2017 IL App (4th) 150857-U

NO. 4-15-0857

FILED
December 29, 2017
Carla Bender
4th District Appellate
Court, IL

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from
Plaintiff-Appellee,	)	Circuit Court of
v.	)	Macon County
ANTHONY L. MABON,	)	No. 12CF1287
Defendant-Appellant.	)	
	)	Honorable
	)	Timothy J. Steadman,
	)	Judge Presiding.

PRESIDING JUSTICE TURNER delivered the judgment of the court.
Justices Steigmann and DeArmond concurred in the judgment.

ORDER

¶ 1 *Held*: (1) Defendant failed to establish the trial court erred in admitting evidence defendant fathered a child with his daughter, D.D., and threatened D.D.'s boyfriend.

(2) Defendant failed to establish the trial court erred in allowing the State to introduce a photograph of defendant and D.D.'s child into evidence and in sending the photograph to the jury room during the jury's deliberations.

(3) The State did not engage in prosecutorial misconduct by introducing admissible evidence.

(4) Defendant's trial counsel was not constitutionally ineffective.

¶ 2 In June 2015, a jury found defendant guilty of four counts of aggravated criminal sexual abuse (720 ILCS 5/11-1.60(d) (West Supp. 2011)) to A.K., a 13-year-old, developmentally-disabled girl. In August 2015, the trial court sentenced defendant to consecutive 13-year sentences on all four counts. Defendant appeals, arguing the State committed

prosecutorial misconduct by (1) introducing evidence defendant fathered a child with his daughter, D.D.; (2) asking the court to send a picture of the child to the jury room during the jury's deliberations; and (3) introducing evidence defendant threatened to shoot D.D.'s boyfriend if he continued to see D.D. Defendant also argues his trial counsel was ineffective because he introduced evidence defendant allegedly pushed D.D. down a flight of stairs in an attempt to cause a miscarriage and threatened to kill D.D. if she told anyone he was the baby's father. Defendant argues the cumulative effect of these errors denied him a fair trial. We affirm.

¶ 3 I. BACKGROUND

¶ 4 At defendant's trial, Trenika Cross testified she and her husband, Donald Cross, had raised A.K., the alleged victim in this case, since A.K. was four years old. A.K. was 16 at the time of defendant's trial and attended Eisenhower High School in Decatur, where she was in a 5-year-life-skills program because of her learning disability.

¶ 5 Defendant, who was Trenika's cousin, spent a lot of time at Trenika's home. Before the summer of 2012, Trenika and defendant had a close relationship. That summer, A.K. spent time with defendant and his two young sons.

¶ 6 On July 4, 2012, Trenika traveled to Tennessee. A.K. stayed in Decatur with Donald Cross. When Trenika arrived in Tennessee around 10 a.m. or 11 a.m., she called home and learned A.K. was not there. Trenika had not given A.K. permission to go anywhere. A.K. was with defendant.

¶ 7 Later in the summer, A.K. said defendant hit her. Defendant was drunk at the time. Trenika and her husband confronted defendant about this. He denied hitting A.K. Trenika talked to A.K. with defendant in the room. A.K. said defendant had not touched her in an

inappropriate manner. That same summer, Trenika had a conversation with A.K. about "stranger danger." Defendant was present and participated in the conversation.

¶ 8 On August 30, 2012, while in Chicago for a funeral, Trenika was informed by the Department of Children and Family Services (DCFS) that A.K. reported she had been raped. Trenika initially did not know who raped A.K. On her way back to Decatur, defendant called Trenika and said they would get the person who raped A.K. While talking with defendant, DCFS called Trenika. In an approximate 13-minute conversation with DCFS, she learned A.K. had accused defendant of raping her. When she finished talking to DCFS, defendant was still on the other line, which surprised Trenika because defendant was normally very impatient. Defendant denied raping A.K. In addition, defendant denied going to any hotel with A.K. Trenika had not talked to defendant since that conversation.

