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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
Plaintiffs-Appellee,)	Cook County
)	
v.)	No. 06 CR 12321
)	
DERRICK LEMON,)	Honorable
)	Thomas Hennelly,
Defendant-Appellant.)	Judge Presiding.
)	

JUSTICE EPSTEIN delivered the judgment of the court.
Justices Fitzgerald Smith and Pucinski concurred in the judgment.

¶ 1 *Held:* The evidence in defendant's first degree murder trial was not so improbable or unsatisfactory that it created a reasonable doubt as to defendant's guilt. Although the admission of evidence of another crime committed shortly before the charged shooting was erroneous, such error was harmless. The admission of evidence of second crime that occurred before trial was not erroneous; even if it was an error, it was harmless error. The submission to the jury room of the handwritten statements of two witnesses that were admitted as substantive evidence was not erroneous.

ORDER

¶ 2 Defendant Derrick Lemon was charged with first degree murder in connection with the shooting of Illya "EO" Glover, on March 1, 2006. After a jury found defendant guilty of first

degree murder and of the personal discharge of a firearm, defendant was sentenced to 71 years in the Illinois Department of Corrections. Defendant makes three arguments on appeal. First, defendant contends that the evidence was insufficient to support his conviction; he argues that there was a lack of credible eyewitness testimony and no physical evidence linking him to the murder. Second, defendant contends that the trial court erred by allowing the State to present evidence of his alleged bad acts. Third, defendant contends that the court erred in sending the handwritten statements of two witnesses to the jury without a finding that they were substantive evidence. For the reasons stated herein, we affirm.

¶ 3

BACKGROUND

¶ 4 The shooting death of Glover occurred at approximately 8:30 p.m. at 408 West 57th Place in Chicago, at the home he and Monica Morse shared. Monica was Glover's girlfriend and is defendant's aunt. Glover was shot during a barbecue he was hosting at their house.

¶ 5

Pre-Trial Motions on Other Crimes Evidence

¶ 6 Prior to trial, the State filed a motion to admit evidence of other crimes. According to the motion, thirty minutes before Glover's shooting, defendant's sister, Brandy Morse, and defendant's girlfriend, Arlena Lumpkin, yelled at defendant after they saw him with another woman. Defendant allegedly left that woman at 416 West 57th Street in Chicago with his cousin, Salela Morse. Defendant returned 10 to 15 minutes later in a vehicle driven by Brandy and fired several shots at the two girls. The motion stated that defendant later went to Glover's and Monica's home looking for Salela. After Monica told defendant to leave, defendant "became enraged" and began choking Monica. When Glover saw this, he stood up and asked the

defendant, "What's up?" The defendant pulled out a handgun and fatally shot Glover. The State argued that evidence that defendant shot at Salela "explains why the defendant acted in a hostile manner to someone that he knew. He was looking for someone that he wanted to retaliate against and removing a potential threat to that goal." The court denied the State's motion.

¶ 7 In a motion to reconsider, the State argued that the evidence of the prior shooting was "essential to the narrative of the crime," instructive as to defendant's motive, probative of his intent and relevant to confirm his identity. At the hearing on the motion, the State contended that the other woman dropped off with Salela was pregnant and that defendant "knew or believed that his cousin Salela had told his then-girlfriend about this other woman." The State argued that Monica testified before the grand jury that "not only did the defendant come to her house and ask for his cousin Salela, *** that he appeared to be agitated." The court granted the motion.

¶ 8 Before trial, the State filed a second motion to use proof of other crimes evidence. The motion stated that four days before defendant was to begin trial for Glover's murder, on February 18, 2010, at 3:00 a.m., defendant and another person went to the home of Derrick Redmond, who was scheduled to testify as a prosecution witness. Redmond was not at home, but his children and other family members were. When no one answered after defendant and another individual banged on the door, defendant broke the door open. Defendant went from room to room demanding to see Redmond, holding a gun in his hand and "threatening the witnesses telling them his life was on the line." After defendant left, the occupants of the home called the police. They knew defendant and identified him when reporting the incident. The State argued that this evidence established defendant's identity in the murder case and showed defendant's

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consciousness of guilt and "absence of an innocent frame of mind." The court granted the motion.

¶ 9

Events Prior to Shooting

¶ 10 Bonita Rodriguez testified at trial that she lived at 416 West 57th Street in Chicago. At approximately 8:00 p.m. on March 1, 2006, Rodriguez was in her car, which was behind another car that was in front of her house. Defendant, Brandy and Sabrina Morse were in the other car. Rodriguez identified defendant in court and stated she knew him for 19 years. Rodriguez saw a "gun and a little part of the arm" come out of the passenger side window, where defendant was seated; the gun was pointed toward Rodriguez's house. Rodriguez ducked and heard gunshots; she did not sit up until the gunshots stopped. Rodriguez lived a block away from Monica. On cross-examination, when questioned whether Salela was present, Rodriguez responded, "I don't know. They said she was there. She says she was there. I don't remember her being there."

