

Nos. 1-16-1117 & 1-16-2850 (cons.)

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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST DISTRICT

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THE PEOPLE OF THE STATE OF ILLINOIS, ) Appeal from the  
 ) Circuit Court of  
 Plaintiff-Appellee, ) Cook County.  
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 v. ) Nos. 15 MC1 186443  
 ) 15 MC1 199302  
 )  
 PERCY MOORE, ) Honorable  
 ) Clarence L. Burch,  
 Defendant-Appellant. ) Judge, presiding.

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JUSTICE CONNORS delivered the judgment of the court.  
Presiding Justice Delort and Justice Harris concurred in the judgment.

**ORDER**

¶ 1 *Held:* Defendant’s misdemeanor convictions for two counts of criminal trespass to real property affirmed where the jury’s findings that defendant was guilty but mentally ill rather than not guilty by reason of insanity were not against the manifest weight of the evidence.

¶ 2 In two separate cases, defendant Percy Moore was charged with one count each of misdemeanor criminal trespass to real property for incidents that occurred on March 26 and 27, 2015. Following a consolidated jury trial, defendant was found guilty but mentally ill of both

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counts. The trial court sentenced defendant to 180 days' imprisonment, time considered served, on one count, and one year of probation for the other count. On appeal, defendant contends that his convictions should be reversed because the jury's findings that he was guilty but mentally ill, rather than not guilty by reason of insanity, were against the manifest weight of the evidence where the sole expert witness testified that defendant was suffering from a delusional disorder at the time of the offense and could not appreciate the criminality of his conduct. We affirm.

¶ 3 In case number 15 MC1 199302, defendant was charged with one count of misdemeanor criminal trespass to real property alleging that on March 26, 2015, he knowingly and without authorization remained on the property of Channel 7 News at 190 N. State Street in Chicago, after being given notice multiple times that he must not remain on the property. 720 ILCS 5/21-3(a)(2) (West 2014). The following day, in case number 15 MC1 186443, defendant was charged with one count of misdemeanor criminal trespass to real property alleging that on March 27, he knowingly remained upon the land of WLS [Channel 7] at 190 N. State Street after receiving notice from agent Mark Bandyk to depart. 720 ILCS 5/21-3(a)(3) (West 2014). Defendant was also charged with one count of violating the conditions of his bail bond from the previous day by repeating the same offense at the same location. 720 ILCS 5/110-10(a)(4) (West 2014).

¶ 4 On May 5, 2015, the trial court granted defense counsel's request that defendant receive a behavioral clinical examination (BCX) to determine his fitness for trial. Dr. Nicholas Jasinski, a licensed clinical psychologist with Forensic Clinical Services, examined defendant and found him fit to stand trial.

¶ 5 On October 7, 2015, the trial court granted defense counsel's request for a BCX to determine defendant's sanity at the time of the offense. On October 14, 2015, Jasinski issued a

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written report indicating that he had again examined defendant and found him fit to stand trial, but legally insane at the time of the offense. Jasinski opined that, at the time of the offense, defendant was manifesting significant symptoms of delusional disorder, a mental disease, which caused him to lack substantial capacity to appreciate the criminality of his conduct.

¶ 6 On January 12, 2016, shortly before trial began, defendant informed the trial court that he disagreed with defense counsel raising the affirmative defense that he was not guilty by reason of insanity. The court conducted an inquiry with defendant to determine if he was making an intelligent and voluntary waiver of the insanity defense. The court ruled that defendant was not capable of making a voluntary and intelligent waiver, and therefore, counsel was allowed to raise the defense.

¶ 7 At trial, Edward Hansen, a security officer for ABC 7 News at 190 N. State Street, testified that on the evening of March 25, 2015, he observed defendant in the lobby of the building through video surveillance. Security officer Anthony Mars telephoned Hansen from the lobby and notified him that “Percy Moore” was in the lobby and refused to leave. Hansen went to the lobby and observed defendant standing in the area. Hansen identified defendant in court. Defendant was not an employee of ABC 7 and did not have any business there. Defendant was told to leave the lobby.

