FIRST DIVISION
May 5, 2014

No. 1-11-3670
2014 IL App (1st) 113670-U

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County
	)	
v.	)	No. 10 CR 6763
	)	
TERRIN LEE a/k/a MARKEESE HARGROVE,	)	Honorable
	)	Michael Brown,
Defendant-Appellant.	)	Judge Presiding.

PRESIDING JUSTICE CONNORS delivered the judgment of the court.
Justices Hoffman and Cunningham concurred with the judgment.

ORDER

Held: Victim's testimony was credible despite defendant's allegations that he had a motive to lie; defendant was not denied a fair trial when the trial court allowed certain testimony from two witnesses; defendant was not denied effective assistance of counsel; and defendant was proven guilty beyond a reasonable doubt of all offenses.

¶ 1 Defendant Terrin Lee, also known as Markeese Hargrove, was convicted by a jury of aggravated kidnapping, attempt aggravated criminal sexual assault, and armed habitual criminal. Defendant was sentenced to natural life in prison. On appeal, defendant contends that (1) his convictions should be reversed because the victim's testimony was not credible; (2) he was

denied a fair trial by certain witness' improper testimony, (3) he was denied effective assistance of counsel, and (4) the State failed to establish that the weapon used was a firearm. For the following reasons, we affirm.

¶ 2 I. BACKGROUND

¶ 3 The evidence presented at trial established that the 15-year-old victim, D.F., lived with his mother, Melissa Williams, at the time of the incident. D.F. testified that on the night of March 18, 2010, after arguing with his mother, he left his home at approximately 11 or 11:30 p.m. and began walking toward his aunt's home. D.F. walked for "a couple of hours, like one or two." When he was at the intersection of 76th Street and Racine, a man in a four-door blue car pulled up. D.F. identified that man in court as defendant. Defendant forced D.F. at gunpoint to get into his car. Defendant then drove to 76th Street and Ashland, and parked in a parking lot next to a two story building. Defendant tried to take D.F. through the front door but could not get in, so he used the back door and entered a second-floor apartment.

¶ 4 D.F. testified that defendant put him in a room that contained a television and a bed, then shut the door and left. When defendant returned, he removed his clothes and wore only boxer shorts and a t-shirt. Defendant asked D.F. if he had ever "sucked penis" before. D.F. stated that he had not, and defendant told him he should try it. Defendant then exposed his penis and told D.F. to "suck it." D.F. refused and stood up to move away from defendant. Defendant asked D.F. what he was scared of, then walked out of the room. D.F. indicated that he needed to use the bathroom and defendant responded that the toilet did not work. Defendant opened a window and told D.F. to use the window in lieu of a toilet, then walked away. D.F. testified that he jumped out the open window onto the walkway near where defendant's car was parked.

¶ 5 D.F. further testified that he then ran to the police station at 78th Street and Halsted and told officers what had happened. Officers drove him back to the area of the incident and D.F. identified defendant's car and the building. D.F. testified that Detective Barnes came to his home on the morning of March 19, 2010, and showed him a photo array. D.F. recognized a photo of defendant and identified him. On March 29, 2010, D.F. also viewed a lineup at the police station, and identified defendant. D.F. further testified that defendant wore his hair in braids on the night of the incident, and that he was approximately six feet tall.

¶ 6 On cross-examination, D.F. testified that he did not receive any scrapes or abrasions from jumping out the apartment window. D.F. further testified that defendant followed him to the police station after the incident and that he saw defendant outside the police station with a dog. D. F. stated that defendant said, "Hey, come here," but that D.F. went inside the police station. D.F. estimated that the police station was approximately one mile away and that it took him about 30 minutes to get there. He was unsure of what time he arrived there.

¶ 7 D.F.'s mother, Melissa Williams, testified that she sent D.F. to his room on the night in question after an argument. D.F. then left the house at around 11 p.m. Williams did not see D.F. again until about 4 a.m. when police officers brought him home. When he got home, D.F. appeared scared and was crying. Detectives then came to the apartment later that morning to speak to D.F. and show him a photo array.

¶ 8 Chicago Police Officer Monica Akins testified that she spoke to D.F. in the early morning hours of March 19, 2010. Officer Akins testified that D.F.'s demeanor was similar to that of a rape victim. He was withdrawn, spoke very softly, stared into space, and had difficulty giving her information. D.F. told her that defendant was carrying a black gun. After speaking with D.F., Officer Akins and her partner, Officer Ricky Robinson, went with D.F. to the location

where he was detained. D.F. identified defendant's car in the parking lot. The officers attempted to get inside the building, but both the front and back entrances were dead-bolted. The officers ran the license plate of the car and found that it was registered to defendant.

