FIRST DIVISION
November 12, 2013

No. 1-11-3507

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IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Circuit Court of
	)	Cook County.
Plaintiff-Appellee,	)	
	)	
v.	)	No. 09 CR 11414
	)	
BRADLEY BOSTON,	)	Honorable
	)	John Joseph Hynes,
Defendant-Appellant.	)	Judge Presiding.

JUSTICE DELORT delivered the judgment of the court.
Justice Hoffman and Justice Cunningham concurred in the judgment.

ORDER

¶ 1 ***Held:*** The evidence was sufficient to convict defendant of first degree murder, concealment of homicidal death, and possession of a stolen motor vehicle. The trial court did not commit reversible error by allowing the victim's daughter to testify about her mother's out-of-court hearsay statements, because they were offered to establish defendant's motive for the murder. We correct the fee and cost award.

¶ 2 After a bench trial, defendant Bradley Boston was convicted of the first degree murder of Diane Robinson, concealment of her body, and possession of a stolen motor vehicle. Defendant appeals, arguing the circumstantial evidence in this case was insufficient to prove him guilty beyond

a reasonable doubt. In particular, defendant asserts that the court erred in allowing the victim's daughter to testify about her mother's hearsay out-of-court statements. Defendant also contests the amount of fees and costs assessed against him. We affirm the convictions but modify the fees and costs.

¶ 3 BACKGROUND

¶ 4 On June 2, 2009, defendant was arrested in connection with the death of his girlfriend, Diane Robinson. A Cook County grand jury later indicted him on two counts of first degree murder, one count of concealment of a homicidal death, and one count of possession of a stolen motor vehicle. Before trial, defendant sought to exclude statements Diane made to her daughter about the problems she was having in her relationship with defendant. The trial court denied defendant's request, holding that the statements did not constitute inadmissible hearsay because they were permissibly offered to establish defendant's motive to kill his girlfriend.

¶ 5 The case proceeded to a bench trial in August 2011. The State presented testimony from several witnesses. After defendant's sister Kathy McDonald testified, the prosecution revealed that it had just become aware of an outstanding arrest warrant for Kathy for a misdemeanor charge of unlawful use of a weapon. After concluding that defendant might not have waived a jury trial had had he been aware of Kathy's warrant, the trial court granted defendant's motion for a mistrial. Because, however, the mistrial was based on trial error rather than insufficient evidence or bad faith by the prosecution, the State was not barred from retrying defendant.

¶ 6 At the second trial, defendant again waived his right to a jury, and the parties proceeded by way of a partially-stipulated bench trial. They stipulated to the testimony of every witness from the

first trial, except that of Kathy. The trial court found defendant guilty and sentenced him to a total of 25 years' imprisonment: 21 years for the murder, to be served consecutively to two concurrent sentences of four years each for concealment and possession of a stolen motor vehicle. He now appeals, challenging the sufficiency of the evidence against him as well as the trial court's ruling regarding the admissibility of the victim's daughter's testimony.

¶ 7 A. Trial Evidence

¶ 8 The first witness, Felicia Robinson[1], testified that her mother, Diane had lived in an apartment in Oak Lawn, Illinois for about two years. Defendant moved in to the same apartment in January 2009, five months before Diane's death. Felicia stated that her mother owned a green Pontiac Grand Am and defendant owned a black Chevy van. Defendant would drive Diane to work and Diane told Felicia that defendant helped pay for her car and her rent. Felicia testified she spoke with her mother on the phone at least three times a day.

¶ 9 Felicia recalled a conversation she had with her mother in early May 2009 during which her mother described how she had kicked defendant out of the apartment because she was tired of his arguing and excessive drinking. Her mother, however, later changed course and took defendant back in after defendant's grandmother pleaded with her to let him return to the apartment. After defendant returned, about a week before her death, her mother had another conversation with Felicia in which she told her she was again tired of defendant's arguing, fighting, and excessive drinking and wanted

[1] The State refers to Felicia Robinson as "Felicia" while defendant refers to her as "Alicia." Under oath at trial, she stated her name was Felicia Robinson. (R. Y-13.) While the name on her victim impact statement is "Alicia Robinson," we defer to the transcript and will refer to her as Felicia. (R. C.111-12.)

him out of her apartment.

¶ 10 Felicia testified the last time she talked to her mother was a fifteen-minute conversation at 8:30 a.m., on Saturday, May 30, 2009. Later that day, Felicia tried to call her mother three or four times but there was no answer. The next day, on Sunday, May 31, 2009, Felicia tried to reach her mother by phone but she never answered. Felicia then drove to her mother's apartment and noticed her mother's car was not in the parking lot. She rang the doorbell on her mother's apartment but received no answer. She did not enter her mother's apartment, as she did not have a key. Felicia also noticed her mother's Saturday mail was still in the mail slot.

