

FIRST DIVISION
April 22, 2013

No. 1-10-3784

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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.
	)	
v.	)	No. 09 CR 11845
	)	
RAFAEL ALVARADO,	)	Honorable
	)	Thomas P. Fecarotta, Jr.,
Defendant-Appellant.	)	Judge Presiding.

JUSTICE ROCHFORD delivered the judgment of the court.
Justices Cunningham and Delort concurred in the judgment.

ORDER

- ¶ 1 **HELD:** Defendant's convictions for first degree murder and intentional homicide of an unborn child are affirmed, where: (1) the trial court did not err in denying a motion to suppress defendant's inculpatory statement; and (2) defendant's constitutional right to confrontation was not violated by the introduction of evidence regarding an autopsy report.
- ¶ 2 Defendant, Rafael Alvarado, was convicted of first degree murder and intentional homicide of an unborn child following a jury trial. He was then sentenced to consecutive terms of 60 and 40 years' imprisonment, respectively. On appeal, defendant asserts that his convictions must be reversed and this cause must be remanded for a new trial because: (1) the trial court erred in denying

a motion to suppress his inculpatory statement to the police; and (2) his constitutional right to confrontation was violated by the introduction of evidence regarding an autopsy report that was provided by a substitute medical examiner. For the following reasons, we affirm.

¶ 3

I. BACKGROUND

¶ 4 Defendant was arrested on June 4, 2009, and he was subsequently charged by indictment with multiple counts of first degree murder and intentional homicide of an unborn child. The indictment generally alleged that, on or about June 4, 2009, defendant struck Norma Favela in the head with a hammer, causing the deaths of both Ms. Favela and her unborn child. Several counts contained in the indictment further indicated that the State would seek an extended term sentence for each charged offense, because each resulted from exceptionally brutal or heinous behavior indicative of wanton cruelty.

¶ 5 Defendant filed a pretrial motion to suppress a statement he gave to the police shortly after he was arrested. A hearing on that motion was held on August 24, 2010, at which point defense counsel specifically indicated that defendant's motion to suppress did not include any allegation of coercion.

¶ 6 The trial court then heard testimony from Detective Juan Miranda of the Hanover Park Police Department. Detective Miranda testified that defendant was arrested shortly after 3 a.m., on June 4, 2009, and was being held in custody at the Hanover Park police station when Detective Miranda became involved in the investigation of the death of Ms. Favela. Specifically, Detective Miranda was asked to assist with the investigation because of his ability to speak with defendant in Spanish.

However, after defendant was advised of his *Miranda*¹ rights, around 3:50 a.m., defendant requested to speak to an attorney. Detective Miranda, thus, terminated the interview, and defendant was placed in a holding cell at the police station. Defendant had not been provided an opportunity to contact an attorney prior to Detective Miranda's next interaction with him around 3 p.m. that day, though he did not ask to make such a call either.

¶ 7 At that time, Detective Miranda and Detective Jason Harden escorted defendant to an interview room for the purpose of executing a search warrant to obtain forensic samples suitable for DNA testing. Defendant was not interviewed at that time, but Detective Miranda did show defendant the search warrant and the supporting complaint for a search warrant. He also briefly explained those documents to defendant in Spanish. After two evidence technicians collected the required samples, defendant was escorted back to the holding cell.

¶ 8 As Detective Miranda was leaving the holding cell, defendant asked for a cigarette to calm his nerves. Defendant was informed that Detective Miranda's supervisor would have to approve that request. Defendant responded by stating that, if he was allowed to smoke, he would "tell [Detective Miranda] everything." Defendant was told to stop speaking at that point, and was further informed that unless he was "reinitiating" the interview, Detective Miranda could not speak to him. Defendant then indicated that he was in fact reinitiating the interview, but would like to smoke first. After defendant confirmed his understanding that a decision to grant his request to smoke "would not be a gift or used in exchange for a statement," Detective Miranda obtained permission from his supervisor and brought defendant to the garage for a cigarette. When defendant again tried to speak

¹ See *Miranda v. Arizona*, 384 U.S. 436 (1966).

to Detective Miranda while smoking, defendant was advised that he could not talk about this matter until he had been given his *Miranda* rights again in an interview room. Detective Miranda testified that he did not talk with defendant about anything else during these exchanges.