¶ 9 When Trenika returned to Decatur, she and A.K. drove around Decatur because A.K. thought she could remember the hotel defendant took her to if she saw it. A.K. identified a hotel near McDonald's on Pershing Road as the hotel where defendant took her. A.K. also said defendant took her to a hotel behind Taco Bell by the mall. Trenika provided the police this information.

¶ 10 A.K. testified she was 13 in the summer of 2012 and lived with Trenika and Donald Cross. Before the summer of 2012, she liked hanging out with defendant. They went to the go-cart track, the mall, and the Decatur Celebration. Defendant's sons were usually with them. On July 4, 2012, defendant took A.K. and his two sons to the go-cart track. Defendant dropped his sons off at a lady's house and took A.K. to a hotel.

¶ 11 She and defendant were alone in the hotel room. Defendant started taking off A.K.'s clothes. She testified she was trying to put her clothes back on. Defendant took his clothes

off and put A.K. on the bed. Defendant then put his penis in her vagina. She testified it felt bad. He then put his penis in her mouth. She described this as "nasty" and said she felt like she was choking. While this was happening, defendant was asking her why she was fighting him. After he had his penis in her mouth, defendant put his penis back in her vagina. A.K. testified defendant ejaculated on her stomach, stating defendant "took it out and he spread the white stuff on my stomach." After this occurred, they both took showers. She and defendant then picked up defendant's girlfriend, whose name was Paula. A.K. did not tell anyone what happened because she was scared.

¶ 12 The next day she went on a car ride with defendant and Donald Cross to her "Uncle Mickey's" house. "Uncle Mickey" was defendant's father, Mickey Mabon. Donald Cross was not feeling well. She, defendant, and Donald went to St. Mary's Hospital in Decatur. Donald stayed at the hospital. Defendant took A.K. back to his father's house. Defendant took her to his room upstairs, undressed her and himself, and then put his penis in her vagina and her mouth. Defendant threatened A.K. he would hurt her if she told anyone what he did. He again ejaculated on her stomach. They both showered, and she rinsed her mouth out. Donald then called and asked defendant to come pick him up.

¶ 13 A.K. testified defendant assaulted her again in August. Defendant took A.K. and one of his sons to the Decatur Celebration. After attending the Decatur Celebration, defendant took his son to someone's house. Defendant then took A.K. to another hotel. He again undressed her and took his clothes off. He put his penis in her vagina. She tried to fight him but could not get him off of her. Defendant again ejaculated on her stomach.

¶ 14 A.K. described another incident where she was asleep, and defendant entered her room and carried her to his car and took her by a lake. He again put his penis in her vagina. At

one point, defendant stopped because he heard somebody. He then started again but stopped when blood came out of her vagina. Defendant wiped up the blood with his white shirt, she put her clothes back on, and he took her back home where she fell asleep.

¶ 15 A.K. did not tell Trenika or Donald Cross during the summer about these incidents, but she told one of her teachers when she went back to school. After telling her teacher, she did not see defendant again.

¶ 16 On cross-examination, defense counsel asked A.K., "did [defendant] say something to you about wanting to get you pregnant?" A.K. said yes. Defense counsel then asked her, "But yet the white stuff was on your stomach, correct?" A.K. again said yes. Defense counsel also asked A.K. whether defendant ever recorded any of the sexual activity. A.K. said defendant recorded the incidents with his phone.

¶ 17 The State introduced evidence, including receipts, defendant rented a room at the Decatur Inn on July 4, 2012, and the Baymont Inn on August 24, 2012. The Baymont Inn's records included a photograph identification for defendant. Both of these hotels were in the Decatur area. Detective Todd Koester did not find any hotels where defendant stayed around the Decatur Celebration on August 5, 2012.