¶ 8 About 7:15 p.m. the following evening, March 26, defendant again entered the lobby of the building and approached Hansen, who was seated at the reception desk. Hansen greeted defendant by saying “[y]es, sir.” Defendant replied “I am here to be arrested.” Hansen recognized defendant from the prior evening and asked him if he had any business in the building. Hansen told defendant that if he did not, he would need to vacate the premises.

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Defendant did not leave. Hansen repeatedly told defendant that he needed to leave the building, but defendant did not leave. Hansen called 911 and the Chicago police arrived at the building. After speaking with Hansen, the police arrested defendant.

¶ 9 On cross-examination, Hansen acknowledged that defendant never proceeded beyond the reception area of the building. Defendant was not disorderly.

¶ 10 Mark Bandyk, a security officer for ABC 7, testified that about 9:50 a.m. on March 27, 2015, he was sitting at the reception desk when defendant entered the building. Bandyk identified defendant in court. Bandyk knew defendant by name because there had been about five prior occasions where defendant had entered the building and Bandyk had asked him to leave. Bandyk said to defendant “Percy, you know you’re not supposed to be here.” Defendant replied “[t]ake me to jail.” Bandyk asked defendant to leave the building. When he did not leave, Bandyk asked the receptionist to call 911 and request the police to come and arrest defendant.

¶ 11 On cross-examination, Bandyk acknowledged that defendant had never proceeded past the reception area, and never attempted to push his way past Bandyk to enter the ABC studios or offices. Typically, when defendant enters the building, he tells Bandyk to have him arrested. Defendant has never yelled or been disorderly.

¶ 12 Defendant testified that he was 57 years old, a high school graduate, and the father of three children. On March 26 and 27, defendant went to “Channel 7 News to let them know” that he was “the first person in the world, they say, to take this cloning case to the Supreme Court.” Defendant testified “I’m the first person who spent 18 years of his life protesting at government buildings and [the] Channel 7 News building, refusing to leave. Every time I get out, I’m back in jail.” Defendant stated that the police caused his behavior by taking his personal legal documents

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and interfering with a lawsuit he filed against Coca-Cola. Defendant testified about a government conspiracy against his family, and that the government took cells and eggs from his mother, made embryos, and placed her children “all over the world.” Defendant testified that his mother was Henrietta Brown and that the “cult part” of the government murdered her “and wrote an untrue book called, The Tumultuous Life of Henrietta Lacks.” Defendant testified that he went to ABC 7 to inform them of this information, and

“[t]o let them know that these murderers needed a disease that was different from cancer. And it’s hooked up to Revelations, the pale horse. So these murderers went to the laboratory and got one of Hitler’s diseases and started killing millions of people, hoping to blame it on Henrietta.”

¶ 13 Defendant testified that he had shared these issues with Jasinski, who found him fit sometimes and unfit at other times, and who sent him to Elgin Mental Hospital. Defendant acknowledged that he had been diagnosed with delusional disorder for which he was prescribed medication, but claimed he had won a court decision which found that he did not have to take the medication.

¶ 14 Defendant testified that he told Hansen to contact Channel 7 News to notify them that he needed to return to jail because “Judge Peggy Chiampas took all of my legal documents.” Defendant believed that returning to jail and remaining in jail was the best way for him to address the conspiracy because he was fighting the government.

¶ 15 Defendant testified that he disagreed with Jasinski’s finding that he was legally insane at the time of the offense. Defendant further explained:

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“that’s just basically saying that I wasn’t aware of what I was doing when I went to Channel 7 News.

I was totally aware of what I was doing. I was breaking the law, and that’s wrong. And 2 wrongs don’t make a right.

But I’m not going to stand by and just let me and my family be killed by these people that’s holding these secret societies, groups of people holding these secrets, and living off of the secrets of me and my family while we’re dropping dead, being murdered little by little.”

¶ 16 Defendant believed that ABC 7 was the only place he could go because “in the past, they have shown some concern about my exposing them to the news media.” He explained that another station may refuse to help him based on ABC 7’s refusal to help him. Defendant stated that the other television stations should know him by now because he has been doing this for 18 years, and they know where to find him.