¶ 9 On cross-examination, Officer Akins testified that, according to her report, D.F. said at the time that the offender was 5'4" tall. On redirect examination, Officer Akins testified that the report was a summary of what she obtained that night, and that she did not prepare it until after they took D.F. home.

¶ 10 Detective Robert Barnes testified that he and his partner, Detective Durrell Easter, met with D.F. at his home at approximately 8 a.m. on March 19, 2010. They showed D.F. a photo array which included a photo of defendant. D.F. identified defendant from the photo array. Detective Barnes testified that he could not locate defendant so he issued an "investigative alert" which "acts a warrant, but its jurisdiction is limited to basically the city of Chicago." Detective Barnes testified that an investigative alert is issued "if there is insufficient evidence to show that the wanted subject has left the Chicago-land jurisdiction."

¶ 11 Detective Barnes testified that defendant subsequently turned himself in. He was placed in a lineup on March 29, 2010, and D.F. identified him. On cross-examination, Detective Barnes testified that D.F. did not recall defendant's exact height but stated that he was tall. Detective Barnes testified that D.F. said defendant was carrying a large automatic gun on the night in question. Detective Barnes acknowledged that a police report stated that D.F. claimed defendant's height was 5'4", but that such information is transferred from the original beat officer into his case report, and did not come from him.

¶ 12 The parties stipulated that defendant had been convicted of two qualifying offenses that supported the charge of armed habitual criminal.

¶ 13 Defendant presented two witnesses on his behalf. Alfred Halley, defendant's cousin, testified that he was at a birthday party in a garage at 75th Street and Honore on the night in question. Halley testified that he first saw defendant at 5:30 p.m. when defendant arrived at the party from work. Defendant then left the party to change out of his work clothes and returned at about 6:30 p.m. Halley testified that defendant stayed at the party and drank alcohol until about 11:45 p.m., at which point they walked around the corner to his sister's house at 75th Street and Wood. Halley testified that approximately seven or nine people stood outside drinking at his sister's house. When Halley left at approximately 1 a.m., defendant was still there.

¶ 14 On cross-examination, Halley testified that he did not remember what defendant wore when he came back to the party after changing clothes. He testified that defendant usually wore his hair in braids, but that on the night in question his hair was a "puffy afro." Halley learned defendant had turned himself in about a week later, but he did not tell police what he knew about defendant's whereabouts on the night in question. Nor did he tell the investigator when he was contacted about the incident in May of 2011.

¶ 15 Eugene Michael, a friend of defendant's since kindergarten, testified that he was at the garage party at 75th Street and Honore on the night in question. Defendant was in the general vicinity of the party the entire time Michael was there. They left the garage at around midnight and walked to Halley's sister's house with eight or nine people, including defendant. Defendant remained in the vicinity until the party broke up around 4 a.m.

¶ 16 On cross-examination, Michael testified that defendant wore jeans and a dark t-shirt on the night in question. He testified that he, Halley, and defendant, all drank a lot of vodka that night, but that he remembers the night clearly. Michael testified that defendant's hair was down that night and "froed." Michael further testified that he learned about the incident days later but

did not go to the police with information that he was with defendant on the night in question. He also did not speak to the investigator who came to his house on June 6, 2011, because he felt that what he was going to say was not relevant.

¶ 17 The jury ultimately found defendant guilty of being an armed habitual criminal, attempt aggravated criminal sexual assault, and aggravated kidnapping. The trial court imposed a natural life sentence based on the aggravated kidnapping, and merged the armed habitual criminal count and the attempt aggravated criminal sexual assault count. Defendant now appeals.

¶ 18 II. ANALYSIS

¶ 19 On appeal, defendant contends that (1) his convictions should be reversed because the victim's testimony was not credible; (2) he was denied a fair trial by certain witness' improper testimony, (3) he was denied effective assistance of counsel, and (4) the State failed to prove him guilty beyond a reasonable doubt when it failed to establish that the weapon used was a firearm.

¶ 20 A. Witness Credibility

¶ 21 Defendant first argues that his convictions should be reversed because the victim's testimony was not credible. Specifically, defendant takes issue with the victim's testimony that he jumped out of a second-story window uninjured, that he saw defendant outside the police station but failed to report it to the police, and that he claimed his offender was 5'4" and between 150 and 170 pounds when defendant is actually 6'4" and 250 pounds. Defendant further alleges that the victim had a motive to lie "in order to avoid getting in trouble for staying out all night without his mother's permission."