¶ 9 Defendant was then escorted back to an interview room, at which point his interactions with Detectives Miranda and Harden were videotaped. Defendant spoke primarily with Detective Miranda, and spoke in Spanish. These videotaped interactions were subsequently translated and transcribed. Defendant was provided with soda and some chips, and Detective Miranda reviewed with defendant—in Spanish—the information contained in a "REIN[I]TIATION OF INTERVIEW" form (interview form) prepared in English. Detective Miranda testified that he translated the interview form "line for line," and that the form included: a statement about defendant's desire to reinitiate the interview; a statement of defendant's *Miranda* rights; and a statement that defendant was waiving those rights.

¶ 10 Detective Miranda also acknowledged that during the course of explaining the contents of this form, defendant said: "Let's see and like can't you assign a public defender to be present what I'm saying?" Detective Miranda then further explained the form to defendant, and informed defendant that he should sign it only if it was "one hundred percent true." Defendant then signed the form, which was also signed and dated by Detectives Miranda and Harden as witnesses to defendant's signature. Defendant was, thereafter, interviewed about this matter.

¶ 11 In addition to Detective Miranda's testimony, the trial court also received the interview form, the videotape of defendant's interview, and the translation and transcription of the videotaped interview into evidence at the hearing on the motion to suppress. The interview form begins with

No. 1-10-3784

the following paragraph:

"I, Rafael Alvarado, told Detective Miranda and Harden that I wanted to talk about the homicide of Norma Favela. I requested to speak with Detective Miranda and Harden about the homicide of Norma Favela when they allowed me to smoke a cigarette. I had previously told Officer Diaz and Detective Miranda that I wanted an attorney when they spoke with me but I am now waiving this right."

The form then recounted defendant's *Miranda* rights, before concluding with this paragraph:

"I understand each and every one of these rights. Having these rights in mind, I voluntarily waive them and no longer want an attorney. I wish to talk with [D]etective Miranda and Harden about this incident."

¶ 12 The videotape and the translation and transcription establish that upon returning to the interview room, defendant was provided with soda and chips and Detective Miranda confirmed with defendant that they were "[r]eturning to initiate the interview." Detective then translated—almost verbatim, and with no substantial variations—the contents of the interview form for defendant. At that point, the following exchange of questions and answers between Detective Miranda and defendant took place:

"Q. Is that true?

A. (indicating)

Q. Yes? Okay put, sign here. I'm going to put the date, well sign here.

A. In other words—

Q. On the X.

No. 1-10-3784

A. Okay.

Q. Okay what I just talked about okay.

A. Uh-huh.

Q. You remember that, that when you went to initiate to talk with us okay. I just read the, the rights and you are in agreement to talk with us. Is that true?

A. Yes.

Q. Yes? Okay. Sign here. Put your signature. Okay that, that I read your rights and that you understood the rights that I just read. Okay?

A. Let's see and, and like can't you assign a public defender to be present what I'm saying.

Q. Yes that's what, what I just finished telling you. You initiated, you had told me and here I had told you directly what was written that you no longer require an attorney. That you no longer wanted an attorney present because you wanted to talk with me and Detective Harden about the incident that had occurred.

A. (indicating) Okay.

Q. Is that true?

A. Yes that's true.

Q. Okay. If you understand one hundred percent what I've just told you put your signature there."

¶ 13 The videotape then shows defendant signing the interview form, and the form being witnessed by the two detectives. The videotape and transcription then show defendant being

interviewed by Detective Miranda in Spanish, and in the course of that interview defendant admitted to having an argument with Ms. Favela and hitting her in the head a number of times with a hammer.

¶ 14 After being presented with arguments, the trial court denied defendant's motion to suppress his statement to the detectives. The trial court stated that its decision was based upon its review of all the evidence and its evaluation of the credibility of Detective Miranda. The trial court specifically noted that the fact that defendant did initially exercise his *Miranda* rights by requesting a lawyer, and the fact that the police did not speak to defendant thereafter until defendant's reinitiation, indicated that: (1) defendant understood his *Miranda* rights; and (2) these police officers were honoring defendant's exercise of those rights. The trial court also concluded that the interview form, Detective Miranda's explanation of the contents of that form, and the calm demeanor defendant displayed in the videotaped interview, together established that defendant understood what he was doing when he voluntarily waived his *Miranda* rights and agreed to be interviewed about Ms. Favela's death.