¶ 11 Monica Morse testified at trial that her sister, Karen Morse, came to her house on the evening of March 1, 2006. They had a conversation, went to the store and then returned to the house. Karen testified that she did not remember seeing Salela on her way back from the store with Monica. She further testified that before she returned to Monica's house, she had a telephone conversation with Salela and then she called Brandy.

¶ 12

Shooting of Glover

¶ 13 Monica testified at trial that after defendant came to her house, Monica went to her room, but later came out because "there was a commotion." Monica told everyone to leave, but no one did. Monica returned to her room and later heard approximately seven shots. When she came

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out of her room, she saw Karen standing and Glover laying on the kitchen floor. Monica called the police. Later, she was taken to the police station and signed a photograph of defendant.

¶ 14 At trial, Monica was questioned regarding a handwritten statement to ASA Catherine Malloy that she signed and her later grand jury testimony. Monica denied or claimed uncertainty about various statements contained in the handwritten statement and her grand jury testimony, including: that she had asked defendant and Brandy to leave the barbecue because she did not want them in her house; that defendant was "tripping" or that defendant put his hands on her neck;¹ that Glover began to get up from his chair when defendant put his hands on her neck; that defendant grabbed her, tried to push her down and called her a bitch; that defendant grabbed her by the neck three times and pushed her against the door; that, after defendant grabbed her, he pulled a gun from his pants pocket; and that defendant shot Glover as Glover was still seated.

¶ 15 Chicago Police Officer Michelle Krofta, testified that she spoke with Monica on the evening of March 1, 2006, and Monica was "very upset." After the conversation, Officer Krofta was looking for a named offender, Derrick Lemon. She put out a "flash message" over her radio, giving defendant's name and "that we were looking for him as a possible offender for this homicide."

¶ 16 Karen Morse testified that Monica told everyone at the March 1 barbecue to "get the f*** out." Defendant told Monica to "chill out or something like that." Karen testified that Monica "was like, I want everybody to get out, and then, I think, they got into an altercation." According to Karen, defendant "choked Monica maybe once." Karen testified that Glover then said "y'all go

¹Monica testified at trial that defendant touched her by her shoulders.

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home, or something like that. Get out, or something like that." The last time Karen saw defendant that evening, he was standing by the front door. Later, when Karen was in another room, she heard gunshots. After the shooting ended, Karen entered and found Glover on the floor. Karen did not see Glover with a gun.

¶ 17 Kevin McMillan testified at trial that on March 1, 2006, he went to Monica's house because "the people who house I was at, my cousin's house, told me that Derrick was over there." After entering Monica's house, he saw Karen, Brandy Morse, Glover and defendant. A few minutes later, Monica "came out, yelling, talking about, get out." McMillan thought Monica was yelling at everyone. He and defendant left Monica's house. He also testified that he did not see defendant choke Monica, say anything back to Monica, hold a gun, or shoot Glover.

¶ 18 McMillan further testified that on March 14, 2006, he spoke with detectives and ASA Malloy at a police station and provided a signed statement. At trial, McMillan denied various sections of his statement, including: that defendant told Monica to be quiet before she is the one he knocks out; that defendant was acting like he was drunk and smelled like alcohol; that Monica kept telling defendant to leave and then defendant pulled his T-shirt off and began to choke Monica; that McMillan was surprised because he saw defendant choking his aunt; that McMillan saw a gray, metal gun sticking out of defendant's pants pocket; that McMillan tried to pull defendant and Monica apart, but McMillan pulled away because he was hit in the shoulder where he had an injury and stitches; that defendant choked his aunt and pushed her into a wall; that McMillan had never seen defendant this angry before; that when defendant was pushing and choking his aunt, Glover began to get up from the table; that defendant told Glover to sit down,

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and then defendant pulled out the gun and shot Glover; and that as McMillan ran out of the house, he heard more gunfire from inside the house. McMillan then testified about meeting with ASA Jennifer Bagby on March 21, 2006 and testifying before the grand jury. Although he admitted that he was asked questions in front the grand jury, he denied giving certain answers contained in the transcript of the proceedings.

¶ 19 On cross examination, McMillan testified that he was questioned in the police station in a windowless, locked room. McMillan stated that the policemen choked him and threatened him with going to jail; McMillan was out of prison on parole. He testified that as a police officer was choking him, McMillan was bumped into the wall and his previously-injured arm started to bleed. He said that he was held in the room "a few hours" before he spoke with the assistant State's attorney. McMillan claimed he made the statement to police because he was scared of going to jail. He further testified that the same detectives picked him up the following week and drove him to testify before the grand jury, threatening him with jail if he refused. McMillan testified that he lied to the grand jury because he was scared.

