FIFTH DIVISION
March 11, 2011

No. 1-09-1004

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County, Illinois,
	)	County Department,
	)	Criminal Division.
	)	
	)	No. 01 CR 30151
v.	)	
	)	
GEOFFREY GRIFFIN,	)	Honorable
	)	Joseph M. Claps,
Defendant-Appellant.	)	Judge Presiding.

JUSTICE JOSEPH GORDON delivered the judgment of the court.
Presiding Justice Fitzgerald Smith and Justice Howse concurred in the judgment.

ORDER

HELD: The DNA evidence adduced at trial linking defendant to the victim was sufficient for the trial court to convict him of first degree murder. Furthermore, the trial court did not err when it permitted the State's expert witness in forensic pathology to opine as to the time of the victim's death.

Following a bench trial, defendant Geoffrey Griffin was convicted of first degree murder for the death of the victim, Julia Veal. The trial court found that defendant was subject to mandatory life imprisonment and sentenced him accordingly. This appeal followed.

I. BACKGROUND

The victim went missing from her home in the Roseland neighborhood of Chicago on June 13, 2000. Two weeks later, police discovered her body in the basement of an abandoned home in that same neighborhood. Her body was found in a pool of blood, and she appeared to have been stabbed repeatedly and suffered from severe blunt trauma. There were no eyewitnesses to the victim's murder, however a plastic bag was found at the scene containing DNA profiles matching both the victim and defendant. At that time, defendant was already in police custody for another murder. Following his arrest, a search warrant was executed for defendant's home, where police recovered numerous items of clothing which DNA testing indicated were stained with the victim's blood. Defendant was charged with first degree murder and tried in October 2008. At his trial, the State relied heavily on items of defendant's clothing as well a plastic bag found at the scene of the murder to establish his guilt through DNA evidence. No eyewitnesses to the murder were called by either party, nor did defendant testify.

The State called Cynthia Harris, the victim's sister, as its first witness. Harris testified that she lived with the victim and last saw her at their home on the morning of June 13, 2000. When the victim did not come home after two days, Harris filed a missing person's report with the police. On June 27, police informed Harris that the victim had been found dead in an

abandoned home approximately two and a half blocks south of the home she shared with Harris. Harris also testified that the victim used Isoplus hair products.

Chicago police officer Joseph Kwiatkowski testified that on the evening of June 27, 2000 he went to 11034 South Edbrooke as part of a broader search for gang weapons in vacant buildings. The building was located in a high crime area with gang and drug problems. The windows and doors to the building were boarded up, but its basement was accessible through a back door. The stairs leading down to the basement were strewn with garbage, including plastic bags and other debris. When he entered the basement, Kwiatkowski observed a trail of blood, apparently from drag marks, leading to a closed door to a furnace room. Following the trail of blood into the room, he saw a female body lying on the floor, at which point he secured the building and notified detectives.

Dr. Rick Staub testified next for the State. The parties stipulated to Staub's qualifications as an expert in DNA analysis. Staub testified that analysts employed by his lab conducted DNA analysis on the genetic profiles of the victim and defendant, as well as on a black plastic Isoplus bag found a few feet from the victim's body. The analysis on the bag yielded a female profile that matched the victim's, and would be expected to occur in one out of 3.716 quadrillion unrelated individuals. That analysis also yielded a minor male profile, from which defendant could not be excluded. A Y-STR analysis was conducted on that profile, from which he obtained an eight locus Y-STR profile. Defendant matched at all eight of those loci. Staub explained that these results had a 95% confidence interval. This, he explained, meant that "a 95 percent confidence interval indicates that from zero to one in 329 times, that the – that profile might be

seen. *** [I]n other words, the most frequent – the highest frequency in the 95 percent confidence level is one out of 329 African American individuals." He then opined, to a reasonable degree of scientific certainty, that the Y-STR profile found on the bag matched the defendant's genetic profile at those eight loci.

On cross-examination, Staub acknowledged that he could not definitively say that the DNA found on the bag belonged to defendant. He also acknowledged that he could not determine when the DNA profiles were placed on the bag, and that they conceivably could have been placed there at different times.