¶ 11 The next day, Felicia continued to try to contact her mother without success. She once again drove past her mother's apartment and noticed that her mother's car was still missing. Felicia then drove to the Oak Lawn Police Department to file a missing person's report, but was told she had to return after 8:30 a.m. to file the report. On June 2, Felicia returned to the Oak Lawn Police Department and filed a missing person's report. She was very concerned about her mother's situation and decided to drive to her mother's apartment with her mother's friend, Delores. When they arrived at the apartment building, they went to her mother's apartment and rang the doorbell, but there was no answer. They were about to leave when they noticed the building maintenance man, John Jones, and explained the situation to him. After receiving permission from the landlord to conduct a well-being check, Jones proceeded to Diane's third floor apartment with Felicia and Delores. Jones used his master key to open the two locks on Diane's apartment door, one of which was a deadbolt which had to be locked from the outside of the apartment. Upon entering the apartment, Felicia noticed food on the stove and other items had been left out in the kitchen. She

found this highly unusual, as her mother always kept a very orderly home.

¶ 12 Jones proceeded to go room to room stating "[M]aintenance, hello, anybody here." He first checked the guest bedroom and bathroom. Jones next opened the door to the other bedroom and noticed a faint odor. He immediately knew something was not right. Felicia also smelled the odor and observed that her mother's apartment keys were on the headboard of her mother's bed. As Jones walked around to the other side of the bed, the odor became stronger. The odor was coming from the closet. Jones then slid open the closet door and saw a woman's leg. He then instructed Felicia and Delores to immediately leave the apartment. After the three of them left the apartment, Jones locked the door and called the police.

¶ 13 Officer Lukasiak, an evidence technician with the Cook County Sheriff's Police, testified he processed Diane's apartment on June 2. He observed that the apartment door had a deadbolt, which required a key to open it from the outside of the apartment, and another lock which also required a key to open it from the outside, and that there no signs of forced entry, nor damage to either lock. After opening the door, Lukasiak proceeded to Diane's bedroom where he found Diane's body inside the closet lying on top of a gray storage bin on the closet floor. Her body was covered with a white blanket and various articles of clothing; the only part of the body that was visible was the left leg. Diane was wearing a pair of boxer shorts, a white t-shirt, and white socks. There was no blood on the closet floor, but there was blood on her shirt. Diane had a purse on top of her and there was a black handle from a knife lying next to her right thigh. Lukasiak observed that Diane's neck was bruised and swollen and her head was at a sharp angle. He saw puncture marks on her left chest and on her left side. When he opened her purse, Lukasiak found a note dated May

13, 2009, that was written by defendant to Diane. That note read:

> "I, Bradley Boston agree to the following. I will no longer cause any more problems with my girlfriend Diane Robinson who reside[s] at 10231 S[outh] Central Av[enue][,] Ap[artment] 3C, Oak Lawn[,] Il[linois]. Presently[,] I will stop drinking and seek help if I shall have problems stopping. There will be no more shouting or disturbing neighbors because of my anger problems. I also shall seek help with my insecurities and anger problems about cheating while in relationships with my present girlfriend. I will pay my debts owed while living in this residence. Furthermore, if I can't do all of these things[,] I will move out with my belongings from this residence without any arguments or problems A.S.A.P. I will not call my girlfriend Diane . . . more than 3 times a day[,] especially if she says not to. I will listen and not assume the worse. If this doesn't work out[,] I'll return all items and be held liable for any items broken on my behalf at this apartment purchased by Diane Robinson[,] bought for Bradley Boston. I have read and agree by signing below to the above."

Lukasiak observed the note was signed "Bradley Boston." The purse also contained miscellaneous papers and a receipt book.

¶ 14 Lukasiak saw an empty "Tuf" brand trash bag box on the kitchen counter. The lot number on the box matched the lot number of three unused plastic trash bags on the living room table. Lukasiak went outside and searched the dumpster, where he found two more trash bags with the same lot number. The bags contained a knife blade and empty beverage bottles and disinfectant containers.

¶ 15 On June 3, 2009, Lukasiak obtained a warrant to search defendant's van and found four more trash bags with the same lot number as the bags in Diane's apartment and dumpster. Three of the bags had men's clothing and miscellaneous papers in them. The fourth bag contained a black change purse, another purse with Diane's digital camera in it, and a DVD player. The change purse contained Diane's state identification card, driver's license, credit cards, insurance cards, and a number of miscellaneous items. Lukasiak also recovered a note, dated March 21, 2009, explaining that defendant had obtained a number of high interest payday loans and that he had given Diane $400 for a down payment on her car. The note, signed "Diane Robinson," indicated Diane still owed defendant $780.