¶ 15 The matter proceeded to a jury trial in September of 2010. At that trial, the State's evidence included defendant's inculpatory videotaped statement. It also included evidence about an autopsy of Ms. Favela and her unborn child.² Specifically, the State presented the testimony of Dr. Lauren Moser, an assistant medical examiner for Cook County who was qualified as an expert in forensic pathology. Dr. Moser testified that she had reviewed a report of an autopsy of Ms. Favela and her unborn child prepared by assistant medical examiner Dr. Tara Jones. Dr. Moser was called to testify regarding this autopsy because Dr. Jones had moved to Colorado.

² The State presented a great deal of additional evidence at trial, but we need not recount all of that additional evidence to resolve the issues raised on appeal.

¶ 16 Dr. Moser testified that she had reviewed Dr. Jones' autopsy report, photos, and related file materials in order to form her own opinion as to the cause of death with respect to Ms. Favela and her unborn child.³ Dr. Moser testified that she concurred with Dr. Jones' conclusion that the cause of death with respect to Ms. Favela and her unborn child was multiple injuries due to an assault, and that the manner of death was a homicide. In general, these conclusions were based upon evidence of 45 external injuries to Ms. Favela which included multiple facial and skull fractures, bruises and hemorrhaging, and defensive wounds. Dr. Moser testified that some of Ms. Favela's injuries could be consistent with being struck by a hammer. In addition, at the time of her death Ms. Favela had been pregnant with a female fetus between 32 to 37 weeks of gestational age that appeared to have been healthy and deliverable. Dr. Moser testified that the fetus died from asphyxiation as a result of the death of Ms. Favela.

¶ 17 Defendant testified on his own behalf, and denied any responsibility for the deaths of Ms. Favela or her unborn child. He also testified that he learned of Ms. Favela's death for the first time when he read the complaint for a search warrant at the police station, and that the statement he subsequently gave to Detectives Miranda and Harden was false and based upon the information in that complaint.

¶ 18 The jury ultimately found defendant guilty of first degree murder and intentional homicide of an unborn child. The jury also found that the first degree murder of Ms. Favela was accompanied by exceptionally brutal or heinous behavior indicative of wanton cruelty. At subsequent sentencing hearing, defendant was sentenced to 60 years' imprisonment for first degree murder and 40 years'

³ The autopsy report itself was entered into evidence, but was not provided to the jury.

imprisonment for intentional homicide of an unborn child. The sentences were ordered to be served consecutively. Defendant now appeals.

¶ 19

II. ANALYSIS

¶ 20 As noted above, on appeal defendant contends that the trial court erred in denying his motion to suppress and that his constitutional right to confrontation was violated at trial. We review each argument in turn.

¶ 21

A. Motion to Suppress

¶ 22 In considering defendant's argument that his motion to suppress was improperly denied, we begin by outlining the legal framework that will guide our discussion.

¶ 23

1. Legal Framework

¶ 24 Both the fifth amendment to the United States Constitution (U.S. Const., amend. V) and article I, section 10, of the Illinois Constitution (Ill. Const. 1970, art. I, §10) provide that no person shall be compelled in any criminal case to be a witness against himself. The United States Supreme Court has "extended the fifth amendment privilege against self-incrimination to custodial interrogation and required that a defendant be warned that he or she has the right to remain silent, he or she has the right to an attorney, and that any statement given may be used against him or her in a court of law." *People v. Dennis*, 373 Ill. App. 3d 30, 42 (2007) (citing *Miranda*, 384 U.S. at 475-77).

¶ 25 As such, "before a defendant's confession can be admitted a trial, the State must prove by a preponderance of the evidence that defendant validly waived [his or] her privilege against self-incrimination and [his or] her right to counsel." *People v. Daniels*, 391 Ill. App. 3d 750, 780

(2009). A valid waiver of *Miranda* rights occurs where: (1) the decision to relinquish those rights was voluntary in the sense that it was not the product of intimidation, coercion, or deception; and (2) it was made with a full awareness of the nature of the rights being abandoned and the consequences of the decision to abandon them. *People v. Crotty*, 394 Ill. App. 3d 651, 662 (2009).