¶ 17 Defendant testified that he has been taken to other hospitals for psychological evaluations, and they found him “perfectly all right, and let me go right back to Channel 7 News when they have the power to commit me.” Defendant testified that he had documentation showing that the other hospitals found him fit and legally sane, but the police took his documents, which caused him to go to ABC 7 and end up in court.

¶ 18 On cross-examination, defendant acknowledged that he knew he was not supposed to go to ABC 7 “according to the law,” but he went there to demand justice because “God’s law” is “a higher law.” The State asked defendant if he knew that by going to ABC 7, he would be arrested and sent to jail for trespassing. Defendant replied that he did not know if they would “hide” him

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at another mental institution, “or go by the law and send me to jail, and let the Judge make that decision, whether I’m fit or not.” Defendant explained that “[s]ometimes they break the law and directly send me to a mental institution,” but that “the steps supposed to be to take me to jail for trespassing.”

¶ 19 Dr. Jasinski testified for the defense that he evaluated defendant’s sanity at the time of the offense by reconstructing his functioning around that time. To do so, Jasinski interviewed defendant about the case and his functioning. The doctor also reviewed numerous documents, including the police reports of the offenses, multiple police reports pertaining to previous incidents, archival records from Forensic Clinical Services that included the doctor’s previous multiple examinations of defendant, records from Elgin Mental Health Center, records from Cermak Services regarding defendant’s treatment at Cook County jail up to 2007, and handwritten notes by defendant dated July 27, 2015, and July 19, 2011.

¶ 20 Jasinski diagnosed defendant with severe delusional disorder, which is a form of a psychotic mental illness where a person has delusions, which are fixed false beliefs held only by that individual that are not based on reality. Defendant had a long history dating back at least 10 years of persistent persecutory delusions that people are out to harm him. Defendant believes that he needs to go to ABC 7 News to have his information broadcast to the public so that he can obtain his documents from the United States Supreme Court. A person with delusional disorder can be articulate, and when discussing things that are not related to their delusion, they often sound completely normal.

¶ 21 Jasinski opined that defendant was legally insane at the time of the alleged offenses. He testified that defendant was manifesting significant evidence of mental delusion which caused

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him to lack substantial capacity to appreciate the criminality of his conduct. When speaking with the doctor, defendant denied any history of mental illness and believed that he was not mentally ill. Jasinski testified that defendant was not malingering, which was demonstrated by the fact that he had been diagnosed with delusional disorder by multiple doctors at the Elgin Mental Health Center and Cermak Services. Defendant's behavior of going to ABC 7 to be arrested fit "very clearly with his delusional frame of madness."

¶ 22 Jasinski further opined that defendant was insane rather than suffering from mental illness based on the severity of his symptoms. Defendant's delusional frame of reference, which was different than everybody else around him, impaired his ability to appreciate that his behavior was problematic. The doctor testified that defendant "knew he would get arrested. He knew it was, technically, a crime. In my mind, operating from [a] delusional frame of reference, why he's acting the way he is, prove more that his activity was criminal in nature."

¶ 23 On cross-examination, Jasinski acknowledged that under Illinois law, mental illness is defined as a "substantial disorder of thought, mood, or behavior which afflicted a person at the time of the commission of an offense and which impaired that person's judgment, but not to the extent that he's unable to appreciate the wrongfulness of his behavior." The doctor agreed that defendant had a "substantial mental illness disorder," which was "a disorder of thought, mood, [and] behavior." Jasinski believed that this disorder afflicted defendant at the time he committed the offenses on March 26 and 27.

¶ 24 Jasinski testified that his opinion that defendant was unable to appreciate the criminality of his actions would not change by knowing that defendant testified that he knew he would be



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arrested and charged with a crime by going to ABC 7 and by being warned about going there on a previous date. The doctor explained:

“Simply understanding one would be arrested, in my experience in dealing with the sanity statute, is one portion of it, a factual understanding of it – If I do this, will I be arrested – appreciation of criminality is impacted by Delusional Disorder as I testified earlier.

Their reality is different from everybody else’s. In the case of Mr. Moore, his frame of reality that the Supreme Court is trying to contact him; that the Chicago Police are stealing his documents; that people are trying to murder his family, is directly related as to why he goes to ABC 7, why he continually returns to that place and is continually arrested, knowing that he would be arrested.