¶ 16 Thomas Scully, formerly the Chief of Police of the Orland Hills Police Department, testified that, on June 2, 2009, he was working with the South Suburban Major Crimes Task Force on Diane's murder investigation. At about 4:00 p.m. that day, Scully went to the south side of Chicago to interview defendant's sister, Kathy McDonald. He saw defendant's van parked on the street and set up a surveillance. At about 5:40 p.m., Scully knocked on the door and Kathy answered. Scully saw defendant sitting inside and asked him if defendant knew why he was there and defendant responded, "Yes, I do." Scully then interviewed Kathy at the police station. She stated that defendant had slept in a chair overnight at her house.

¶ 17 Investigator Mike Dollear testified he worked for the Alsip Police Department and was also a member of the South Suburban Major Crimes Task Force. On June 2, Dollear located Diane's Grand Am at 8100 South Evans in Chicago, just one block away from defendant's brother's residence.

¶ 18 Daniel Van Rooyen testified that he lived on the same floor of the apartment building as Diane. He identified defendant at trial and remembered seeing him around the apartment building on prior occasions. Van Rooyen described himself as a casual acquaintance of defendant who would exchange greetings with defendant when he saw him. He testified that, on May 27, 2009, sometime after 9:00 p.m., he heard loud noises coming from inside Diane's apartment. Van Rooyen could hear Diane arguing with a man inside her apartment. He stood by the open door of his apartment and listened to the arguing for about one or two minutes. Van Rooyen then approached Diane's door to offer assistance and heard her say, "I want you to leave." He next knocked on the door but no one answered and the arguing quieted down.

¶ 19 Donald Boston, defendant's brother, testified that on the morning of May 31, 2009, defendant drove Diane's green Pontiac Grand Am to his house on the south side of Chicago. Defendant stayed for a while, then left and came back in the evening. At around 6:00 p.m., Donald talked to defendant on the porch and defendant told him that sometimes he thinks about killing people. Donald told defendant that his statement did not make sense and he would not get away with it because there was "too much technology." They then went out together and came back to Donald's house around 10:00 p.m. Defendant decided to sleep in Diane's car that night, parked in front of Donald's house.

¶ 20 The next day, June 1, 2009, Donald arose at 5:00 a.m. and went out to the car to wake up defendant. Defendant, who was scheduled to work as a school van driver that day, told Donald he had called the school and was taking the day off. Defendant asked Donald to go with him to Diane's apartment to retrieve his belongings. They left Donald's house at around 6:30 or 7:00 a.m. with defendant driving Diane's car.

¶ 21 Upon reaching Diane's apartment building, Donald noticed defendant's van in the parking lot. Defendant used his keys to unlock the deadbolt and additional door lock to Diane's apartment. After entering the apartment, Donald did not see any sign of Diane. As Donald waited near the living room and hallway, defendant went into the kitchen, got some plastic garbage bags, and started putting food from the refrigerator and freezer into the bags. Defendant next proceeded into the bedroom and brought his clothes from the bedroom into the living room. Defendant then placed his clothes into the garbage bags. He also put a DVD player and a CD player in a box. Donald helped defendant carry the plastic bags while defendant carried the box down to defendant's van and place them inside the van.

¶ 22 Donald also observed defendant emerge from the bedroom with a black garbage bag, which he threw into a dumpster behind the apartment building. Donald testified that he never entered the bedroom and stood in a hallway while defendant removed the various items from the bedroom. All he could see from his vantage point was the bathroom and a side room housing an exercise bicycle. After being at the apartment for about 15 to 20 minutes, Donald left in defendant's van and defendant left in Diane's car.

¶ 23 A stipulation was entered that if called to testify, Misty Lopez, defendant's manager at another job at Home Depot, would testify that defendant was scheduled to work but was inexplicably absent on Saturday, May 30, 2009, from 3:00 p.m. until 12:00 a.m. and, on Sunday, May 31, 2009, from 9:00 p.m. until 6:00 a.m.

¶ 24 Rose Nieto, the assistant transportation manager at the Park Lawn School, testified that defendant was scheduled to work on Monday, June 1, 2009. She received a call from him at almost

midnight the night before, stating he could not come to work on June 1 due to personal problems. Nieto tried calling defendant on June 1 and June 2 to see if he could work on June 2, but she did not hear back from him.