¶ 22 Where a defendant challenges the sufficiency of the evidence, a reviewing court must not retry the defendant, but rather must ask whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of

the crime beyond a reasonable doubt. *People v. Smith*, 185 Ill. 2d 532, 541 (1999). The testimony of a single witness, if it is positive and the witness is credible, is sufficient to convict. *Smith*, 185 Ill. 2d at 541. The credibility of a witness is within the province of the trier or fact, and the finding of the jury on such matters is entitled to great weight. *Id*. at 542. We will reverse a conviction only where the evidence is so unreasonable, improbable, or unsatisfactory as to justify a reasonable doubt of a defendant's guilt. *Id*. Finally, "it is for the trier of fact to resolve any inconsistencies in the testimony, and the trier of fact is free to accept or reject as much or as little as it pleases of a witness' testimony." *People v. Logan*, 352 Ill. App. 3d 73, 80-81 (2004) (citing *People v. Harris*, 220 Ill. App. 3d 848, 863 (1991)).

¶ 23 Here, the evidence presented, in a light most favorable to the prosecution, shows that D.F. argued with his mother on the night in question, and left his home at 11 or 11:30 p.m. After one or two hours, defendant pulled up next to him in a four-door blue car and forced him inside at gunpoint. Defendant then drove to 76th Street and Ashland, and forced D.F. into a second-floor apartment. Defendant removed his clothes and wore only his boxer shorts and a t-shirt. He exposed his penis and asked D.F. to "suck it." D.F. refused, and defendant left the room. D.F. inquired where the bathroom was, and defendant told him to use the window. D.F. then jumped out of the open window onto the walkway and proceeded to go to a police station. D.F. saw defendant outside the police station right before he went in.

¶ 24 D.F. told police officers what happened, and the officers drove him back to the area of the incident where D.F. identified defendant's car. The officers ran the license plate of the car and found out that it belonged to defendant. The next morning D.F. identified defendant in a photo array. Several days later, defendant turned himself in and D.F. identified him in a lineup at the police station.

¶ 25 Officer Akins testified that D.F. was withdrawn, spoke very quietly, and that his demeanor was similar to that of a rape victim. According to her report, D.F. told her that defendant was 5'4", but Detective Barnes testified that D.F. told him defendant was tall.

¶ 26 Further, while defendant contends that he had two alibi witnesses, we note that there was no evidence that either one of these witnesses ever attempted to tell police about the alibi even after they found out defendant had turned himself in. See *People v. Killingsworth*, 314 Ill. App. 3d 506, 511-12 (2000) (the alibi was suspect since there was no evidence that either alibi witness attempted to tell police about alibi in the four months police were searching for the defendant).

¶ 27 When considering this evidence in a light most favorable to the prosecution, we conclude that a rational trier of fact could have convicted defendant beyond a reasonable doubt. *Smith*, 185 Ill. 2d at 541. While there may have been inconsistencies in D.F.'s testimony, we reiterate that "it is for the trier of fact to resolve any inconsistencies in the testimony, and the trier of fact is free to accept or reject as much or as little as it pleases of a witness' testimony." *Logan*, 352 Ill. App. 3d at 80-81. The jury clearly resolved any inconsistencies in favor of the State, and we will not substitute our judgment for that of the jury. *Id*. at 81. Moreover, while defendant contends that D.F. had a motive to lie, we note that the existence of a motive to lie does not render a witness' testimony unconvincing. *People v. Hudson*, 198 Ill. App. 3d 915, 923 (1990).

¶ 28 B. Witness Testimony

¶ 29 Defendant's next contention on appeal is that he was denied a fair trial when the trial court allowed the State to elicit improper testimony from two witnesses. Namely, defendant takes issue with Officer Akins' testimony that D.F.'s demeanor was similar to that of a rape victim, and Detective Barnes' testimony that an investigative alert was issued for defendant after

D.F. identified him in a photo array. Defendant contends that in both instances, the testimony bolstered D.F.'s credibility by indicating that the police believed he was telling the truth.

¶ 30 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). An abuse of discretion will be found 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*. Decisions regarding whether to admit evidence cannot be made in isolation. *Id*. The trial court must consider a number of circumstances including reliability and prejudice. *Id*.

¶ 31 1. Officer Akins' Testimony

¶ 32 Defendant first takes issue with the following colloquy between the prosecution and Officer Akins:

"[State]: After you spoke with him about that incident – when you spoke with D.F., what was his demeanor like?

[Witness]: His demeanor was similar to that of a rape victim.

[Defense Counsel]: Objection.

[The Court]: Basis?