Following questioning by the parties, the trial court asked Staub to clarify portions of his testimony. Staub indicated that the probability of the profile found on the Ispolus bag appearing randomly was zero to one in 329. When asked by the trial court to explain what he meant by this he stated:

> "In simple terms, that means those are the boundaries of my assessment of that true frequency of that profile. One out of 329 is very conservative. In other words, I'm giving the defendant a tremendous amount of leeway in that truly *** the more markers you have, the more this is true – the true frequency probably lies closer to zero. *** What it means is that – if you like went and did 100 different databases, 95 of those would be between that – those margins, between zero and one in 329."

The State next called detective John Fassl who testified that he observed drag marks and pools of blood in the basement where the victim was found, and he recovered several items from that basement, including the Isoplus bag.

Detective Ted Przepiora testified that on June 28, 2000, he executed a search warrant at defendant's home. During the execution of that warrant, Przepiora observed a pile of clothing in the corner of defendant's room. Police recovered a pair of black trousers, a Georgetown University jacket, a McDonald's workshirt, and a pair of gym shoes. They also recovered a butcher knife from a couch and a smaller knife from between the couch and a dresser.

On cross-examination, Przepiora acknowledged that defendant was taken into police custody on June 15, 2000 and was still in custody when he executed the search warrant on June 28, 2000.

Edgardo Jove, a DNA analyst from the Illinois State Police Crime Lab, testified next as an expert for the State. The parties stipulated to his expertise in the field of DNA analysis. Jove stated that he developed DNA profiles for defendant and the victim, and compared those profiles to those taken from stains on the five items of defendant's clothing recovered by police. Those stains had previously been analyzed by a crime lab technician and all indicated the presence of blood. That analysis, he testified, was very sensitive and capable of detecting one part of blood per million. He further stated that based on his training and experience, the stains appeared to be blood.

Jove testified that analysis of a red-brown stain on the left knee of defendant's trousers yielded a female profile which matched the victim's with a statistical probability of 1 in 12

quintillion black, 1 in 4 quintillion white, or 1 in 110 quintillion unrelated Hispanic individuals. That stain measured five inches by three inches. The profile recovered from the stain on the left outside pocked of defendant's Georgetown jacket matched the victim's profile with a statistical probability of 1 in 12 quintillion black, 1 in 4 quintillion white, or 1 in 110 quintillion Hispanic unrelated individuals, and measured four inches by one and one half inches.

Jove also tested stains from defendant's workshirt. A stain on the right shoulder of that shirt measured four by two inches and yielded a full profile that matched defendant and a mixed profile from which the victim could not be excluded. The statistics for the victim's profile were one in 170 billion black, one in 82 billion white, or one in 200 billion Hispanic unrelated individuals. A stain from the navel area of that shirt measured four inches by five inches and contained a mixed profile from which defendant and the victim could not be excluded. The stains from defendants shoes yielded a mixed profile from which neither the defendant or the victim could be excluded. The statistics for this profile was one in 180 black, one in 230 white, or one in 270 Hispanic unrelated individuals.

On cross-examination, Jove acknowledged that the preliminary tests, while sensitive to one part of blood per million, could yield false positives from other substances. He further acknowledged that DNA from blood can remain on an item for many years, and that he could not determine when the DNA was deposited on the clothing he examined. Additionally, he stated that semen, saliva, and sweat, in addition to blood, all contain DNA, and may leave that DNA on an object that they come in contact with.

Dr. Nancy Jones lastly testified for the State. The parties stipulated that Jones, the chief medical examiner for Cook County, was qualified as an expert in forensic pathology and should be allowed to testify as an expert in that field. No additional questioning was conducted regarding Jones's qualifications.