¶ 25 Dr. James Filkins, a deputy medical examiner at the Cook County Medical Examiner's Office, conducted the autopsy of Diane's body. During his testimony, he identified the white t-shirt Diane had been wearing when her body was discovered. The shirt had blood stains on the front and back, and the holes and defects in the t-shirt were consistent with her stab wounds. Filkins testified Diane's injuries were consistent with strangulation as there were injuries to the front, back, and sides of her neck. He also noted subgaleal (below the under surface of the scalp and the outer surface of the skull) hemorrhaging on the back of her head, and stated that such an injury requires a forceful blow and would not have been the result of an accidental bump to the head. He observed two stab wounds and one incised wound. Both stab wounds were on Diane's chest and the incised wound was on her lower back. The stab wounds did not enter the chest cavity or penetrate any organs. Filkins explained these stab wounds would not ordinarily be fatal but would have required stitches and proper medical treatment. He also observed abrasions on Diane's legs. In Filkins's opinion, with a reasonable degree of scientific and medical certainty, Diane died from strangulation and a significant contributing factor to her death were the stab and incised wounds. Additionally, after being shown the knife blade recovered from the trash bag in the dumpster behind Diane's apartment, Filkins stated that the stab wounds on Diane's body were consistent with having been made by that knife.

¶ 26 Nicole Fundell, a forensic scientist specializing in firearm and toolmark examinations,

testified she examined a knife blade and knife handle from the crime scene. There was no blood on either of these items. Fundell visually inspected the handle and noticed a metal piece still embedded in it. She then used a microscope to compare the metal piece with the knife blade. Fundell looked for a puzzle-like connection and saw that the blade and handle fit together like two pieces of a puzzle. She used a stronger microscope to compare the two surfaces and found that the blade and handle were at one time one single object. Fundell testified she was 100 percent certain that the knife blade (found in the garbage bag in the dumpster) and the handle (found lying next to Diane's body) went together.

¶ 27 Two additional stipulations were entered at trial. One was the stipulation of Kelly Krajnik, a forensic scientist. In her stipulation, she stated she would testify that the knife blade and knife handle had no blood on them. A second stipulation by Karen Heard, a forensic scientist, was also entered. In her stipulation, she indicated she would testify that there were no suitable fingerprints found on the knife blade.

¶ 28 After the State rested, the defendant waived his right to testify and presented no additional evidence. The court found the defendant guilty on the charges of first degree murder, concealment of a homicidal death, and possession of a stolen motor vehicle.

¶ 29 B. Post-Trial Motions

¶ 30 In post-trial motions, defendant moved for a new trial, a motion in arrest of judgment, and a motion for an acquittal. In his motion for a new trial, defendant argued *inter alia* that (1) he had not been proven guilty beyond a reasonable doubt because it was not clear if someone else had keys to Diane's apartment and (2) the State failed to provide any corroborating forensic evidence linking

defendant to Diane's death. Furthermore, defendant asserted the trial court erred by denying his pre-trial motions *in limine*. The trial court ultimately denied defendant's motion for a new trial.

¶ 31 C. Sentencing

¶ 32 On November 29, 2011, the trial court sentenced defendant to 21 years on the first degree murder conviction, consecutive to two concurrent four-year terms each for the concealment of a homicidal death and possession of a stolen motor vehicle convictions, for a total of 25 years in prison. Defendant was given 911 days of pre-sentence custody credit and assessed $575 in fees and costs. This appeal followed.

¶ 33 ANALYSIS

¶ 34 Defendant raises three arguments on appeal. First, he argues his convictions for first degree murder and concealment of a homicidal death should be reversed because the State failed to prove him guilty beyond a reasonable doubt. Defendant contends his convictions are improperly premised entirely on circumstantial evidence. Second, defendant argues that the State failed to prove him guilty beyond a reasonable doubt of possession of a stolen motor vehicle because it failed to establish that he was not entitled to posses Diane's vehicle and that he knew the vehicle was stolen. Defendant believes the trial court erred by allowing Felicia Robinson to testify about her mother's out-of-court hearsay statements, which were offered to establish his motive. Third, defendant asserts that the trial court incorrectly assessed $575 in costs and fees against him, although they totaled only $505.

¶ 35 I. Hearsay Issue

¶ 36 Defendant argues that the trial court erred by ruling at the motion *in limine* hearing that

Felicia could testify about her mother's out-of-court statements by detailing a number of telephone conversations between the two. In one conversation, Diane told Felicia she kicked defendant out of the apartment because she was tired of his arguing and excessive drinking. In another conversation about a week before her death, Diane told Felicia she allowed defendant to move back into the apartment but she again wanted him out of her apartment due to his behavior. Defendant contends that his motive could not be established if Diane's statements were omitted, especially where there was no other testimony about the nature of their relationship. Therefore, according to defendant, reliance on Felicia's out-of-court statements was so prejudicial as to deny him a fair trial.