¶ 18 Dr. Koleen Barnell, an emergency room physician at St. Mary's hospital, testified she treated A.K. on August 30, 2012, for a reported sexual assault. A.K. told the doctor she had been assaulted four or five times with the last incident occurring approximately two weeks earlier, when A.K. got her hair braided. A.K. specifically mentioned an incident on the Fourth of July. Dr. Barness testified she would not expect to find anything specific in performing the rape kit examination because of the length of time since intercourse. The doctor stated A.K. seemed delayed mentally, was very embarrassed, and occasionally smiled inappropriately. On cross-

examination, Dr. Barnell stated A.K. told her the last incident of sexual abuse occurred at a hotel. The doctor did not notice any injuries or bruising on A.K. On re-direct, the doctor testified the lapse in time since the last encounter would affect the presence of any injuries or bruising on A.K. The doctor also acknowledged she may not have found any injuries because none ever existed.

¶ 19 Donald Cross testified he was not feeling well on July 4, 2012. His wife, Trenika Cross, was out of town that day. Trenika called the house and asked to speak with A.K. A.K.'s biological mother, who sometimes stayed with the Crosses, told Donald A.K. had left with defendant. Donald had not given A.K. permission to leave with defendant. A.K. was 13 at the time. Donald tried to call defendant, but defendant did not answer. It was still bright out at that time. Donald left his house and went looking for A.K. He was later able to reach defendant on the phone. Defendant then came and picked Donald up. A.K. was with him. Defendant, Donald, and A.K. then picked up defendant's girlfriend Paula, and they all went to Nelson Park for a church gathering. Donald left the park and walked to his house because he was not feeling well.

¶ 20 On July 5, defendant took Donald to the hospital. A.K. was with them. Trenika was still out of town. Defendant and A.K. stayed at the hospital for about 20 minutes and then left. At that time, Donald trusted defendant with A.K.

¶ 21 D.D., defendant's daughter, also testified for the State. The trial court instructed the jury as follows with regard to D.D.'s testimony:

> "Ladies and gentleman of the jury, at this time, I would advise you as follows: Evidence will be received that the defendant has been involved in conduct other than that charged in the indictment. This evidence has been received on the issues of defendant's intent, lack of mistake, and propensity and may be considered by

you only for those limited purposes. It is for you to determine whether the defendant was involved in that conduct and if so what weight should be given to this evidence on the issues of intent, lack of mistake and propensity."

D.D. was 24 at the time of the trial.

¶ 22 D.D. testified she grew up in Gary, Indiana, and did not meet defendant, who was her father, until she was 14. She was in special needs classes in high school. She did not know why she was in these kind of classes. She graduated from high school in 2009. After her graduation, defendant came to Gary with Mickey Mabon (her grandfather), Cordera (her uncle), and Marquita (the mother of Cordera's baby). She returned to Decatur with them so she could attend Richland Community College.

¶ 23 On the way to Decatur, defendant whispered to D.D. that he wanted her to have his baby. When they got to Decatur, defendant took her to a hotel. According to D.D., "he started taking down my clothes and doing it to me." She testified he "started putting his private part in my tutu." She later specified he put his penis in her vagina. D.D. said she did not want defendant to do this but was scared and did not say anything. She did not remember how that encounter ended.

¶ 24 D.D. also related a story about defendant having a verbal encounter with a guy she was dating. Defendant did not want D.D. "to be with him." According to D.D, "[defendant] got to saying MF'er, if you come over here, I'm a shoot you. I'm a beat you up. You can't come over here. And yeah that's my baby. Alex was the baby." (Vol. LVI, p. 17) After D.D. related this incident, the State refocused her attention by asking whether anything happened between her and defendant at her grandfather's house. She said she and defendant were in her aunt's old

room. Defendant "[s]tarted taking off my clothes and putting his penis in me." She did not say or do anything because she was scared.

¶ 25 According to D.D., after defendant got his own house, he had sexual intercourse with D.D. on multiple occasions in "[h]is room, my room, everywhere." D.D. did not want any of these encounters to happen. She did not tell him this was not something she wanted or try to push him off because she "didn't know what to do." D.D. had a daughter, Alexandria, by defendant. Alexandria or "Alex" was five years old at the time of trial. D.D. testified Alex had some disabilities.