¶ 20 Derrick Redmond, Sr. (Redmond Sr.) testified that he went to Monica's house on March 1, 2006. Redmond Sr. saw McMillan, Brandy and defendant, whom he identified in court, at Monica's home. He did not know whether there was an argument and did not remember whether any shots were fired. Redmond Sr. first testified that when he left Monica's home, Glover was fine; he later testified that he was in the upstairs bathroom at the home when Glover was shot. He did not remember anyone downstairs with a gun.

¶ 21 Redmond Sr. testified that "[p]robably couple days later" he spoke with the police. He

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also spoke with ASA Bagby on April 17, 2006. He stated that he did not recall telling Bagby that he was downstairs when the shooting occurred, that defendant was angry when Monica told him to leave, or that defendant started choking Monica. Redmond Sr. stated that he testified before the grand jury under oath but did not remember if certain people, including defendant, were in the room during his grand jury testimony. Over a defense objection, the State questioned Redmond Sr. about his grand jury testimony, including Redmond Sr.'s statement that defendant started choking Monica when she told him to get out of the house and that defendant put his hands around Monica's neck "[a]bout twice." Redmond Sr. also testified before the grand jury that he saw a gun in defendant's hand after defendant had choked Monica, and he ran upstairs after he saw the gun. When questioned about his grand jury testimony, Redmond Sr. stated that he did not remember or did not know whether he gave the answers read aloud by the State at trial.

¶ 22 Officer Paul Presnell, a police forensic investigator, testified that he videotaped, photographed and inventoried the scene after Glover's shooting on March 1, 2006. He testified that he did not dust the home for fingerprints because "it was a known offender, so that was not requested of us." On cross examination, Officer Presnell stated that he found eight cartridge cases, five fired bullets and two fragments. Christi Fischer, a fingerprint specialist formerly employed by the Illinois State Police, testified that she analyzed the cartridge cases, but did not find any latent prints that were suitable for comparison. Tonia Brubaker, a forensic scientist for the Illinois State Police, reviewed the work prepared by a colleague analyzing the cartridge casings, concluding that all eight cartridge cases were fired from the same firearm and all of the

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fired bullets were from the same firearm; she could not determine if the fired bullets and the cartridge casings were from the same weapon.

¶ 23 Events after Glover's Shooting: Incident at Redmond Home

¶ 24 The State questioned Redmond Sr. at trial about the events of February 18, 2010.

Redmond Sr. was not at home, but he received a call in the early morning hours from one of his children and returned home. He did not remember making a call to the police. He noticed that his front door was broken. Redmond Sr. testified that the police took pictures of the damage to the front door. Two of his children, Ericka and Derrick Redmond, Jr. (Redmond Jr.), spoke with the police that evening and later went to the police station. During direct examination, Redmond Sr. was shown photographs of his home and the broken door. He answered "I don't know" or "I don't recall" to a number of the State's questions.

¶ 25 On cross examination, Redmond Sr., stated that he was "probably" under medication, but he "didn't take it" and could not identify it; he was supposed to be taking something to help with his memory. Defense counsel also questioned Redmond Sr. about his then-girlfriend Crystal Morse, Monica's niece, losing her keys a few days before February 17, 2010, and breaking in the front door to retrieve her spare keys; Redmond Sr. did not recall that.

¶ 26 At trial, Redmond Jr.—Redmond Sr.'s 16-year-old son—denied that photographs shown to him by the State were photographs of the front door of the house he shared with his father. He testified that he did not "recall" anything unusual happening in the early morning hours of February 18, 2010. He denied calling the police or his father on that date and denied speaking to the police on that date. He did not recall going to the police station or giving a handwritten

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statement to ASA Nicholas Kantas. When shown the handwritten statement, Redmond Jr., denied his signature on the document. Redmond Jr. denied that the photograph appended to the statement was a photo of him. Although he acknowledged that he knew who defendant was, Redmond Jr. denied seeing him in court at trial. On cross-examination, he testified that he smoked marijuana "every day."

¶ 27 Police Officer Edward J. Johnson testified that at approximately 3:30 in the morning on February 18, 2010, he and his partners "monitored a call of a person with a gun." When he arrived at the Redmond house, he spoke with Redmond Jr. After that conversation, Officer Johnson "[w]ent looking for a white Ford Explorer with Derrick Lemon in it." Officer Johnson caught up with and curbed a Ford Explorer; one of the three occupants of the vehicle was defendant. When Officer Johnson returned to the Redmond home with defendant to conduct a "show-up identification," Redmond Jr. identified defendant as the offender. Officer Johnson then noticed damage to the front door, including the deadbolt, and the door frame. On cross examination, Officer Johnson testified that no weapon was found in the Ford Explorer or on any occupant of the vehicle.