In my mind, his mental illness is impacting his ability to appreciate that criminality and make a rational decision that a person without mental illness would agree with.”

¶ 25 Jasinski did not agree that defendant knew that he should not go to ABC 7. He explained “[h]e knows he’ll get in trouble when he goes there, but, in fact, his delusions almost require him to go there, in that he believes from his own frame of reality he should go there to get this information to the public so these beliefs would be managed or labeled.” The doctor testified that defendant’s delusional disorder impairs his reality such that he cannot make a reasonable decision about whether or not to go to ABC 7. Jasinski concluded “[i]n my mind, that affects his ability to appreciate the criminality of his conduct.”

¶ 26 On redirect examination, Jasinski testified that defendant being arrested at ABC 7 was an important part of his finding that he was insane. Being arrested at another venue could mean different things. The doctor clarified that when he testified that defendant's delusions "required" him to go to ABC 7, he did not mean "required" in that defendant lacked the ability to make a decision about what he should do, but instead, that his delusions impacted his judgment and reasoning regarding whether or not he should go there. Going to ABC 7 was an integral part of defendant's delusion.

¶ 27 In closing, defense counsel argued that Jasinski's testimony was clear and convincing evidence that defendant was insane at the time of the offenses, and that his testimony was not rebutted by the State. In response, the State argued that it had proven defendant guilty beyond a reasonable doubt, and that defendant failed to establish that he was insane at the time of the offenses. The State noted that Jasinski agreed that defendant suffered from a mental illness. It further argued that the evidence showed that although defendant's judgment was impaired, which caused him to go to ABC, he clearly understood that his actions were criminal, that he was committing a crime, and that he would be arrested and sent to jail. The State argued that the evidence thereby showed that defendant was able to appreciate the criminality of his actions.

¶ 28 The jury found defendant guilty but mentally ill of both counts of criminal trespass to real property. Defendant filed a motion for judgment notwithstanding the verdict arguing, *inter alia*, that the jury's verdict was against the manifest weight of the evidence. Defendant argued that Jasinski credibly testified that defendant was legally insane at the time of the offenses, and that the State did not rebut, contradict, or impeach that testimony. At a hearing on the motion, defense counsel rested on the motion without further argument. The trial court denied the

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motion. In case number 15 MC1 186443, the trial court sentenced defendant to 180 days in the Cook County Department of Corrections, time considered served and actually served. The State SOL'd the violation of bail bond charge. In case number 15 MC1 199302, the court sentenced defendant to one year of probation with a mental health evaluation and treatment.

¶ 29 On appeal, defendant does not contest the sufficiency of the evidence to sustain his convictions, but instead, contends that his convictions should be reversed because the jury's findings that he was guilty but mentally ill, rather than not guilty by reason of insanity, were against the manifest weight of the evidence. Defendant notes that Jasinski, the sole expert witness, testified that defendant was suffering from a delusional disorder at the time of the offenses and could not appreciate the criminality of his conduct. Defendant argues that Jasinski's opinion was unbiased and unimpeached, and was based on documents and facts regarding his mental health history and behavior. He notes that the State did not attack Jasinski's credibility or credentials. Defendant argues that the jury therefore should have accepted Jasinski's expert testimony that he was legally insane at the time of the offenses. Defendant asserts that because he served the maximum sentence prior to trial, remand is not required, and this court should enter findings of not guilty by reason of insanity.

¶ 30 The State responds that the jury properly found that defendant was guilty but mentally ill where the evidence of defendant's insanity was not clear and convincing. The State argues that Jasinski testified that defendant was compelled by his delusions to act irrationally, but not that his delusions precluded him from understanding the criminality of his actions. The State points out that Jasinski testified that defendant "knew he would get arrested. He knew it was, technically, a crime." The State asserts that the doctor's testimony does not describe a condition

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of confusion in defendant's mind regarding the criminality of his conduct or inability to understand it, but instead, discusses defendant's inability to conform his conduct to the law. The State argues that Jasinski's testimony supported a prior definition of insanity which is no longer a legally viable defense since the statute was amended in 1995. The State argues that the evidence established that defendant understood the criminality of his actions, and thus, was not legally insane.

