cross-examination from pursuing other areas of inquiry. [Citation.]” *People v. Monroe*, 366 Ill. App. 3d 1080, 1095-96 (2006).

Furthermore, “not even the confrontation clause requires the admission of evidence which poses an undue risk of harassment, prejudice, or confusion of the issues.” *People v. Sanders*, 2015 IL App (4th) 130881, ¶ 47. The wide latitude afforded the accused when conducting cross-examination, “is still subject to limitations where the evidence sought provides an insufficient nexus to the proposition it supposedly supports.” *People v. Nutall*, 312 Ill. App. 3d 620, 628 (2000).

¶ 14 We agree with the State that the trial court did not improperly limit cross-examination of Dorsey by forbidding inquiry into whether she had been subpoenaed. That Dorsey’s testimony was compelled by subpoena does not create any inference that she had a motive to testify falsely. Additionally, the jury was aware that Dorsey’s involvement in the case disrupted her professional life. She testified that the case cast a negative light on her. The jury could infer that she would rather not have to testify. It does not follow, however, that she had any reason not to testify truthfully.

¶ 15 On the other hand, we agree with defendant that the trial court should have permitted him to ask Dorsey whether she had children and whether she had been led to believe that they might be taken away if she did not help the State secure defendant’s conviction. Evidence that police officers showed Dorsey a picture of her children could have led the jury to question whether Dorsey’s testimony was the product of real or imagined coercion. Indeed, it is not clear what purpose would be served by showing Dorsey a picture of her children, other than to gain leverage over her. Defendant was entitled to probe this possible source of bias in favor of the State.

¶ 16 Nonetheless, the error was harmless. “In determining whether a constitutional error is harmless, the test to be applied is whether it appears beyond a reasonable doubt that the error at

issue did not contribute to the verdict obtained.” *People v. Dobbey*, 2011 IL App (1st) 091518, ¶ 67. Although the jurors may have placed some reliance on Dorsey’s testimony identifying defendant from the surveillance video of the robbery (see *People v. Thompson*, 2016 IL 118667, ¶ 41 (lay opinion identification testimony from a surveillance video is helpful where there is a basis for concluding that the witness is more likely than the jury to correctly identify the defendant)), the jurors had the opportunity to decide for themselves whether defendant resembled the suspect shown in the surveillance video. More importantly, even leaving aside Dorsey’s testimony, the evidence of defendant’s guilt was overwhelming. Defendant had access to a vehicle—a silver Corolla—and a weapon—a Glock handgun— that resembled the ones used by the robber. The vehicle used in the robbery had no rear license plate. The Corolla’s rear license plate was attached with a magnet, and was therefore easily removable. Moreover, defendant’s father had reported the Glock missing and it was ultimately retrieved from one of defendant’s “associates”—Nick Marmitt. There is no evidence that Marmitt had access to the Corolla, so the natural inference is that, sometime after committing the robbery, defendant transferred the weapon to Marmitt in order avoid to detection for the crime. (Indeed that evidence supplies a measure of corroboration for Dorsey’s testimony that defendant told her he heard about the crime from his friend Nick.) In addition a hooded sweatshirt resembling the one used by the robber was found in defendant’s home. Finally, it is undisputed that defendant had obtained prescriptions for the same dose and form of medicine—a painkiller with a well-known risk of dependence or addiction—that the robber specifically demanded. In light of this evidence, the error in limiting cross-examination of Dorsey was harmless beyond a reasonable doubt.

¶ 17 For the foregoing reasons, the judgment of the circuit court of McHenry 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).

¶ 18 Affirmed.