¶ 26 On cross-examination, defense counsel and D.D. had the following exchange:

"[DEFENSE COUNSEL:] Now, your testimony today is that [defendant] whispered to you in the car that he wanted you to have his baby?

[D.D.:] Yeah.

[DEFENSE COUNSEL:] Did you ever tell anyone that there were times that [defendant] threw you down the stairs and choked you?

[D.D.:] Yeah.

[DEFENSE COUNSEL:] You did? Who did you tell that to?

[D.D.:] My grandma.

[DEFENSE COUNSEL:] Anybody else?

[D.D.:] My cousins.

[DEFENSE COUNSEL:] Okay. When did you tell them this?

[D.D.:] My mom.

[DEFENSE COUNSEL:] When did you tell them this?

[D.D.:] After it happened.

[DEFENSE COUNSEL:] After it happened?

[D.D.:] No. Before it happened. Before it happened. Before it happened.

[DEFENSE COUNSEL:] Before it happened, before what happened?

[D.D.:] Before he decided he got to telling me that if I tell somebody that that was his daughter that he'll kill me.

[DEFENSE COUNSEL:] Okay. Well, did you also tell somebody that the reason that he did this to you was to make you have a miscarriage? Did you tell anybody that?

[D.D.:] Yeah.

[DEFENSE COUNSEL:] Who did you tell that to?

[D.D.:] I don't remember.

[DEFENSE COUNSEL:] Do you remember talking to a police officer over the phone on November the 5th of 2012.

[D.D.:] Yes.

[DEFENSE COUNSEL:] All right. Did you tell that officer that when [defendant] threw you down the stairs and choked you that he was trying to make you have a miscarriage?

[D.D.:] Yes.

[DEFENSE COUNSEL:] But your testimony today is that he wanted to have a baby with you?

***

[D.D.:] Mm hmm, yes."

D.D. acknowledged she went back to Indiana while she was living with defendant but did not remember telling anyone in Indiana she did not want to go back to Decatur or about what defendant was doing to her. D.D. also testified she told her mother she wanted to come back to Decatur.

¶ 27 While A.K. testified defendant recorded their sexual encounters on his phone, the police found no visual depictions of sexual activity between defendant and A.K. on defendant's phone.

¶ 28 Alison Elsea, a forensic interviewer for the Macon County Child Advocacy Center, testified she interviewed A.K. on September 5, 2012. A.K. told her of four incidents between her and defendant. The first incident occurred on July 4. A.K. indicated defendant licked her vaginal area during that encounter. During the initial interview, A.K. did not say anything about defendant taking her to his car in the middle of the night. However, during a second interview on January 9, 2013, A.K. talked about this incident. Elsea did not recall A.K. telling her about defendant using his shirt to wipe blood off of her. At the second interview, A.K. indicated defendant took her to a hotel in August around the Decatur Celebration. She testified A.K. is not the only child she has performed a second interview on. According to Elsea, some children are not ready to tell their whole story at an initial interview.

¶ 29 Defendant called a number of witnesses in an attempt to discredit the testimony of A.K. and D.D. Defendant chose not to testify.

¶ 30 After deliberations, the jury found defendant guilty on all four charges of aggravated criminal sexual abuse.

¶ 31 On August 3, 2015, the trial court sentenced defendant to consecutive 13-year sentences on each of the four convictions.

¶ 32 This appeal followed.

¶ 33 II. ANALYSIS

¶ 34 A. Prosecutorial Misconduct

¶ 35 Defendant first argues the State committed prosecutorial misconduct by introducing highly prejudicial, inadmissible evidence against him. According to defendant, the State should not have introduced evidence defendant fathered a child with his daughter, D.D., and threatened to shoot one of D.D.'s boyfriends if he continued to see D.D. Defendant also argues the State should not have introduced a picture of defendant's child with D.D. and the trial court erred in admitting this picture as evidence and allowing it to go to the jury room during deliberations.