¶ 26 However, "[a]n accused who has expressed the desire to deal with police only through counsel is not subject to further interrogation by authorities until counsel has been made available to him, unless the accused himself initiates further communications, exchanges, or conversations with the police." *People v. Olivera*, 164 Ill. 2d 382, 389-90 (1995) (citing *Edwards v. Arizona*, 451 U.S. 477, 484-85 (1981)). Moreover, "[e]ven if the accused initiates a conversation that takes place after he has expressed the desire to deal with the police only through counsel, where reinterrogation follows, the burden remains upon the prosecution to show that subsequent events indicated a waiver of the fifth amendment right to have counsel present during the interrogation." *Id.* at 390.

¶ 27 Thus, "[t]o determine whether statements obtained during custodial interrogation may be used against an accused, a court must decide whether the accused actually invoked his right to counsel, and if so, whether he then initiated further conversation with the police so as to knowingly and intelligently waive his previously asserted right." *In re Christopher K.*, 217 Ill. 2d 348, 376 (2005). With respect to the first requirement that an accused *actually* invoke the right to counsel, in order to be entitled to the protections provided by the *Edwards* decision " 'the suspect must unambiguously request counsel.' " *People v. Quevedo*, 403 Ill. App. 3d 282, 293 (2010) (quoting *Davis v. U.S.*, 512 U.S. 452, 459 (1994)). "If 'a suspect makes a reference to an attorney that is ambiguous or equivocal in that a reasonable officer in light of the circumstances would have

understood only that the suspect *might* be invoking the right to counsel, [United States Supreme Court] precedents do not require the cessation of questioning.'" (Emphasis in original.) *Id.* (quoting *Davis*, 512 U.S. at 459). The "determination of whether an accused actually invoked the right to counsel under *Edwards* and *Miranda* 'is an objective inquiry.'" *Id.* (quoting *Davis*, 512 U.S. at 458-59).

¶ 28 With respect to the second requirement that a defendant initiate any subsequent conversation with the police and waive his rights, our supreme court has indicated:

"The court's preliminary inquiry is whether the defendant, rather than the police, initiated the conversation in a manner evincing a 'willingness and a desire for a generalized discussion about the investigation.' [Citations.] If the court determines that the accused initiated the conversation in a way evincing a willingness and a desire for a generalized discussion concerning the investigation, it must make one other inquiry in determining whether a defendant has waived his right to the presence of counsel and his right to remain silent during custodial interrogation: whether the accused, by his or her initiation of such a conversation, coupled with the totality of the other circumstances, knowingly and intelligently waived this right. [Citations.]" *Id.* at 390.

¶ 29 Finally, "[i]n reviewing a trial court's decision as to whether defendant's confession was voluntary, we apply a bifurcated standard of review. Although we review *de novo* the ultimate question of whether the confession was voluntary, because the subissue of whether a *Miranda* waiver was knowing and intelligent is factual, we review it under a manifest weight of the evidence standard." *Daniels*, 391 Ill. App. 3d at 780 (citing *In re G.O.*, 191 Ill. 2d 37, 50 (2000)). "A finding

is against the manifest weight of the evidence only if the opposite conclusion is clearly evident or if the finding is unreasonable, arbitrary, or not based on the evidence presented." *People v. Deleon*, 227 Ill. 2d 322, 332 (2008). Furthermore, under this standard we are to give deference to the trial court as the finder of fact, and we will not substitute our judgment for that of the trial court regarding the credibility of witnesses, the weight to be given to the evidence, or the inferences to be drawn therefrom. *Id.*

¶ 30

2. Discussion

¶ 31 On appeal, defendant and the State do not dispute that defendant initially exercised his *Miranda* rights when he asked for an attorney shortly after he was arrested. They also do not dispute that defendant's exercise of those rights was honored at that time, as defendant was not asked any further questions after asking for an attorney. Furthermore, there is no dispute that it was defendant himself that reinitiated his interview with Detectives Miranda and Harden following the execution of the search warrant. Our review of the record reveals that the parties have correctly determined that there can be no factual dispute with respect to these issues.

¶ 32 Indeed, the sole dispute on appeal with respect to this issue is whether defendant's statement—"Let's see and, and like can't you assign a public defender to be present what I'm saying"—operated as an unambiguous second request for an attorney. Defendant contends that that it did, and as such further contends that the State, therefore, did not establish that that he "validly waived his *Miranda* rights after reinitiating communications with the police." The State rejects this argument, arguing that defendant's statement was at most a question about the availability of a public defender and that the totality of the circumstances established that defendant knowingly and

intelligently waived his *Miranda* rights.