¶ 31 In Illinois, it is presumed that all defendants are sane. *People v. Romero*, 2018 IL App (1st) 143132, ¶ 62. Under the insanity defense, a person is not criminally responsible for his conduct if, at the time of such conduct, he lacked substantial capacity to appreciate the criminality of his conduct due to mental disease or defect. 720 ILCS 5/6-2(a) (West 2014). When a defendant raises the insanity defense, it is his burden to prove by clear and convincing evidence that he is not guilty by reason of insanity, while the State retains the burden of proving him guilty beyond a reasonable doubt of the charged offenses. 720 ILCS 5/6-2(e) (West 2014).

¶ 32 A person who was not insane at the time he committed a criminal offense, but was suffering from a mental illness, is criminally responsible for his conduct and may be found guilty but mentally ill. 720 ILCS 5/6-2(c) (West 2014). "Mental illness" or "mentally ill" is statutorily defined as a substantial disorder of thought, mood, or behavior which afflicted a person at the time he committed an offense, and which impaired his judgment, but not to the extent that he was unable to appreciate the wrongfulness of his behavior. 720 ILCS 5/6-2(d) (West 2014).

¶ 33 Whether a defendant was legally insane or mentally ill at the time he committed an offense is a factual question that is generally determined by the trier of fact. *Romero*, 2018 IL App (1st) 143132, ¶ 63. The fact finder's determination of these issues will not be disturbed on

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review unless it is against the manifest weight of the evidence. *People v. Urdiales*, 225 Ill. 2d 354, 428 (2007). A finding is against the manifest weight of the evidence only where the opposite conclusion is clearly evident, or where the finding is arbitrary, unreasonable, or not based on the evidence presented. *Romero*, 2018 IL App (1st) 143132, ¶ 64 (citing *People v. Deleon*, 227 Ill. 2d 322, 332 (2008)).

¶ 34 Because the burden of proving insanity rests with the defendant, the State is not required to present expert testimony on the issue of sanity, and may rely purely on the facts in evidence and the inferences that follow from those facts. *Romero*, 2018 IL App (1st) 143132, ¶ 63. “Bizarre behavior or delusional statements do not compel an insanity finding as a defendant may suffer mental illness without being legally insane.” *People v. McCullum*, 386 Ill. App. 3d 495, 504 (2008).

¶ 35 It is the responsibility of the trier of fact to determine the credibility of the witnesses, the weight given to their testimony, and the inferences to be drawn from the evidence. *Id.* The trier of fact is in the best position to observe a witness as he testifies, and may accept as much or as little of his testimony as it sees fit. *Id.* “This rule also applies to expert opinions on sanity, and the weight of such an opinion is to be determined by the reasons given and the facts supporting the opinion.” *Id.* The trier of fact may entirely reject an expert’s testimony if it concludes that the defendant was sane based on factors including lay testimony from witnesses who observed the defendant around the time of the offense, whether the defendant planned the crime, and any attempt by the defendant to conceal the crime. *Romero*, 2018 IL App (1st) 143132, ¶ 63; *People v. Frank-McCarron*, 403 Ill. App. 3d 383, 396 (2010).

¶ 36 Here, the record shows that the jury's rejection of defendant's insanity defense, and its determination that defendant was guilty but mentally ill rather than legally insane, was not against the manifest weight of the evidence. It is undisputed that defendant suffers from the mental illness of severe delusional disorder. Although defendant established that he is mentally ill, he did not prove by clear and convincing evidence that he was not guilty by reason of insanity.

¶ 37 Defendant's argument rests entirely on Jasinski's expert opinion that defendant was legally insane at the time of the offenses because he was manifesting significant evidence of mental delusion which caused him to lack substantial capacity to appreciate the criminality of his conduct. Jasinski opined that defendant was insane rather than suffering from mental illness based on the severity of his symptoms. Jasinski testified that defendant's delusional frame of reference impaired his ability to appreciate that his behavior was problematic. Jasinski further testified, however, that defendant "knew he would get arrested. He knew it was, technically, a crime. In my mind, operating from [a] delusional frame of reference, why he's acting the way he is, prove more that his activity was criminal in nature." On cross-examination, the doctor testified that his opinion would not change by knowing that defendant testified that he knew he would be arrested and charged with a crime by going to ABC 7. Jasinski explained that defendant's reality, which was different from everyone else, was directly related to the reason why he continually returns to ABC 7 "and is continually arrested, knowing that he would be arrested." He testified that defendant's delusions impacted his judgment and reasoning such that he could not make a reasonable decision about whether or not to go to ABC 7. Jasinski concluded "[i]n my mind, that affects his ability to appreciate the criminality of his conduct."