¶ 28 Testimony Regarding Prior Statements

¶ 29 ASA Malloy testified at trial that she interviewed Monica in her home on March 13, 2006 and prepared Monica's statement, which Monica signed. The following evening, she met with McMillan at a police station and prepared McMillan's statement, which he signed. On cross examination, Malloy testified that McMillan said he was treated well and that he was not in an interrogation room, which is where suspects or defendants are questioned. Malloy published

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certain parts of Monica's and McMillan's statements, including their statements that defendant shot Glover.

¶ 30 ASA Bagby testified that she separately met with Monica and McMillan, each of whom agreed to testify before the grand jury. Bagby published certain parts of their respective grand jury testimony; each had testified that they saw defendant shoot Glover once and heard several more shots as they ran away. Bagby testified that McMillan never mentioned being threatened, pushed, choked by the police or any other complaints.

¶ 31 Bagby later met with Redmond Sr., who also agreed to testify before the grand jury. Bagby published certain parts of Redmond Sr.'s grand jury testimony, including: that defendant "got mad" and started choking Monica; that Redmond Sr. ran to an upstairs bathroom after he saw defendant with a gun in his hands; that Redmond Sr. heard four or five gunshots while he was upstairs; and that when he returned downstairs he saw Glover "laying in the kitchen."

¶ 32 ASA Kantas testified that he spoke with Redmond Jr. and Redmond Sr. at a police station on February 18, 2010. Redmond Jr. agreed to put his statement in writing. Kantas typed the statement on the computer, printed it out, and went through the statement with Redmond Jr. Redmond Jr., Redmond Sr., the detective and Kantas signed each page of the statement. Kantas published certain parts of the statement, over defense objection, including that Redmond Jr. saw defendant search his house, with a gun in his hand, saying "[w]here the n**** at" and "where is Dude at"; Redmond Jr. understood these references to mean Redmond Sr.

¶ 33 Police Detective Roger Murphy testified that he received an assignment on March 1, 2006, to go to Glover and Monica's house. After speaking with forensic investigators and

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interviewing witnesses on the scene, Detective Murphy and his partner went to the home of Karen Morse, a witness. That same evening, Detective Murphy and his partner "went looking for Derrick Lemon who was a suspect." Unable to locate defendant that evening, Detective Murphy put in an "investigative alert"—a step below an official arrest warrant—for defendant. On cross examination, he also stated that he did not notice any marks, bruising or redness on Monica on the evening of Glover's shooting.

¶ 34 Detective Murphy further testified he interviewed more people on March 2, 2006, including Redmond Sr., Crystal, Salela, and Rodriguez and her daughters Ashley and Berta. After conducting those interviews, Detective Murphy continued to try to locate defendant. On March 13, 2006, the detective contacted the Cook County State's Attorney's office about obtaining an arrest warrant for defendant; he was also present for ASA Malloy's interviews of Monica and Karen. He stated that the McMillan interview took place in an administrative office in the police station and that he never choked or threatened McMillan. Detective Murphy further testified that McMillan voluntarily went from his home to the police station for the interview with Malloy.

¶ 35 Detective Murphy was informed on May 2, 2006 that defendant was in custody. On cross examination, the detective testified that it was his understanding that defendant walked into the police station.

¶ 36 Trial Motions and Verdict

¶ 37 After Detective Murphy's testimony, the State moved all of its exhibits—including the various handwritten statements and grand jury testimony transcripts—into evidence. Defendant

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moved for a directed finding, which the trial court denied, noting that it had not considered the evidence of the shooting incident prior to Glover's shooting in ruling on the motion. The court also denied defendant's motion for a mistrial. The court stated that it would not let the State argue that the prior shooting incident was "any proof of any of the intent or any motive or any identification that I gave the instruction," noting "while I thought the State didn't produce everything that they indicated that they would in their proffer, I don't find any bad faith on the part of the state given the nature of the testimony and the issues with the witnesses and either their memory lapses, whether real or imagined." The court allowed defendant to decide whether to admonish the jury to disregard the evidence that they heard regarding the prior incident; defendant ultimately requested and the court provided such admonition. The defense rested without presenting any evidence.

¶ 38 Defendant again moved for a mistrial based on the admission of evidence relating to the incident at the Redmond home, which the court denied. Over defendant's objection, the court gave I.P.I. 3.11 regarding prior inconsistent statements. The trial judge decided not to send the grand jury testimony to the jury room, but allowed redacted versions of the handwritten statements of Monica Morse and McMillan into the jury room, over defendant's objection. The jury found defendant guilty of first degree murder and of personally discharging the firearm that proximately caused Glover's death. After denial of the post-trial motion, defendant was sentenced and he now appeals.