Jones testified that she conducted a post-mortem examination on the victim in June 2000. She stated that the victim's body was in a severe state of decomposition and was covered with maggots and dirt. There was very hair on her head or pubic area due to the decomposition. She observed extensive damage to the victim's genital and anal regions and a number of lacerations and fractures on the victim's head, including a large laceration to her forehead, a depressed skull fracture, a broken jaw and teeth, and four stab wounds to her neck. Jones opined that the victim's death was a homicide caused by cranial cerebral injuries due to blunt trauma due to an assault with multiple stab wounds contributing to the death.

Jones testified that the victim's advanced state of decomposition was evidenced by the presence of large and thick maggots. Jones admitted that she could not give an opinion as to the exact time of the victim's death, but testified that:

> "As a forensic pathologist based on my understanding of where the body is found on a cement floor which is going to act to cool the body quicker which is going to slow decomposition, the fact that I have the temperatures which indicate *** [that the] basement, particularly in cement floors, are cooler than the upper floors of the house. Again, coolness will slow down decomposition.

> The condition of the body, particularly the condition of the brain, it's impossible to put a precise time on this. But in my opinion, this woman has been dead at least a couple weeks. This is not a short time frame. This is a longer time frame. So she has been dead, if you can set parameters of between the 10th and 15th or the 15th and 20th, it would be very easy to say, yes, it's more consistent with being dead between the 10th and the 15th than the 15th and 20th."

Defendant made repeated objections to this line of questioning, arguing that it was irrelevant, prejudicial, and that testimony concerning the victim's time of death was outside her scope of expertise as an expert.

On cross-examination, Jones acknowledged that it was not scientifically possible to establish the precise time of the victim's death and that she did not engage in examinations of maggot growth. Nevertheless, she reiterated that based solely on the condition of the body, it was more likely that the victim died between the 10th and 15th of June 2000 as opposed to the 15th and 20th. When asked if it was possible that the victim died on the 20th, she indicated that it was not.

After the State rested and the trial court denied defendant's motion for a directed verdict, defendant presented his case by way of stipulation. The stipulated testimony indicated that no trace of blood was detected on the knives found during the execution of the search warrant of defendant's home. Dr. Mueller's testimony from the *Frye* hearing concerning the use of theta correction in DNA analysis was also stipulated to.

Following closing arguments, the trial court found defendant guilty of first degree murder and sentenced him to a term of life imprisonment. This appeal followed.

II. ANALYSIS

Defendant raises two separate claims on appeal. First, he asserts that the State proffered insufficient evidence to establish his guilt beyond a reasonable doubt, and second, he claims that the trial court erred when it permitted Jones to testify as to the victim's time of death. We will address these contentions in turn.

A. Sufficiency of the Evidence

Defendant first contends that the State failed to prove him guilty beyond a reasonable doubt. While defendant concedes that the DNA evidence obtained from the Isoplus bag and his clothing support a link between him and the victim, he argues that because the State failed to adduce any evidence suggesting when, where, or how that DNA evidence came to be transferred to those items, they failed to establish his guilt. We disagree.

When considering a challenge to the sufficiency of the evidence, it is not the function of this court to retry the defendant. Instead, the relevant question on appeal is whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. *People v. Hall*, 194 Ill. 2d 305, 329-330 (2000). The weight to be given the testimony, the credibility of the witnesses, the resolution of conflicting testimony, and the reasonable inferences to be drawn

from the evidence are the responsibility of the trier of fact. *People v. Walenksy*, 286 Ill. App. 3d 82, 97 (1996); *People v. Milka*, 211 Ill. 2d 150, 178 (2004). A reviewing court will not set aside a criminal conviction unless the evidence is so unreasonable, improbable, or unsatisfactory as to justify reasonable doubt of the defendant's guilt. *Hall*, 194 Ill. 2d at 330. "It is sufficient if all of the evidence taken together satisfies the trier of fact beyond a reasonable doubt of the defendant's guilt." *Hall*, 194 Ill. 2d at 330.