¶ 37 "Evidentiary rulings are within the sound discretion of the trial court and will not be reversed unless the trial court has abused that discretion." *People v. Caffey*, 205 Ill. 2d 52, 89 (2001) (citing *People v. Reid*, 179 Ill. 2d 297, 313 (1997); *People v. Ward*, 101 Ill. 2d 443, 455-56 (1984)). A reviewing court will find an abuse of discretion only where the trial court's ruling is "arbitrary, fanciful, unreasonable, or where no reasonable person would take the view adopted by the trial court." *Id.* (citing *People v. Illgen*, 145 Ill. 2d 353, 364 (1991)). A reviewing court "generally use[s] an abuse-of-discretion standard to review evidentiary rulings rather than review them *de novo*." *Id.* (citing *People v. Childress*, 158 Ill. 2d 275, 296 (1994)).

¶ 38 Hearsay is "testimony of an out-of-court statement offered to establish the truth of the matter asserted therein, and resting for its value upon the credibility of the out-of-court asserter." *People v. Evans*, 373 Ill. App. 3d 948, 964 (2007) (quoting *People v. Rogers*, 81 Ill. 2d 571, 577 (1980)). Hearsay evidence is generally inadmissible because there is no opportunity to cross-examine the declarant. *People v. Jura*, 352 Ill. App. 3d 1080, 1085 (2004) (citing *People v. Shum*, 117 Ill. 2d

317, 342 (1987)). However, "a statement offered for some reason other than for the truth of the matter asserted therein is generally admissible." *Evans*, 373 Ill. App. 3d at 964 (citing *People v. Velasco*, 216 Ill. App. 3d 578, 583 (1991)). "Hearsay statements offered not for the truth of the matter asserted but to demonstrate motive are similarly admissible when relevant." *People v. Coleman*, 347 Ill. App. 3d 266, 270 (2004) (citing *People v. Heard*, 187 Ill. 2d 36, 66 (1999)).

¶ 39 The situation presented here occurs with some frequency in criminal cases. In *People v. Moss*, 205 Ill. 2d 139 (2002), the State introduced evidence of the defendant's sexual assault of the victim to establish the defendant's motive to orchestrate the victim's murder. Our supreme court held that the victim's statements regarding the sexual assault were not hearsay. *Moss*, 205 Ill. 2d at 160. The court reasoned that the victim's statements were not offered to prove the sexual assault occurred but were instead offered to prove the defendant's motive and were therefore admissible. *Id.*

¶ 40 Similarly, in *People v. Heard*, 187 Ill. 2d 36 (1999), the defendant was convicted of murdering his ex-girlfriend, her new boyfriend, and her cousin. The State introduced a conversation between the defendant and her new boyfriend prior to the murder where the new boyfriend argued with the defendant and told him that the ex-girlfriend was pregnant with the new boyfriend's child. In rejecting the defendant's contention on appeal that the statement was inadmissible hearsay, our supreme court concluded that the statement was not hearsay because it was offered to establish the defendant's motive to the kill the victims—his jealousy and anger rather than the truth of the matter asserted. *Heard*, 187 Ill. 2d at 66-67. *Accord, People v. Lovejoy*, 235 Ill. 2d 97 (2009).

¶ 41 In *Coleman*, the State introduced the testimony of three witnesses who stated that the victim

had recently informed each of them of her plans to divorce the defendant and leave the state of Illinois. The State also introduced the victim's handwritten "to-do" note which listed "Get a divorce" as a long-term goal. *Coleman*, 347 Ill. App. 3d at 269. The note was introduced to establish the defendant's motive to kill the victim after he discovered her plans to divorce him. On appeal, the defendant argued that there was no evidence he was aware of the victim's intent to divorce him nor was he present during any of the out-of-court conversations discussing the divorce, and therefore the statements were not relevant to establish his motive to kill the victim. The appellate court held the evidence admissible, concluding that as long as there was circumstantial evidence presented at trial to establish a basis for which a reasonable jury could infer the defendant was aware of the victim's plan, the disputed evidence was relevant to establish the defendant's motive. *Coleman*, 347 Ill. App. 3d at 271.