¶ 39

ANALYSIS

¶ 40 On appeal, defendant advances three arguments. First, he contends that the evidence was

insufficient to sustain his conviction where there was a lack of credible eyewitness testimony and "complete absence" of physical evidence tying him to the murder. Second, defendant contends that the trial court erred by allowing the State to present evidence of his alleged bad acts, which were "more prejudicial than probative" and "without proper foundation, connection or relevancy to the charges at bar." Third, defendant contends that the trial court erred in sending the handwritten statements of Monica and McMillan to the jury without finding that they were substantive evidence.

¶ 41

Sufficiency of the Evidence

¶ 42 Defendant argues that the evidence was insufficient to sustain defendant's conviction. Specifically, he contends that "[t]he only evidence Lemon shot Glover came from out of court statements the State's witnesses made years before trial." In assessing the sufficiency of the evidence, the relevant inquiry is whether, considering the evidence in the light most favorable to the State, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. *People v. Ross*, 229 Ill. 2d 255, 272 (2008). We do not substitute our judgment for that of the trier of fact with regard to the credibility of witnesses, the weight to be given to each witness's testimony, and the reasonable inferences to be drawn from the evidence. *Ross*, 229 Ill. 2d at 272. A defendant's conviction will not be set aside unless the evidence is so improbable or unsatisfactory that it creates a reasonable doubt as to his guilt. *People v. Siguenza-Brito*, 235 Ill. 2d 213, 225 (2009).

¶ 43 Defendant argues that the witness testimony could not support the verdict. Monica provided a statement and testified before the grand jury that defendant pushed and choked her

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and then pulled a gun from his pocket and shot at Glover. McMillan provided a statement and testified before the grand jury to essentially the same facts: defendant pulled a gun from his pocket and shot Glover. Redmond Sr. similarly testified before the grand jury that he saw defendant with a gun in his hand after he choked Monica.

¶ 44 Defendant asserts that there was "no finding or indication the out of court statements were more credible than the in court statements and the out of court statements were not ruled to be substantive evidence." However, when a prior inconsistent statement meets the requirements of 725 ILCS 5/115-10.1 (West 2010), "a finding of reliability and voluntariness is automatically made. Accordingly, no additional analysis is needed.***[I]t is the jury's decision to assign weight to the statement and to decide if the statement was indeed voluntary, after hearing the declarant's inconsistent testimony.' " (Omission in original). *People v. Morrow*, 303 Ill. App. 3d 671, 677 (1999), quoting *People v. Pursley*, 284 Ill. App. 3d 597, 609 (1996). We agree with the State that the handwritten statements of Monica, McMillan, and Redmond Jr., as well as the grand jury testimony of Monica, McMillan, and Redmond Sr., met the requirements of 5/115-10.1, which provides:

"Admissibility of Prior Inconsistent Statements. In all criminal cases, evidence of a statement made by a witness is not made inadmissible by the hearsay rule if

- (a) the statement is inconsistent with his testimony at the hearing or trial, and
- (b) the witness is subject to cross-examination concerning the statement, and
- (c) the statement—

- (1) was made under oath at a trial, hearing, or other proceeding, or

(2) narrates, describes, or explains an event or condition of which the witness had personal knowledge, and

(A) the statement is proved to have been written or signed by the witness,
or

(B) the witness acknowledged under oath the making of the statement either in his testimony at the hearing or trial in which the admission into evidence of the prior statement is being sought, or at a trial, hearing, or other proceeding,

or

(C) the statement is proved to have been accurately recorded by a tape recorder, videotape recording, or any other similar electronic means of sound recording." 725 ILCS 5/115-10.1 (West 2010).

Each statement in question was inconsistent with the trial testimony, and each witness was subject to cross-examination. Each statement was either made under oath at a trial, hearing, or other proceedings (*i.e.*, the grand jury testimony) or described an event or condition of which the witness had personal knowledge, and each statement was either proved to have been signed by the witness or was acknowledged under oath by the witness as having been made (*i.e.*, the handwritten statements).

¶ 45 A conviction supported by a prior inconsistent statement admitted as substantive evidence may be upheld even though the witness recants the prior statement at trial. *People v. McCarter*, 2011 IL App (1st) 092864, ¶ 23; 725 ILCS 5/115-10.1 (West 2010); see also *People v. Island*,

385 Ill. App. 3d 316, 347 (2008) (a recanted prior inconsistent statement admitted pursuant to section 115-10.1 can support a conviction even in the absence of other corroborative evidence).

A trier of fact may consider a prior inconsistent statement introduced as substantive evidence pursuant to section 115-10.1 to be the same as direct testimony from that witness and is free to afford weight to a properly admitted prior inconsistent statement based upon the same factors used when assessing direct testimony. *McCarter*, 2011 IL App (1st) 092864, ¶ 23.