[Defense Counsel]: Area of expertise.

[The Court]: I'll give you an opportunity to cross-examine on that point. Objection overruled.

***

[Defense Counsel]: She could testify as to what she looked at, but not her opinion about it.

[The Court]: I'll give you an opportunity to cross-examine on that point. The objection is overruled. "

¶ 33 Officer Akins additionally testified that D.F. spoke very softly and "stared out into space." She also testified that D.F. "acted as if it was very difficult for him to speak to me and give me information." Defendant contends that this testimony was inadmissible because there was no legal basis for Officer Akins to give a subjective opinion that D.F.'s demeanor was similar to that of a rape victim. Officer Akins was not qualified as an expert in rape victims, and thus defendant argues that her statement was inadmissible lay opinion that should have been excluded from evidence.

¶ 34 In Illinois, "the testimony of a lay witness must be confined to statements of fact of which the witness has personal knowledge." *People v. Brown*, 200 Ill. App. 3d 566, 578 (1990). Illinois Rule of Evidence 701 states that if the witness is not testifying as an expert, "the witness' testimony in the form of opinions or inferences is limited to those opinions or inferences which are (a) rationally based on the perception of the witness, and (b) helpful to a clear understanding of the witness' testimony or the determination of a fact in issue, and (c) not based on scientific, technical, or other specialized knowledge within the scope of Rule 702." Ill. R. Evid. 701 (eff. Jan 1, 2011).

¶ 35 Here, we cannot say that "no reasonable person" would take the view that Officer Akins' statement regarding D.F.'s demeanor was rationally based on her perception, was helpful to a clear understanding of her testimony, and not based on specialized knowledge. Officer Akins was stating her perception, clarifying when she stated that D.F. was withdrawn, staring into space, and not very communicative. Accordingly, we find that the trial court did not abuse its discretion in allowing the testimony into evidence. *Caffey*, 205 Ill. 2d at 89. Further, we agree

with the State that defense counsel had ample opportunity to cross-examine Officer Akins on the subject. Specifically, the State points to the following cross-examination of Officer Akins:

"[Defense Counsel]: And you interviewed [D.F.] when you arrived at the 6th District, right?

[Witness]: Yes.

[Defense Counsel]: And you had a chance to look and see what his demeanor was?

[Witness]: Why.

[Defense Counsel]: Would you describe his demeanor as withdrawn in that he spoke softly and stared off in a distance?

[Witness]: Yes.

[Defense Counsel]: You compared that to a rape victim, correct?

[Witness]: Yes.

[Defense Counsel]: Have you ever seen anybody who looked like that or speak like that who was high on narcotics?

[Witness]: From time to time."

¶ 36 Accordingly, while Officer Akins testified that D.F.'s demeanor was similar to that of a rape victim on direct examination, she then testified on cross-examination that D.F.'s demeanor was also similar to that of someone who was high on narcotics. Defense counsel then used that elicited testimony during closing arguments to suggest D.F. was fabricating his story, stating:

"Officer Akins describes [D.F.] and the way he appeared when she talked to him as withdrawn, quiet, mumbling. She said he looked like a rape victim. 'Officer, have you ever seen anybody act like that, ever have anybody else have the same

affect? Who?' 'People using narcotics.' [D.F.] is out partying getting high, and he has got to come up with an excuse for it. He has to get a way to not get in trouble with his mother."

¶ 37 Accordingly, defendant cannot now argue that it was an abuse of discretion to allow the testimony into evidence when he then elicited similar testimony and used it to bolster his defense theory that D.F. had a motive to lie. Even if we were to find that the trial court abused its discretion in allowing Officer Akins' testimony, we would nevertheless find that such error was harmless. Defendant's conviction did not rest solely on Officer Akins' recitation of D.F.'s demeanor. See *People v. Degorski*, 2013 IL App (1s) 100580, ¶87 (defendant's conviction did not rest solely on [witness'] recitation of defendant's confession, and therefore the error was harmless beyond a reasonable doubt). Rather, D.F.'s account of the night in question was corroborated by his identification of defendant's car that same night, and his later identification of defendant in both a photo array and a lineup at the police station. Accordingly, we find that even if Officer Akins' statement amounted to improper lay opinion, any error resulting from the admission of that statement was harmless beyond a reasonable doubt.

¶ 38 2. Detective Barnes' Testimony

¶ 39 Defendant also contends that the trial court abused its discretion in overruling defense counsel's objection to Detective Barnes' testimony about the investigative alert that was issued for defendant during the course of police investigation. Defendant contends that it was neither relevant nor probative evidence and that it improperly suggested to the jury that the police believed D.F. was telling the truth that the offense occurred and defendant was the offender. We find this argument to be wholly without merit.