¶ 42 *Coleman* is particularly analogous to this case. Here, the note found in the victim's purse constituted strong circumstantial evidence to infer that defendant was aware of Diane's intent to terminate their relationship. Like *Coleman*, where the victim was found with a handwritten "to-do" note "only feet" from her body which listed "Get a divorce" as a goal, the note formed a basis for the trier of fact to conclude that defendant was aware of the victim's dissatisfaction with the relationship. In *Coleman*, it was immaterial whether the matters discussed with the witnesses were actually true. All that mattered was the defendant knew and believed the victim was unhappy with the relationship, thereby establishing a basis for a motive for the crime.

¶ 43 Defendant tries to distinguish these cases, arguing that the defendants' motives would have existed regardless of whether the victims' out-of-court statements were factually true. In contrast,

defendant claims if the trial court did not believe that Diane kicked him out of the apartment due to his arguing and excessive drinking, and wanted to kick him out yet again, there would be no established motive for the murder. We find defendant's contention without merit. The trial court did not need to believe that Diane kicked defendant out of the apartment due to his abusive behavior and excessive drinking and then intended to kick him out again in order to conclude defendant had a motive. Rather, the trial court merely needed to find defendant was aware that Diane was dissatisfied with their relationship and intended to end it in order to conclude that defendant had a motive for the murder. Evidence of the phone conversations and defendant's May 13, 2009 note establish this nexus of knowledge on defendant's part. Accordingly, the trial court did not abuse its discretion in admitting Diane's statements to Felicia.

¶ 44 II. Sufficiency of the Evidence

¶ 45 Defendant also challenges the sufficiency of the evidence to prove him guilty of first degree murder and concealment of a homicidal death. He argues his conviction was based solely on circumstantial evidence and the State produced no direct evidence establishing who killed Diane. Defendant points out that there were no eyewitnesses to the murder, no one confessed, and there was no corroborating forensic evidence. As such, defendant claims the evidence was insufficient to convict him of first degree murder and concealment of a homicidal death beyond a reasonable doubt.

¶ 46 When faced with a challenge to the sufficiency of the evidence, we must view the evidence in the light most favorable to the prosecution and determine whether any rational trier of fact could have found the elements of the crime proven beyond a reasonable doubt. *People v. Saxon*, 374 Ill. App. 3d 409, 416 (2007) (citing *People v. Collins*, 106 Ill. 2d 237, 261 (1985)). "Under this

standard, a reviewing court must allow all reasonable inferences from the record in favor of the prosecution." *Id.* (citing *People v. Bush*, 214 Ill. 2d 318, 326 (2005)). This standard of review applies in cases whether the evidence is either direct or circumstantial. *Id.* (citing *People v. Pintos*, 133 Ill. 2d 286, 291 (1989)). A reviewing court will not retry the defendant. *Id.* (citing *People v. Milka*, 211 Ill. 2d 150, 178 (2004); *People v. Hall*, 194 Ill. 2d 305, 329-30 (2000); *People v. Jimerson*, 127 Ill. 2d 12, 43 (1989)). Rather, "determinations of the credibility of witnesses, the weight to be given to their testimony, and the reasonable inferences to be drawn from the evidence are responsibilities of the trier of fact." *Id.* (citing *Jimerson*, 127 Ill. 2d at 43). Thus, "[a] reversal is warranted only if the evidence is so improbable or unsatisfactory that it leaves a reasonable doubt as to defendant's guilt." *Id.* (citing *People v. Ehlert*, 211 Ill. 2d 192, 202 (2004); *People v. Flowers*, 306 Ill. App. 3d 259, 266 (1999)).

¶ 47 "Where evidence is presented and such evidence is capable of producing conflicting inferences, it is best left to the trier of fact for proper resolution." *Saxon*, 374 Ill. App. 3d at 416 (quoting *People v. McDonald*, 168 Ill. 2d 420, 447 (1995) (abrogated on other grounds by *People v. Clemons*, 2012 IL 107821 (2012)). "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." *Id.* In other words, "[a]n inference is a factual conclusion that can rationally be drawn by considering other facts. Thus, an inference is merely a deduction that the fact finder may draw in its discretion, but is not required to draw as a matter of law." *Id.* (quoting *People v. Funches*, 212 Ill. 2d 334, 340 (2004)). In other words, the trier of fact heard the evidence and "was not obligated to accept any possible

explanation compatible with the defendant's innocence and elevate it to the status of reasonable doubt." *Id.* at 416-17 (quoting *People v. Sutherland*, 223 Ill. 2d 187, 233, 307 (2006)).