¶ 36 We note defendant argued in his initial brief the State told the trial court it was not going to introduce evidence defendant fathered a child with D.D. but at trial did introduce such evidence. In his reply brief, defendant concedes his assertion was incorrect. With this concession, defendant's claim of prosecutorial misconduct is dramatically weakened.

¶ 37 Defendant's claim is primarily based on his assertion the State was introducing inadmissible evidence. However, defendant did not object to the State introducing most of the evidence in question, including evidence defendant fathered a child with his daughter, D.D., or threatened to shoot D.D.'s boyfriend. Defendant concedes he forfeited any argument regarding the admissibility of this evidence but asks we review his claims pursuant to the plain-error doctrine.

¶ 38 A plain-error analysis is used to determine whether a forfeited issue should be considered on the appeal of a defendant's conviction. *People v. Allen*, 222 Ill. 2d 340, 350, 856 N.E.2d 349, 355 (2006). In *Allen*, our supreme court quoted Illinois Supreme Court Rule 615(a),

which states: " 'Any error, defect, irregularity, or variance which does not affect substantial rights shall be disregarded. Plain errors or defects affecting substantial rights *may* be noticed although they were not brought to the attention of the trial court.' " (Emphasis added.) *Allen*, 222 Ill. 2d at 351, 856 N.E.2d at 355 (quoting 134 Ill. 2d R. 615(a)). Under the plain-error doctrine, a reviewing court may consider an unpreserved error if (1) the evidence is closely balanced or (2) the error was so serious defendant was denied a fair hearing. *People v. Ramsey*, 239 Ill. 2d 342, 440-41, 942 N.E.2d 1168 (2010).

¶ 39 We first look at whether the trial court erred in allowing the State to introduce evidence defendant had a child with D.D. and threatened D.D.'s boyfriend. Defendant acknowledges section 115-7.3 of the Procedure Code (725 ILCS 5/115-7.3(b) (2014)) allowed the State to introduce evidence defendant had a sexual relationship with his developmentally delayed daughter, D.D. However, he argues the State could not introduce evidence he fathered a child by his daughter. Defendant also contends the State could not introduce evidence he threatened his daughter's friend.

¶ 40 We disagree. Defendant essentially concedes the State could introduce evidence pursuant to section 115-7.3 he had sex with D.D. Section 115-7.3 states:

> "If the defendant is accused of an offense set forth in paragraph (1) or (2) of subsection (a) or the defendant is tried or retried for any of the offenses set forth in paragraph (3) of subsection (a), *evidence of the defendant's commission of another offense or offenses* set forth in paragraph (1), (2), or (3) of subsection (a), or evidence to rebut that proof or an inference from that proof, may be admissible (if that evidence is otherwise admissible under the rules of evidence) and may be

> considered for its bearing on any matter to which it is relevant." (Emphasis added.) 725 ILCS 5/115-7.3(b) (West 2014)

D.D.'s daughter by defendant was proof defendant had sexual intercourse with D.D. and was admissible pursuant to section 115-7.3. Defendant allegedly admitted D.D.'s baby was his child while threatening D.D.'s boyfriend. As a result, this information was admissible as further proof of at least one sexual encounter between defendant and his daughter, which defendant does not argue was inadmissible. Because defendant has not established any error with regard to this evidence, we do not need to proceed any further with the plain-error analysis.

¶ 41 We next turn to the State's introduction of a photograph of defendant and D.D.'s child. We again note the existence of this child was evidence of defendant having sexual intercourse with his developmentally delayed daughter. The photograph was further proof of this child's existence and was admissible pursuant to section 115-7.3.

¶ 42 Defendant argues the trial court erred in sending the photograph back to the jury. According to his brief:

> " 'To send back a photo of the victims of *another* crime laid at the defendant's feet is extraordinary.' *People v. Thigpen*, 306 Ill. App. 3d 29, 38[, 713 N.E.2d 633 (1999)]. The photo in this case was not even a photo of a victim of a crime. It was an innocent child whose picture would remind the jury of an irrelevant fact—[defendant] fathered a child with his daughter. The photograph had no relevance to the substantive evidence in the case. The only purpose in sending back the photograph would be to inflame the emotions of the jury and deny [defendant] a fair trial."