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¶ 38 The record reveals, however, that there was additional testimony presented at trial which would have allowed the jury to reject Jasinski's testimony and find that defendant did, in fact, appreciate the criminality of his conduct. Hansen testified that on March 25, defendant entered the lobby of ABC 7, was told to leave the premises, and refused to leave. The following evening, March 26, defendant again entered the lobby of ABC 7 and approached Hansen at the reception desk. Defendant told Hansen "I am here to be arrested." Defendant disregarded Hansen's repeated requests to leave the building, and was arrested and charged with criminal trespass. Bandyk testified that the following morning, March 27, defendant again entered the building. Bandyk said to defendant "Percy, you know you're not supposed to be here." Defendant replied "[t]ake me to jail." When defendant did not comply with Bandyk's request to leave the building, he was again arrested and charged with criminal trespass. The testimony from Hansen and Bandyk thereby showed that defendant knew that he was not supposed to enter the lobby of ABC 7, yet he repeatedly did so on three consecutive dates, not only knowing that he would be arrested and sent to jail, but specifically intending those consequences. Based on this lay testimony from Hansen and Bandyk, who observed and interacted with defendant at the time of the offenses, the jury could find that defendant appreciated the criminality of his conduct. *Romero*, 2018 IL App (1st) 143132, ¶ 63; *Frank-McCarron*, 403 Ill. App. 3d at 396.

¶ 39 Moreover, in this case, defendant's own testimony contradicted that of Jasinski. Defendant testified that he "spent 18 years of his life protesting at government buildings and [the] Channel 7 News building, refusing to leave. Every time I get out, I'm back in jail." He further testified that he told Hansen to contact Channel 7 News to notify them that he needed to return to jail because remaining in jail was the best way for him to address the conspiracy against

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the government. Defendant expressly disagreed with Jasinski's finding that he was legally insane at the time of the offenses. Defendant explained "that's just basically saying that I wasn't aware of what I was doing when I went to Channel 7 News. I was totally aware of what I was doing. I was breaking the law, and that's wrong. And 2 wrongs don't make a right." On cross-examination, defendant acknowledged that he knew he was not supposed to go to ABC 7 "according to the law," but he went there to demand justice because "God's law" is "a higher law." When the State asked defendant if he knew that by going to ABC 7 he would be arrested and sent to jail for trespassing, he replied that he did not know if they would "hide" him at another mental institution, "or go by the law and send me to jail, and let the Judge make that decision, whether I'm fit or not." Defendant explained that "[s]ometimes they break the law and directly send me to a mental institution," but that "the steps supposed to be to take me to jail for trespassing."

¶ 40 The jury was able to observe defendant as he testified, and it was up to the jury to accept as much or as little of his testimony as it saw fit. *McCullum*, 386 Ill. App. 3d at 504. Although some of defendant's testimony included delusional statements, such statements did not compel an insanity finding as the jury could find that defendant was suffering from a mental illness without being legally insane. *Id.* It was the jury's responsibility to consider all of the evidence presented and determine whether defendant was legally insane or mentally ill at the time he committed the offenses. It is apparent that the jury found that defendant had the capacity to appreciate the criminality of his conduct, and therefore, was not legally insane, but instead, was mentally ill. Based on this record, we cannot say that an opposite conclusion was clearly evident, or that the jury's finding was arbitrary, unreasonable, or not based on the evidence presented.



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*Romero*, 2018 IL App (1st) 143132, ¶ 64. Accordingly, the jury's finding the defendant was guilty but mentally ill was not against the manifest weight of the evidence.

¶ 41 For these reasons, we affirm the judgment of the circuit court of Cook County.

¶ 42 Affirmed.