¶ 48 Circumstantial evidence is viewed as proof of facts or circumstances that tend to give rise to reasonable inferences of other facts that tend to establish guilt or innocence of the defendant. *Saxon*, 374 Ill. App. 3d at 417. In other words, a defendant may be convicted solely on the basis of circumstantial evidence. *Id.* Thus, "[t]he trier of fact does not have to be satisfied beyond a reasonable doubt as to each link in the chain of circumstantial evidence." *Id.* (citing *Milka*, 211 Ill. 2d at 178). Therefore, "[i]t is sufficient if all the evidence taken as a whole satisfies the trier of fact beyond a reasonable doubt of the defendant's guilt." *Id.* (quoting *People v. Edwards*, 218 Ill. App. 3d 184, 196 (1991)). Additionally, in weighing the evidence, the trier of fact is not required to disregard inferences which normally flow from the evidence before it, nor need it search out all possible explanations consistent with innocence and raise them to a reasonable doubt. *People v. Wheeler,* 226 Ill. 2d 92, 117 (2007) (quoting *Hall*, 194 Ill. 2d 305 at 332).

¶ 49 A. First Degree Murder and Concealment of Homicidal Death

¶ 50 When viewed as a whole, the testimony and circumstantial evidence presented at defendant's trial was sufficient to establish that he murdered Diane and then attempted to conceal the crime. Jones testified that when someone left the apartment they had to lock the deadbolt from outside. Thus, after murdering Diane, her killer had to have a key to lock the door. Diane's daughter, Felicia, testified she saw her mother's apartment keys on the headboard when she entered the apartment with Jones. Defendant's brother, Donald, testified that defendant used his key to open the apartment door on June 1, 2009, when they went to Diane's apartment to get defendant's belongings. Felicia, who

was very close to her mother and spoke to her on the phone at least three times a day, did not have a key to the apartment. While the defense argued that Jones and the landlord also had keys to the victim's apartment, the trial court rejected them as suspects because they had no reason to murder Diane. The trial court concluded the killer had to have a key to the apartment and the only person who had both a key and motive to kill Diane was defendant.

¶ 51 In addition to the note which acknowledged that defendant had been behaving badly and was the cause of much of the discord in the relationship, a significant amount of incriminating physical evidence was also presented at trial. This included the fact that defendant removed food from the refrigerator and freezer, creating a reasonable inference that he knew there was no longer anyone living in the apartment. Donald testified he saw defendant emerge from Diane's bedroom with a garbage bag and later saw him throw the bag into the dumpster behind her apartment. Investigators recovered the bag and found it contained numerous empty beer bottles and a knife blade. The trial court noted the beer bottles, especially O'Doul's non-alcoholic beer bottles, were indicative of someone such as defendant, who had a drinking problem and was trying to curb his consumption of alcohol.

¶ 52 The knife blade was matched to a knife handle that was found alongside Diane's body. Medical testimony established the victim had been strangled and stabbed, and her stab wounds were consistent with having been caused by such a blade. The contents of the garbage bags found in the dumpster explained why forensic investigators were unable to recover fingerprints or blood from the knife blade and handle. Empty containers of cleaning products, including Lysol and Pine-Sol, were found in the bags. Most importantly, the bag removed from the dumpster, the bags removed from

defendant's van, and the remaining bags in the box in the victim's kitchen all came from the same numbered lot.

¶ 53 Donald's testimony also connected defendant to other pieces of physical evidence. He stated that defendant emerged from Diane's bedroom with clothing, which was still on hangers. Defendant then placed the clothes into garbage bags and placed those bags, and other bags, into his van. Investigators later recovered garbage bags from defendant's van. Three of the bags contained defendant's clothes; the other bag contained Diane's new digital camera and another smaller purse containing her state identification card, driver's license, credit and insurance cards. It was reasonable to infer that defendant was able to possess these items because he murdered Diane and was able to take control of her property that he would not normally have been able to possess.

¶ 54 Defendant asked Donald to accompany him to Diane's apartment because he needed another driver to remove his van which was still parked in the apartment lot. Defendant took possession of Diane's Pontiac Grand Am, and it was reasonable to infer he did so because he knew she was dead and could take the car without any resistance from her. He also might have wanted to create the impression that Diane had driven away on her own and had disappeared, which would delay the discovery of her body. Similarly, defendant's statement "I think about killing people" and his strange behavior in sleeping in Diane's car parked out in front of the house instead of inside his brother's house were strongly suggestive of defendant's guilt. Defendant's actions at the time of the murder were also indicative of his guilt. He did not show up for either of his two jobs, claiming that he had "personal problems."

¶ 55 Furthermore, when defendant was confronted by Scully at his sister's home on Tuesday, June

2, 2009, defendant made a statement that reflected a consciousness of guilt. Scully asked defendant "Do you know why I'm here?" and defendant replied "Yes, I do." While this statement taken alone may not mean much, when considered along with the other evidence in the case, including witness testimony and physical evidence, it represented an acknowledgment on the part of defendant of his wrongdoing.