Here, the evidence adduced by the State at trial indicated that the victim's body was found in an abandoned building less than a mile away from defendant's home approximately two weeks after her murder. While the medical examiner was unable to precisely determine her time of death, based on the condition of the body, the presence and size of maggots, and the surroundings in which it was found, she opined that the victim was likely killed between the 10th and 15th of June, 2000. Defendant was taken into police custody on the 15th, after being arrested for an unrelated murder. Defendant was identified as the victim's killer through DNA evidence recovered from the surface of a plastic bag found at the scene of the crime and from several articles of clothing recovered from his home. There is no indication in the record as to the contents of that bag. Those items of clothing were saturated with close to forty square inches of blood stains, which DNA testing conclusively revealed came from both the victim and defendant. Those stains were located on defendant's shoes, on the left knee of his pants, on the left pocket of his jacket, and on the navel and right shoulder of his shirt The plastic bag found at the scene also contained DNA conclusively belonging to the victim, as well as a DNA profile from which defendant could not be excluded at a statistical probability of one in over three hundred unrelated

African American males. There is no dispute over admissibility of this evidence. Instead, defendant argues first that it is insufficient to establish his guilt because the State did not conclusively determine that the substance found on his clothing was blood, and second, how or when it got there. He further argues that the DNA match found on the plastic bag was insufficient to link him to the victim's murder. These contentions are without sufficient merit. When viewing this evidence in a light most favorable to the State, there can be no question that the trial court could have found defendant guilty beyond a reasonable doubt.

Defendant first argues that the State did not definitively establish that the stains found on his clothing were blood stains, and therefore it is unable to link him to the victim's murder. These articles were covered in close to forty square inches of reddish brown stains. These stains were conclusively identified by Dr. Jove as blood, and confirmed as such by preliminary testing. Those tests all indicated the strong presence of both defendant's and the victim's DNA. Defendant instead insists that we accept his contention that the stains could have been caused by another substance, such as semen, saliva, or sweat, and that they were deposited on those items during an unrelated, casual encounter. In support of this contention, he cites *People v. Cumbee*, 366 Ill. App. 3d 476 (2006), which he claims stands for the proposition that preliminary tests for blood are unreliable. *Cumbee*, however, merely holds that those tests are not *conclusively* reliable, and still were presumptively indicative of the presence of blood. The cour therefore ruled that any questions regarding the tests' conclusiveness should go to their weight, not their admissibility.

In this case, not only was the court presented with the results of the preliminary tests indicating the presence of blood, but also the expert testimony of Jove who opined that based on his experience and the stains' appearance, that they were caused by blood. Under *Cumbee*, the trial court could have considered this evidence, the accounts of the crime scene, and the condition of the victim's body, and found the substances staining defendant's clothing to be blood. Even if we accept defendant's contention that the substances were not blood, further tests conducted on those stains undisputedly indicated that his and the victim's DNA were both present and must have been in contact with each other at the crime scene in order for defendant's clothing to have absorbed the victim's secretions causing those stains.

Defendant further contends that there is no evidence that those stains were made at the time of the victim's death, and urges this court to accept his theory that they could have been placed on his clothing through some other contact he had with the victim before her death. Nothing in the record supports defendant's theory, and we need not engage in pure speculation to determine that they did so. See *People v. McDonald*, 168 Ill. 2d 420, 447 (1995) ("When weighing the evidence, the trier of fact is not required to disregard inferences that flow from the evidence, nor is it required to search out all possible explanations consistent with innocence and raise them to a level of reasonable doubt."), *People v. Arndt*, 50 Ill. 2d 390. 396 (1972) (the court was "not required to search out a series of potential explanations compatible with innocence and elevate them to the status of reasonable doubt.").

Here, defendant's attempts to explain away the fact that his pants, shirt, shoes, and jacket, all found in his apartment, were saturated with profuse amounts of what was determined, through

expert testimony and preliminary testing, to be blood belonging to him and the victim to be the result of casual contact between them defies rational thought. The foregoing is consistent with the fact that the victim was found in a large pool of her own blood, caused by the numerous stab wounds and blunt trauma which led to her death. This abundance of blood, coupled with the numerous and sizeable blood stains found on defendant's clothing, each conclusively indicating the presence of the victim's and defendant's DNA, rule out any likelihood that those stains were the result of casual contact between the victim and defendant. Further, the location of these blood stains on the shoulder and navel of defendant's shirt and the side of his jacket are consistent with the scenario that defendant and the victim were in close proximity to one another while the victim was bleeding profusely before her death. The blood on the knee of defendant's pants and on his shoes further suggests that defendant knelt next to the victim at that same time. Any attempt to explain that such contact--as well as the clothing soaked in the victim's blood found in defendant's home–as fortuitous without recognizing defendant's complicity in her death would have required the trier of fact to abandon the input of common sense and experience.