¶ 33 Both defendant and the State cite to a host of cases in support of their respective positions on this issue. Thus, defendant cites to a number of cases where defendants *were not* found to have waived their *Miranda* rights under circumstances defendant contends are similar to those of this case. See, e.g., *People v. Harris*, 2012 IL App (1st) 100678, ¶ 72 (finding that "defendant's query, whether it was 'possible' to 'have a few days to get an attorney,' constituted an unequivocal invocation of her right to counsel under *Miranda*."); *People v. Schuning*, 399 Ill. App. 3d 1073, 1086 (2010) (finding that "defendant's request to call his attorney was an unambiguous invocation of his right to counsel."); *People v. Eichwedel*, 247 Ill. App. 3d 393, 298 (1993) (finding that "defendant's request as to whether he could call his attorney was a sufficient invocation of his right to counsel.").

¶ 34 In turn, the State cites to a number of cases where defendants *were* found to have waived their *Miranda* rights under what the State considers similar circumstances. See, e.g., *In re Christopher K.*, 217 Ill. 2d at 383 ("respondent's query 'Do I need a lawyer?' was not sufficiently clear that a reasonable police officer would have understood it to be a request for an attorney."); *People v. Oaks*, 169 Ill. 2d 409, 452 (1996) (no valid request where the defendant asked a police officer "Should I see a lawyer?"); *People v. Evans*, 125 Ill. 2d 50, 75 (1988) (finding that defendant did not invoke his right to counsel "equivocally, ambiguously or otherwise" where he "merely inquired as to the availability of a public defender."); *Quevedo*, 403 Ill. App. 3d at 294 ("[d]efendant's equivocal questions and statements about the availability of an attorney on the night of the interview do not qualify as a request for counsel under *Edwards*.").

¶ 35 After reviewing the authority cited by both defendant and the State in light of the factual

record in this case, we conclude that the trial court did not error in finding that defendant knowingly and intelligently waived his *Miranda* rights when he reinitiated his interview with Detectives Miranda and Harden. Again, the relevant statement made by defendant was: "Let's see and, and like can't you assign a public defender to be present what I'm saying." This statement is clearly phrased as a question rather than a direct statement of intent or a request. While prior decisions have recognized that a request for an attorney—one sufficient to defeat any claimed *Miranda* waiver—can be phrased as a question (as in *Harris*, *Schuning*, and *Eichwedel*), it also clear that *ambiguous* questions regarding an attorney are not sufficient to establish a valid invocation of a defendant's *Miranda* rights (as in *In re Christopher K.*, *Evans*, *Oaks*, and *Quevedo*). And, in all cases, this issue must be determined following an objective inquiry that considers the specific circumstances surrounding any such reference to an attorney. *Id.* at 293 (quoting *Davis*, 512 U.S. at 458-59).

¶ 36 Here, defendant's initial invocation of his *Miranda* rights was honored by the police and it was defendant himself that reinitiated a general conversation with the police. Thereafter, defendant was repeatedly informed that he could not talk about this matter until he had been formally given his *Miranda* rights yet again. Once he returned to the interview room, defendant verbally indicated that the contents of the interview form—which included a statement about defendant's desire to reinitiate the interview, a statement of defendant's *Miranda* rights, and a statement that defendant was waiving those rights—were accurate. It was only at the point that he was asked to sign the interview form that defendant asked a *question* about the *possibility* of assigning a public defender to be present. In light of the factual circumstances that proceeded and surrounded this question, we find that it was objectively reasonable for Detective Miranda to understand that defendant " *might* be invoking the

right to counsel.'" (Emphasis in original.) *Id.* (quoting *Davis*, 512 U.S. at 459). Detective Miranda was, therefore, presented with—at most—an ambiguous request for counsel, and the cessation of further questioning was, therefore, not required. *Id.*

¶ 37 Moreover, the United States Supreme Court has "acknowledged that clarifying questions, though not required, will often be good police practice and 'will minimize the chance of a confession being suppressed due to subsequent judicial second-guessing as to the meaning of the suspect's statement regarding counsel.'" *Schuning*, 399 Ill. App. 3d at 1089-90 (quoting *Davis*, 512 U.S. at 461). This is just the direction Detective Miranda took following defendant's question regarding a public defender, as Detective Miranda then said: "Yes that's what, what I just finished telling you. You initiated, you had told me and here I had told you directly what was written that you no longer require an attorney. That you no longer wanted an attorney present because you wanted to talk with me and Detective Harden about the incident that had occurred." Detective Miranda then asked defendant if this statement was true, and after defendant indicated that it was indeed correct Detective Miranda instructed defendant that he should only sign the interview form "[i]f you understand one hundred percent what I've just told you."