We will not disturb a trial court's decision to send an exhibit to the jury room unless the court abused its discretion and prejudiced a party. *Gallina v. Watson*, 354 Ill. App. 3d 515, 522, 821 N.E.2d 326, 331 (2004).

¶ 43 The fact the jury had a photograph of defendant's daughter with D.D. during deliberations did not prejudice defendant, considering the jury knew he fathered a child with his own daughter. Further, the photograph showed what appeared to be a normal young girl. This is not a situation where the child had any kind of genetic abnormality visible in the photograph that could have further inflamed the emotions of the jurors.

¶ 44 This case is easily distinguishable from *Thigpen* where the trial court allowed photographs of the victims of another crime to be given to the jury during its deliberations. The First District Appellate Court stated:

> "Courts often find photos *of the victim of the crime charged* to be too inflammatory properly to be sent to the jury. [Citation.] To send back a photo of the victims of *another* crime laid at the defendant's feet is extraordinary." (Emphasis in original.) *Thigpen*, 306 Ill. App. 3d at 38, 713 N.E.2d at 640.

The photograph in question here was not of the victim of another crime. Further, the photograph in question in *Thigpen* was of a dead body. The photograph at issue here is of a normal appearing young girl. Defendant cannot establish he was prejudiced in any manner by this photograph being given to the jury.

¶ 45 As we have found the evidence defendant complains about was admissible, defendant cannot establish the State engaged in any kind of prosecutorial misconduct in presenting this evidence. From our review of the trial transcript, we do not see where the State misstated any facts or testimony or made inferences not supported by the evidence presented.

While the evidence in this case clearly would have emotionally affected any reasonable juror, the State did not misrepresent the evidence to increase the emotional effect of the evidence nor did it introduce any evidence which was clearly inadmissible and improper. We find no merit in defendant's argument the State engaged in any prosecutorial misconduct.

¶ 46 B. Ineffective Assistance of Counsel

¶ 47 Defendant next argues his trial counsel was ineffective because he elicited testimony that defendant choked and pushed D.D. down a flight of stairs while she was pregnant in an attempt to cause a miscarriage and threatened to kill D.D. if she told anyone he was the father of her child. According to defendant's brief, "This evidence did nothing but paint [defendant] as a horrible person who, not only impregnated his daughter, but also tried to murder an unborn child. This was ineffective assistance of counsel." Defendant also points to defense counsel's questioning of A.K. about her claim defendant said he wanted to get her pregnant during one of their alleged sexual encounters. According to defendant, "this trial was entirely based [on] A.K.'s credibility, and the combination of inadmissible, inflammatory evidence elicited by defense counsel prejudiced [defendant] in the eyes of the jury and affected their judgment."

¶ 48 To establish ineffective assistance of counsel, a defendant must establish both his counsel's performance was constitutionally deficient and he was prejudiced by that performance. *Strickland v. Washington*, 466 U.S. 668 (1984). To establish prejudice, a defendant must show a reasonable probability the result of the proceeding would have been different but for counsel's deficient performance. *Strickland*, 466 U.S. at 694. A party alleging ineffective assistance of counsel must demonstrate his counsel's performance fell below an objective standard of reasonableness. *People v. Domagala*, 2013 IL 113688, ¶ 36, 987 N.E.2d 767. In analyzing a

claim of ineffective assistance of trial counsel, a reviewing court should consider the totality of the circumstances at trial. *People v. Salgado*, 2016 IL App (1st) 133102, ¶ 41, 63 N.E.3d 268.