¶ 46 The prior inconsistent statements of Monica, McMillan and Redmond Sr. could support defendant's conviction even in the absence of other corroborative evidence (see *Island*, 385 Ill. App. 3d at 347). Once these statements were admitted, it was for the jury, as the trier of fact, to determine the weight to be assigned to these statements and after hearing the witnesses' inconsistent testimony, to determine whether the prior statements were voluntary. *Morrow*, 303 Ill. App. 3d at 677.

¶ 47 Defendant argues that witnesses against him "are a series of convicted felons, pot smokers and mental defectives." Monica testified that she had two felony convictions, both for drugs. Kevin McMillan testified regarding multiple convictions, including gun-related, burglary, and drug convictions. Redmond Sr. testified about his mental health issues and his failure to take prescribed medicine. Redmond Jr. testified that he smoked marijuana every day. These facts could affect each witness's credibility and the weight that the jury afforded to his or testimony. *Sutherland*, 223 Ill. 2d at 242. However, a trier of fact is free to accept or reject "as much or as little" as it likes of a witness's testimony. *People v. Logan*, 352 Ill. App. 3d 73, 81 (2004).

¶ 48 The State also presented evidence of defendant's consciousness of guilt. Attempts to

intimidate a witness are admissible as evidence of a defendant's consciousness of guilt. *People v. Gambony*, 402 Ill. 74, 80 (1948); *People v. Rojas*, 359 Ill. App. 3d 392, 404 (2005). The reason for the rule permitting proof of intimidation acts is that they demonstrate the defendant's consciousness of his guilt manifested by his attempt to prevent or influence the witness's testimony. *People v. Veidt*, 28 Ill. 2d 547, 549-550 (1963). Redmond Jr.'s handwritten statement provided that defendant entered his home in the early morning hours and went from room to room, holding a gun. Defendant repeatedly stated that his life was on the line and that he needed to find the "Dude," Redmond Sr., who was scheduled to be a prosecution witness. Redmond Jr. reported the incident to the police, who arrested defendant, who was later identified by Redmond Jr.

¶ 49 Defendant also argues that the physical evidence introduced by the State failed to tie him to the shooting. However, defendant fails to cite any authority for the proposition that a defendant must be linked to a crime by physical evidence. Moreover, the physical evidence comports with the witnesses' descriptions of events. There were multiple bullets and cartridge cases, all of which were fired from the same gun. A stipulation read to the jury regarding Glover's autopsy indicated that he died of multiple gunshot wounds. Defendant was the only person with a gun and he fired it multiple times.

¶ 50 We conclude that there was sufficient evidence to support defendant's conviction. Ultimately, this court cannot say that no rational trier of fact could have found defendant guilty.

¶ 51 Admission of Other Crimes Evidence

¶ 52 Defendant argues that the trial court erred in denying his motion for a mistrial after ruling

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that the other crime testimony regarding the earlier shooting outside of Rodriguez's home on March 1, 2006, was not proof of intent, motive or identification and that the State had not produced what it claimed it would at the proffer for the admissibility of the testimony.

Defendant also contends that the trial court improperly admitted testimony regarding the home invasion at the Redmond residence on February 18, 2010 "where a proper foundation was not laid, no substantive evidence was produced and no connection to the matter at the bar was established."

¶ 53 Other Crime Evidence from March 1, 2006

¶ 54 Before trial, the State argued that it should be permitted to introduce evidence that defendant shot at Salela and another woman a half hour before Glover's murder to show a continuing narrative of events that would give context to the shooting. The State contended that this evidence was relevant because defendant later went looking for Salela at Monica and Glover's house, where defendant killed Glover. The court granted the State's motion. At trial, Bonita Rodriguez testified about a shooting at her house before Glover's murder; she did not remember Salela being at her house. Contrary to the State's proffer, no evidence was presented at trial that Monica testified to the grand jury that defendant came to her house asking for Salela and appearing to be agitated. The court ruled that the State did not produce the evidence originally offered but not through bad faith and denied defendant's motion for a mistrial. Defendant argues that "[t]his series of events clearly violates Lemon's right to an unbiased jury and demands reversal of his conviction."

¶ 55 As a general rule, evidence of another crime committed by a defendant is not admissible

to show the defendant's propensity to commit a crime. *People v. Wilson*, 214 Ill. 2d 127, 135-36 (2005). Other crimes evidence is admissible, however, if relevant for any other purpose. *Id.* Such purposes include motive, intent, identity, and absence of mistake. *People v. Dabbs*, 239 Ill. 2d 277, 283 (2010). Even if offered for a permissible purpose, such evidence will not be admitted if its prejudicial effect substantially outweighs its probative value. *Dabbs*, 239 Ill. 2d at 284. The admissibility of other crimes evidence "rests within the sound discretion of the trial court, and its decision on the matter will not be disturbed absent a clear abuse of discretion." *Wilson*, 214 Ill. 2d at 136; see also *Dabbs*, 239 Ill. 2d at 284.²

¶ 56 The State contends that while the court properly ruled evidence of the shooting incident admissible, "several of the facts the People expected to elicit did not come to fruition during the court of a trial during which every witness 'flipped' while testifying." More importantly, according to the State, the court provided a reasonable remedy for this "unfortunate situation" by instructing the jury not to consider Rodriguez's testimony and instructing the State to refrain from mentioning the shooting incident in closing.