Having conclusively established a link between defendant and the victim's murder through his blood stained clothing, we next turn to the State's other piece of DNA evidence, the plastic Isoplus bag found at the scene of the crime which further supports the inference drawn by the bloodstains on defendant's clothing that he murdered the victim. Defendant, however,

insists that we disregard the DNA evidence taken from the bag, arguing that it does not represent a statistically significant link between him and the victim. The DNA taken from that bag contained both a major and a minor profile. Dr. Staub conducted a statistical analysis on both profiles and found that the major profile, which matched that of the victim, could be expected to occur in one out of approximately three quadrillion individuals, while the minor profile, from which defendant could not be excluded, conservatively would be expected to occur in one out of 329 unrelated African American men. Defendant does not challenge the admissibility of this evidence. Nor does he challenge the trial court's decision at the *Frye* hearing admit it without the use of theta correction. Instead, he attacks the weight afforded to the statistical evidence taken from the minor profile found on the bag, contending that it was too weak to connect him to the crime.

When a defendant challenges the weight to be afforded to a piece of evidence, "it is not the province of this court to substitute its judgment for that of [the trial court] on questions regarding the weight of the evidence." *People v. Evans*, 209 Ill. 2d 194, 211 (2004). Reversal is not warranted simply because the defendant alleges that the trier of fact assigned too much weight to a particular piece of evidence. *Evans*, 209 Ill. 2d at 211-212, citing *People v. Brown*, 185 Ill. 2d 229, 250 (1998).

In support of this contention, defendant relies on *People v. Miller*, 173 Ill. 2d 167 (1996) and *People v. Schulz*, 154 Ill. App. 3d 358 (1987). *Miller* holds that "[f]or a match to be meaningful, a statistical analysis is required. The statistical analysis determines the frequency in which a match would occur in a database population." *Miller*, 173 Ill. 2d at 185. *Schulz* further

holds that where the likelihood of a DNA match is common, and there is little other corroborative evidence, that match has little or no probative value. *Schulz*, 154 Ill. App. 3d at 365-66 (the trial court erred in admitting test results which indicated that the defendant and 20% of the general population, including the victim, could have been the source of blood as they were irrelevant). While defendant correctly characterizes the holdings in both of these cases, neither supports defendant's contention that the trial court should not have considered, or given less weight to, the DNA evidence taken from the Isoplus bag.

Instead, the DNA evidence recovered from the bag is merely adjunctive to the overwhelming DNA evidence found on defendant's clothing. Even though the bag, on its own, may not be sufficient to support a guilty verdict, it is still entitled to sufficient weight when it tends to be corroborative of other evidence. In that sense, *Johnson* and *Mann*, two cases distinguished in *Shulz*, are instructive. *Johnson* held that while evidence of hair, blood, and semen found at a crime scene lacked considerable probative value, it was nevertheless relevant and admissible because it tended to exclude others and failed to exclude defendant as the attacker. *People v. Johnson*, 37 Ill. App. 3d 328, 332 (1976). Similarly, *Mann* held that although circumstantial evidence including hair, blood, and semen might have been of relatively little probative value standing alone, when viewed along side of much stronger statistical evidence linking the defendant to the crime, the evidence was sufficient to sustain the jury's finding of guilt. *People v. Mann*, 30 Ill. App. 3d 508, 511 (1976).