¶ 49 Defendant acknowledges how an attorney chooses to cross-examine a witness is usually considered a matter of strategy. *People v. Jacobs*, 308 Ill. App. 3d 988, 993, 721 N.E.2d 1160, 1164 (1999). However, citing *People v. Moore*, 356 Ill. App. 3d 117, 126-27, 824 N.E.2d 1162, 1170-71 (2005), and *People v. King*, 316 Ill. App. 3d 901, 916, 738 N.E.2d 556, 568 (2000), defendant points out not all strategy is sound and can constitute ineffective assistance of counsel.

> "A defendant can overcome the strong presumption that defense counsel's choice of strategy was *sound* if counsel's decision appears so irrational and unreasonable that no reasonably effective defense attorney, facing similar circumstances, would pursue such a strategy. *** '[Sound trial strategy] embraces the use of established rules of evidence and procedure to avoid, when possible[,] the admission of incriminating statements, harmful opinions, and prejudicial facts.' " *King*, 316 Ill. App. 3d at 916 (quoting *People v. Moore*, 279 Ill. App. 3d 152, 159, 663 N.E.2d 490, 496 (1996)).

According to defendant, no sound strategy justifies introducing evidence defendant tried to murder D.D.'s unborn child and threatened to kill D.D. Further, no sound strategy justifies asking A.K. whether defendant told A.K. he wanted to impregnate her. However, a trial strategy is only unsound if no reasonably effective defense counsel in a similar circumstance would have pursued the strategy. *People v. Faulkner*, 292 Ill. App. 3d 391, 394, 686 N.E.2d 379, 382 (1997).

¶ 50 Based on our review of the trial in this case, defense counsel was attempting to discredit D.D. and A.K. as reliable witnesses with these questions. Based on the circumstances in

this case, defendant had no other chance of prevailing. The State's case was built on the credibility of these two individuals. Further, defense counsel knew the State could establish defendant and D.D. had sexual intercourse at least once because of the child's existence. Defendant offers no alternative strategy his trial attorney should have pursued in this case.

¶ 51 Defense counsel's strategy was to discredit D.D. and A.K.'s testimony and attempt to show they were not reliable witnesses. He attempted to do this by showing the logical inconsistencies in the words defendant allegedly said and the behavior in which he allegedly engaged. For example, both D.D. and A.K. claimed defendant said he wanted to impregnate them. However, A.K. testified defendant ejaculated on her stomach and not inside her. D.D. testified defendant pushed her down stairs attempting to cause her to miscarry. In addition, D.D. said defendant threatened to kill her if she told anyone he impregnated her. However, D.D. also testified defendant told her boyfriend defendant was the father of D.D.'s child.

¶ 52 To argue to the jury D.D. and A.K.'s stories did not make sense, defense counsel had to reveal D.D. and A.K.'s prior statements, which were facially prejudicial. While the strategy did not work, it is difficult to see what else defense counsel could have done. The State's case against defendant was very strong. As a result, we will not say defense counsel's representation fell below an objective standard of reasonableness. Even if counsel's performance was deficient, it is hard to see how defendant could have been prejudiced based on all the evidence presented in this case.

¶ 53 C. Cumulative Effect of Alleged Errors

¶ 54 Finally, defendant argues the cumulative effect of the alleged errors in this case deprived defendant of a fair trial. According to defendant:

> "The 'synergistic effect' of a pattern of prosecutorial misconduct and trial errors deprives the accused of the fundamental right to a fair and impartial trial. *People v. Johnson*, 208 Ill. 2d 53, 64-65[, 803 N.E.2d 405, 412] (2003). Reversal is necessary where the cumulative effect of trial errors and prosecutorial misconduct created a pervasive pattern of unfair prejudice that deprived the defendant of a fair trial."

As stated earlier, defendant did not establish the State engaged in prosecutorial misconduct, the trial court erred in admitting certain evidence, or he received constitutionally ineffective assistance of counsel. Defendant received a fair, orderly, and impartial trial and is not entitled to another one.

¶ 55 III. CONCLUSION

¶ 56 For the reasons stated above, we affirm defendant's conviction. As part of our judgment, we award the State its $50 statutory assessment against defendant as costs of this appeal.

¶ 57 Affirmed.