¶ 57 The improper introduction of other crimes evidence is harmless error when a defendant is neither prejudiced nor denied a fair trial based on its admission. *People v. Nieves*, 193 Ill. 2d 513, 530 (2000). Admission will not warrant reversal if an error is unlikely to have influenced

²In this case, the State invoked the "continuing narrative" exception to the other crimes rule: evidence of another crime is admissible "if it is part of a continuing narrative of the event giving rise to the offense." *People v. Thompson*, 359 Ill. App. 3d 947, 951 (2005). "If evidence of other crimes is intertwined with the charged offense or where the events which occurred earlier in the evening led to the charged offense, such evidence may be admissible." *People v. Evans*, 373 Ill. App. 3d 948, 958 (2007).

the jury. *People v. Wilson*, 164 Ill. 2d 436, 459 (1994).

¶ 58 When the State's proffer regarding the earlier shooting was not met, the trial court took appropriate measures to minimize or cure the resulting error. As noted by the State, the trial court mitigated the impact of the improperly admitted evidence, in this case by instructing the jury to disregard that "other crime" testimony and instructing the State not to reference it during closing. Defendant contends that the trial court's jury instruction "call[ed] attention to the fact that the Court was troubled by the testimony." However, we note that the trial court presented defendant with the option of providing the instruction or not, and defendant chose to have the court give the instruction. A jury is presumed to follow the instructions given by a court. *People v. Taylor*, 166 Ill. 2d 414, 438 (1995).

¶ 59 *People v. Nunley*, 271 Ill. App. 3d 427 (1995), cited by defendant, is distinguishable. In *Nunley*, the "detail and repetitive manner" in which the evidence regarding the other crime—the defendant stabbing his mother and killing her dog—was presented "greatly exceeded" what was required to establish the voluntariness of the defendant's confession and subjected defendant to a "mini-trial over conduct far more grotesque than that for which he was on trial." *Id.* at 432.

Conversely, the references to the earlier shooting in this case were limited almost exclusively to the State's opening statement and the Rodriguez testimony; Rodriguez was one of 16 witnesses who testified at trial. Unlike in *Nunley*, the evidence presently regarding the earlier shooting was not "extremely inflammatory" and was relevant to the subsequent fatal shooting of Glover.

¶ 60 In conclusion, defendant has failed to show that he was prejudiced or denied a fair trial by the admission of the other crimes evidence from March 1, 2006. This harmless error does not

warrant reversal of defendant's conviction.

¶ 61 Other Crime Evidence from February 18, 2010

¶ 62 Defendant argues that the trial court erred in denying his motion for a mistrial regarding the admission of testimony regarding the home invasion at the Redmond residence on February 18, 2010 "where a proper foundation was not laid, no substantive evidence was produced and no connection to the matter at bar was established."

¶ 63 At trial, Redmond Jr. denied making a handwritten statement to the police and stated that a handwritten statement shown him was not his. Without citation, defendant argues that the "[o]fficer who proffered the statement saying 'Yes, he did' does not constitute *proof* of Redmond, Jr. either making or writing the statement." (Emphasis in original.) We disagree. In *People v. Dixon*, 256 Ill. App. 3d 771 (1993), the appellate court found that the testimony of the assistant state's attorney that he took a witness's statement and saw the witness read each page of the statement was sufficient proof that the statement was made and signed by the witness so as to permit its admission under 115-10.1. *Dixon*, 256 Ill. App. 3d at 777. Although Redmond Jr. denied signing the statement when questioned at trial, ASA Kantas testified that he prepared the statement, witnessed Redmond Jr. sign the statement, and identified Redmond Jr.'s signature on the statement and the photograph of Redmond Jr. taken at the time the statement was prepared. We conclude that the requirement of Section 5/115-10.1 that the statement is "*proved* to be written or signed by the witness" was met with respect to Redmond Jr.'s statement.

¶ 64 Defendant further argues that Redmond's statement did not evidence any violation of the law. "Proof that the defendant committed the crime, or participated in its commission, need not

be beyond a reasonable doubt [citations], but such proof must be more than a mere suspicion."

People v. Thingvold, 145 Ill. 2d 441, 456 (1991). Furthermore, contrary to defendant's arguments, there is a "connection" between the events on February 18, 2010 and the "matter at bar." Efforts to intimidate witnesses are admissible as evidence of a defendant's consciousness of guilt. *Gambony*, 402 Ill. at 80; *Rojas*, 359 Ill. App. 3d at 404. Redmond Jr.'s statement regarding the events on February 18, 2010, evidences a home invasion prior to defendant's trial at the home of a scheduled witness. Although not required, corroborating evidence was produced, *e.g.*, Officer Johnson's testimony regarding, among other things, Redmond Jr.'s identification of defendant shortly after the home invasion.