¶ 56 Defendant makes light of this evidence, claiming that it "bore only a tenuous connection" to him. He relies cases such as on *People v. Gomez*, 215 Ill. App. 3d 208 (1991) and *People v. Smith*, 185 Ill. 2d 532 (1999), asserting the we should reverse his convictions because there State's witnesses were weak and the evidence was based entirely on circumstantial evidence. But these cases are distinguishable and, by comparison, demonstrate how strong the circumstantial evidence was here. For example, in *Gomez*, the only evidence linking the defendant, a transient worker, to the brutal death of the victim, the owner of the transient residence where the defendant resided, was his fingerprint in the kitchen where he, and many others, would pay the victim rent. *Gomez*, 215 Ill. App. 3d at 217. In *Smith*, the only evidence linking the defendant to the crime was the testimony of an alleged witness, whose accounts of the crime were highly suspect, and dramatically impeached. The evidence in *Gomez* and *Smith* was insufficient to prove the defendants committed the charged murders, given the weaknesses in witness testimony and physical evidence against the defendants. Here, there are no such weaknesses. The circumstantial evidence presented by the prosecution, which we review above in detail, establishes that defendant murdered Diane. This evidence, together with all reasonable inferences drawn therefrom and viewed in the light most favorable to the prosecution, was sufficient to prove his guilt of first degree murder and concealment of the homicide.

¶ 57 B. Possession of Stolen Motor Vehicle

¶ 58 Defendant next challenges the sufficiency of the evidence supporting his conviction of possession of a stolen motor vehicle. He argues the State failed to prove beyond a reasonable doubt that he was not entitled to possess Diane's Pontiac Grand Am and knew the vehicle was stolen. Here, defendant claims the evidence showed that, given their dating relationship and living arrangements, he had implied permission to drive Diane's car. He also explains he often drove Diane to work and paid $400 toward the down payment of the car. Thus, according to defendant, on the basis of the circumstances in this case, he could have "rightly believed" he had permission to drive Diane's car.

¶ 59 Section 4–103(a) of the Illinois Vehicle Code defines possession of a stolen vehicle as follows: "[I]t is a violation of this Chapter for:

> (1) A person not entitled to the possession of a vehicle or essential part of a vehicle to receive, possess, conceal, sell, dispose, or transfer it, knowing it to have been stolen or converted***." 625 ILCS 5/4–103(a) (West 2012).

For a person to be convicted of this crime, the State must prove beyond a reasonable doubt that defendant possessed the vehicle, he was not entitled to possession of the vehicle, and he knew that the vehicle was stolen. *People v. Anderson*, 188 Ill. 2d 384, 389 (1999). A person can be charged with possession of a stolen motor vehicle even if he is the one who stole the vehicle as long as there is evidence the defendant knew he had stolen it. *People v. Gengler*, 251 Ill. App. 3d 213, 222 (1993).

¶ 60 Here, because we find the State proved defendant guilty of Diane's first degree murder, his

possession and use of Diane's car could not have been authorized. In other words, Diane never gave defendant permission to possess and drive her car on Sunday, May 31, 2009 and Monday, June 1, 2009, because she was dead. While defendant claims he had implied permission to use Diane's car, a reasonable person in his position would have known that he did not have permission to use the car of someone whom he had strangled, stabbed, and left her for dead in her apartment closet. The facts and circumstances of the case also establish that defendant knew the car was stolen on Sunday and Monday. *People v. Abdullah*, 220 Ill. App. 3d 687, 691 (1991) ("Where possession has been shown, an inference of defendant's knowledge can be drawn from the surrounding facts and circumstances."). It is undisputed that defendant drove Diane's car on May 31, 2009 and June 1, 2009, because defendant's brother testified he saw defendant driving Diane's car on May 31, 2009, and he rode in Diane's car while defendant drove on June 1, 2009, when they went to Diane's apartment so defendant could retrieve his belongings.

¶ 61 We therefore conclude the State proved defendant guilty beyond a reasonable doubt that he possessed a stolen motor vehicle.

¶ 62 III. Calculation of Fees and Costs

¶ 63 We agree with the parties that the trial court incorrectly calculated the fees and costs assessed against defendant to be $575, rather than $505. We direct the clerk to issue a corrected mittimus reflecting the correct amount of $505.

¶ 64 CONCLUSION

¶ 65 Accordingly, we affirm the judgment of the trial court of Cook County.

¶ 66 Affirmed; mittimus corrected.