Here, the evidence recovered from the Ispolus bag is just one piece of corroborative evidence linking defendant to the victim's murder. While the DNA evidence gleaned from the

bag, on it's own, may not have been sufficient to convict defendant, it did suggest that defendant was present at the location of the victim's body, and was far from the only evidence offered by the State. Instead, the evidence adduced at trial indicates that the victim was murdered at a time when defendant was not in police custody. Her body was discovered in a pool of her own blood., at least two weeks after the fact. Close to forty square inches of blood stains, conclusively determined to contain both the victim's and defendant's DNA, saturated multiple pieces of defendant's clothing. This evidence alone would likely have been sufficient to establish defendant's proximity to the scene of the victim's murder. The black Isoplus bag, found near the victim's body, further corroborates defendant's proximity to the scene of the crime. That bag contained two DNA profiles, one belonging to the victim, and another from which defendant could not be excluded and that would be expected to occur randomly only between zero and one times out of 329. These two pieces of evidence, when taken together, create an indisputable link between defendant and the victim's murder. When viewed in a light most favorable to the State, we cannot say that the evidence adduced at trial was insufficient for a reasonable trier of fact to find defendant guilty of first degree murder beyond a reasonable doubt.

B. Qualifications of Dr. Jones

Defendant next contends that the trial court erred when it permitted Dr. Nancy Jones, an expert in forensic pathology, to opine as to the time of the victim's death. This issue gains its significance because defendant was taken into police custody on June 15, 2000, and therefore could not have committed the murder after that date. Jones' testimony, however, indicated that

the victim was liked murdered between the 10th and 15th of June. Because Jones was never questioned regarding her expertise in time of death estimates, defendant argues that her testimony was speculative and beyond the scope of her expertise, thus entitling him to a reversal and new trial. The State, on the other hand, asserts that Jones, as an expert in forensic pathology, was inherently qualified to opine as to the victim's time of death. We agree with the State.

A trial court's decision to allow expert testimony will only be reversed if it constitutes an abuse of discretion. *People v. Novak*, 163 Ill. 2d 93, 104 (1994). "A person can be permitted to testify as an expert if that person's experience and qualifications afford him or her knowledge that is not common to the average layperson and will assist the jury in evaluating the evidence and reaching a conclusion. There are no precise requirements regarding experience, education, scientific study, or training." *People v. Lovejoy*, 235 Ill. 2d 97, 125 (2009), citing *People v. Mertz*, 218 Ill. 2d 1, 72 (2005). If an opposing party believes that an expert lacks sufficient qualifications for his or her opinion, the trial court may permit a *voir dire* examination into such matters. M. Graham, Cleary & Graham's Handbook of Illinois Evidence § 702.2, at 458 (4th ed. 1984), citing *People v. Sawhill*, 299 Ill. 393 (1921).

In the instant case, the parties stipulated that Jones, the chief medical examiner for Cook County, was an expert in the field of forensic pathology. Defendant did not object to Jones's qualifications, nor did he request permission to *voir dire* her. Jones testified that she conducted the victim's autopsy, reviewed the temperatures in Chicago between June 13 and June 27, 2000, and was aware of the conditions under which victim's body was found. She testified that the victim's body was found in an advanced state of decomposition and was covered with fairly large

and thick maggots. She explained that the larger size of the maggots suggested that they had been feeding on the body longer, and therefore were older than younger, smaller maggots. Jones further testified that the victim's brain was liquified, a process which takes an extend period of time. Based on this information, Jones opined that the victim had been dead "at least a couple of weeks" and that it was more likely that she died between the 10th and 15th of June rather than between the 15th and 20th. Jones then stated that the victim had been dead for at least two weeks when she examined her body on June 26, 2000.

Defendant now argues that because Jones was not questioned regarding her expertise in fixing a decedent's time of death, the State did not carry its burden of establishing her qualifications on that subject. He further contends that because Jones lacked training in etymology, she was unqualified to opine as to the significance of the maggot infestation on the victim's body. Defendant, however, has cited no cases which support these contentions. Instead the cases upon which he relies stand for the proposition that a witness with knowledge in one field cannot offer an expert opinion in an unrelated field. See, e.g., *Dyback v. Weber*, 114 Ill. 2d 232, 244 (1986) (an expert qualified to testify regarding the causes of fires could not opine regarding the duty of care owed by contractors), *Bloomgren v. Fire Ins. Exch.*, 162 Ill. App. 3d 594, 599-600 (1987) (a non-expert volunteer firefighter was not qualified to opine as to the origins of a fire), *People v. Park*, 72 Ill. 2d 203 (1978) (a deputy sheriff was unqualified to opine that a substance was marijuana).