¶ 65 Contrary to defendant's assertions, we do not believe that the trial court conducted a "mini-trial" of this collateral offense. Rather, we conclude that the evidence of the home invasion at the Redmond residence was properly ruled admissible evidence. The court instructed the jurors about the use of this other crime evidence for proper purposes.

¶ 66 Even if the introduction of other crimes evidence relating to the events of February 18, 2010, was an error, it is harmless error. *Nieves*, 193 Ill. 2d at 530. As the trial court acknowledged, Redmond Jr.'s statement was admissible as impeachment evidence even if it was not admissible as substantive evidence. We believe the verdict in this case would have been the same even without the evidence of the events at the Redmond residence. We decline to reverse based on the introduction of the other crimes evidence of February 18, 2010.

¶ 67 Handwritten Statements Sent to Jury

¶ 68 Defendant argues that Monica Morse's and Kevin McMillan's handwritten statements

were never ruled to be substantive evidence and should not have been sent to the jury room. The decision whether to allow jurors to take evidentiary items into the jury room is left to the discretion of the trial court, whose decision will not be overturned absent an abuse of that discretion to the prejudice of the defendant. *People v. Williams*, 97 Ill. 2d 252, 291 (1983).

¶ 69 The State initially responds that defendant forfeited this issue because, in his motion for a new trial, defendant objected to the handwritten statements being submitted to the jury; defendant did not state specifically that such objection was because the statements were not substantive evidence, as he argues on appeal. Applying plain error review, the State contends that there was no error; even assuming we found error, the State argues that the evidence was not "closely balanced" and the error was not a "structural one."

¶ 70 We do not agree with the State that defendant forfeited this issue on appeal. In order to preserve an issue for review, there must be an objection to the evidence at trial and a written post-trial motion raising the issue. *People v. Enoch*, 122 Ill. 2d 176, 186 (1988). "Objections should be sufficiently specific to inform the court of the ground for the objection, and a general objection, if overruled, will not preserve the issue for review on appeal." *People v. Queen*, 56 Ill. 2d 560, 564 (1974). We believe that language in defendant's amended post-trial motion objecting to Monica's and McMillan's prior inconsistent statements as substantive evidence and objecting to the submission of their handwritten statements to the jury for deliberations is adequate to preserve the issue now raised on appeal.

¶ 71 We do not believe that the submission of the handwritten statements constituted error. Defendant points out that "[t]he jury was instructed to use its judgment as to how it would

interpret inconsistent prior statements"; defendant appears to assert that this instruction represents an implicit acknowledgment that the statements had not been admitted as substantive evidence. We disagree. The jury was simply instructed to "determine whether the witness made the earlier statement, and, if so what weight should be given to that statement." The requirements of 725 ILCS 5/115-10.1, discussed above, were satisfied with respect to each of the statements, and the trial court properly admitted the handwritten statements of Monica Morse and Kevin McMillan as substantive evidence. Moreover, defendant acknowledged in his amended post-trial motion that the trial court "allow[ed] the State to use prior inconsistent statements" of Monica Morse and Kevin McMillan "as substantive evidence."

¶ 72 Defendant argues, without citation, that the statements were "artificially legitimized" by their submission to the jury room and that "narrative testimony does not have the impact of a transcript that can be read over and over." Tangible objects admitted into evidence that are probative of any material issue may be taken to the jury room during jury deliberations unless they are more prejudicial than probative. *People v. Blue*, 189 Ill. 2d 99, 123 (2000); *People v. Burrell*, 228 Ill. App. 3d 133, 144 (1992).

¶ 73 In this case, the statements of Monica and McMillan were properly admitted into evidence and were not unduly prejudicial. They were probative of events leading up to and including the fatal shooting of Glover. The trial court did not abuse its discretion in allowing the handwritten statements into the jury room.

¶ 74 CONCLUSION

¶ 75 In conclusion, there was sufficient evidence, if believed by a trier of fact, to support the

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defendant's conviction. The admission of evidence of the shooting incident prior to the fatal shooting of Glover was erroneous; however, such error was harmless. The other crimes evidence regarding the incident at the Redmond residence was properly ruled admissible evidence and was correctly introduced to show defendant's consciousness of guilt and an attempt to intimidate a witness; even *assuming arguendo* the admission of this evidence was erroneous, such error was harmless. Finally, the trial court did not abuse its discretion in allowing the statements of Monica and McMillan to go the jury room; the statements were not unduly prejudicial and were properly admitted as substantive evidence.

¶ 76 Affirmed.