¶ 38 In light of all the circumstances and evidence presented, the trial court specially found, *inter alia*, that defendant "could have very easily said, 'Stop. I want a lawyer,' because he already knew what his rights were." We reiterate that the subissue of whether a *Miranda* waiver was knowing and intelligent is a factual question, reviewed under a manifest weight of the evidence standard. *Daniels*, 391 Ill. App. 3d at 780. We will, thus, not substitute our judgment for that of the trial court regarding the credibility of witnesses, the weight to be given to the evidence, or the inferences to be

drawn therefrom. See *Deleon*, 227 Ill. 2d at 332. The trial court ultimately concluded that defendant knowingly and intelligently waived his *Miranda* rights upon reinitiating the interview with the police, and we find that the opposite conclusion is not clearly evident, this finding was not unreasonable, arbitrary, or not based on the evidence presented and, thus, this conclusion was not against the manifest weight of the evidence. *Id.* We, therefore, further find that the trial court properly found defendant's statement to have been voluntarily made, and properly denied defendant's motion to suppress.

¶ 39

B. Confrontation Clause

¶ 40 We next consider defendant's assertion that his constitutional right to confrontation was violated when the State presented hearsay statements contained in an autopsy report prepared by Dr. Jones, through the testimony of Dr. Moser, when Dr. Moser did not participate in the autopsy or prepare the autopsy report.

¶ 41 Defendant has a constitutional right to confront the witnesses against him. U.S. Const., amend. VI ("[i]n all criminal prosecutions, the accused shall enjoy the right *** to be confronted with the witnesses against him."). Moreover, in *Crawford v. Washington*, 541 U.S. 36 (2004), the United States Supreme Court held that the confrontation clause prohibits the introduction of any hearsay statements against the accused if they are deemed "testimonial" in nature, unless the declarant is unavailable for trial and the defendant has had a prior opportunity to cross-examine that declarant. *Crawford v. Washington*, 541 U.S. at 59. Defendant, thus, argued in his opening brief on appeal that the introduction of statements contained in Dr. Jones' autopsy report at trial was improper and reversible error because: (1) the autopsy report was "testimonial;" (2) Dr. Jones was

not subject to prior cross-examination and was not shown to be unavailable; and (3) defendant's opportunity to cross-examine Dr. Moser was insufficient to satisfy his constitutional right to confrontation with respect to the statements contained in the autopsy report.

¶ 42 However, as defendant acknowledges in his reply brief, his confrontation clause argument has been vitiated by our supreme court's recent decision in *People v. Leach*, 2012 IL 111534. In that case, our supreme court stated that "while we are not prepared to say that the report of an autopsy conducted by the medical examiner's office can never be testimonial in nature, we conclude that *** autopsy reports prepared by a medical examiner's office in the normal course of its duties are nontestimonial." *Id.* at ¶ 136. As such, a defendant's right to confrontation is not violated by the introduction of either autopsy reports prepared in the normal course of a medical examiner's duties or testimony regarding the contents of such an autopsy report by a medical examiner who did not prepare the report. *Id.* at ¶¶ 57, 137. As defendant also recognizes, our supreme court rendered its decision in *Leach* under "circumstances similar to his case." Indeed, the record here reflects that the autopsy of Ms. Favela and her unborn child was prepared by the Cook County medical examiner's office in the normal course of its duties, and defendant makes no argument to the contrary.

¶ 43 Because this court is bound by our supreme court and has no authority to overrule it or to modify its decisions (*People v. Muhammad*, 398 Ill. App. 3d 1013, 1017 (2010)), and because the autopsy report at issue here was clearly nontestimonial pursuant to the *Leach* decision, we must follow our supreme court's lead and similarly reject the confrontation clause argument raised by defendant in this case.

¶ 44

III. CONCLUSION

No. 1-10-3784

¶ 45 For the foregoing reasons, the judgment of the circuit court is affirmed.

¶ 46 Affirmed.