Defendant has arguably waived this issue by stipulating to Jones's expertise. See *People v. Emrich*, 132 Ill. App. 3d 547, 553 (1985) ("Having failed to question, much less object to, [the

witness's] qualifications as an expert witness *** we consider the State's argument with regard to this issue as waived for purposes of appellate review."), *People v. Nieves*, 193 Ill. 2d 513, 527 (2000) (defendant who questioned an expert witness's competency as an expert was found to have waived the issue on appeal because he did not question the witness's qualifications before the witness was certified as an expert).

Furthermore, these arguments ignore the fact that determinations of a decedent's time of death are implicit to the study of forensic pathology. This fact has been repeatedly recognized in a long line of authority. See 31A Am. Jur. 2d *Expert and Opinion Evidence* § 313 ("A forensic pathologist who has performed an autopsy is generally permitted to offer expert opinion not only as to the cause and time of death, but also as to the circumstances under which the fatal injury could or could not have been inflicted."), Jay Dix, et al., Guide to Forensic Pathology 32 (1998) ("A forensic pathologist attempts to determine the time of death as accurately as possible realizing, however, that such a determination is only a best estimate."), Joseph Prahlow, Forensic Pathology for Forensic Scientists, Police, and Death Investigators 179 (Humana Press 2010) (forensic pathologists should use caution when providing time of death estimates in light of the many variables to be considered when doing so).

This principle has been implicitly supported in multiple Illinois cases where forensic pathologists have been permitted to opine as to a decedent's time of death. See, e.g., *People v. Hanson*, 238 Ill. 2d 74, 110 (2010) (a forensic pathologist who conducted an autopsy on murder victims opined regarding their time of death under cross-examination by the defendant), *People v. Nally*, 216 Ill. App. 3d 742, 749 (1991) (forensic pathologist opined that, based on his rigor

mortis and lividity, the victim's time of death could be narrowed to a six hour window), *People v. Brown*, 172 Ill. 2d 1, 14 (1996) (forensic pathologist allowed to testify that the victim died between four and six days prior to his examination).

As noted above, defendant further takes issue with Jones's testimony regarding maggot growth, arguing that such testimony, as well, was beyond the scope of her expertise. Our supreme court, however, has implicitly rejected this argument. In *People v. Henenberg*, 55 Ill. 2d 5 (1973), the defendant contested the admissibility of pathologist testimony regarding "the amount of putrefaction of the tissue and the state of development of the maggots on the body." *Henenberg*, 55 Ill. 2d at 14. The supreme court held that this testimony was proper as it was part of the basis upon which the pathologist was able to determine the victim's time of death. *Henenberg*, 55 Ill. 2d at 14.

In the instant case, the trial court was not faced with a situation where an expert testified in an area outside the realm of her expertise. Jones's qualifications as an expert in the field of forensic pathology were stipulated to by defendant, and in that capacity as an expert, she offered testimony regarding the victim's cause and time of death, areas repeatedly recognized by Illinois courts, treatises, and textbooks as part and parcel of the area of forensic pathology. She opined that based on a number of factors, including the liquidity of the victim's brain, the state of her body, the temperatures in the basement, and the fact that the victim was found on a cement floor, the victim had been dead for at least two weeks before her body was found. Defendant has cited no law contradicting the overwhelming authority indicating that Jones, as an expert in forensic

pathology, was inherently qualified to offer this opinion. Therefore, we cannot say that the trial court abused its discretion in permitting such testimony.

III. CONCLUSION

For the foregoing reasons, defendant's conviction is affirmed.

Affirmed.