¶ 40 Relevant evidence is that having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without such evidence. *People v. Johnson*, 114 Ill. 2d 170, 193 (1986). "The consequential steps in the investigation of a crime are relevant when necessary and important to a full explanation of the State's case to the trier of fact." *Johnson*, 114 Ill. 2d at 194 (citing *People v. Guyon*, 117 Ill. App. 3d 522, 534 (1983)). Here, Detective Barnes' testimony was relevant to the explanation of the State's case, and we are unwilling to say that no reasonable person would take the view adopted by the trial court in allowing it into evidence. *Caffey*, 205 Ill. 2d at 89.

¶ 41 C. Ineffective Assistance of Counsel

¶ 42 Defendant's next argument on appeal is that he received ineffective assistance of counsel when defense counsel (1) failed to support his theory of defense, (2) failed to sever the armed habitual criminal charge from the remaining charges, and (3) failed to move to suppress the photo array from evidence. The State responds that defendant's ineffective assistance of counsel arguments fail both prongs of the *Strickland* test.

¶ 43 In order to succeed on a claim of ineffective assistance of counsel, a defendant must show that (1) counsel's performance fell below an objective standard of reasonableness, and (2) that counsel's performance prejudiced the defendant. *Strickland v. Washington*, 466 U.S. 668, 687 (1984). Because the defendant must satisfy both prongs of this test, the failure to establish either is fatal to the claim. *People v. Kuntu*, 196 Ill. 2d 105, 130 (2001).

¶ 44 1. Failure to Support Defense Theory

¶ 45 Defendant contends that defense counsel presented a theory of defense at trial that D.F. lied when he said defendant kidnapped him and attempted to sexually assault him, and that defense counsel should have done more to bolster this theory. Specifically, defendant contends

that defense counsel should have entered a map into evidence depicting the exact distance between D.F.'s home and the intersection of Racine and West 76th Street, where D.F. was allegedly kidnapped. D.F. testified that he left his home at around 11 p.m. or 11:30 p.m. and walked for "a couple hours, one or two" to the intersection in question. Defendant contends that the distance is actually 3.3 miles, and that submitting a map into evidence would have confirmed for the jury that D.F.'s testimony that it could not have taken him as much as two hours to arrive at that intersection. We disagree.

¶ 46 "Trial strategy decisions, including which witnesses to call and what evidence to present, ultimately rest with trial counsel." *People v. Leeper*, 317 Ill. App. 3d 475, 482 (2000). The allegations of incompetency put forth by the accused must consist of more than a disagreement with the attorney's tactics or judgment. *Id.* Here, on cross-examination, defense counsel asked D.F. how far it was from his house to the intersection in question, to which D.F. responded that he guessed the distance was three miles. Accordingly, the jury heard that the distance was approximately three miles from D.F.'s house to the intersection in question, and it was up to the jury to decide if D.F.'s testimony regarding how long it took him to walk there was credible. We cannot say that defense counsel's decision not to introduce a map, confirming the distance of three miles, into evidence was so unsound that counsel "completely fail[ed] to conduct any meaningful adversarial testing." *Id.*

¶ 47 2. Severance of Armed Habitual Criminal Charge

¶ 48 Defendant also contends that defense counsel was ineffective for failing to sever the armed habitual criminal charge from the aggravated kidnapping and attempt aggravated criminal sexual assault charges. Defendant claims that defense counsel should have filed a motion to sever the counts because the charge of armed habitual criminal required admission of prior

convictions that would otherwise have been inadmissible. Specifically, defendant notes that the armed habitual criminal charge was based on defendant's two prior felony convictions for armed robbery, and that allowing the jury to hear that he had two prior convictions unfairly portrayed defendant as a bad person with a propensity to commit criminal acts. The State responds that defense counsel's decision not to sever the charges was a matter of trial strategy. We agree.

¶ 49 In the recent case of *People v. Poole*, 2012 IL App (4t) 101017, ¶ 10, the appellate court noted that generally, "a defense decision not to seek a severance, although it may prove unwise in hindsight, is regarded as a matter of trial strategy." The court noted that a major disadvantage of severance is that it gives the State "two bites at the apple" where an evidentiary deficiency in the first case can "perhaps be cured in the second." *Id*. Accordingly, because the decision not to seek severance is a matter of trial strategy, defendant cannot show that his counsel's performance fell below an objective standard of reasonableness.

¶ 50 3. Motion to Suppress

¶ 51 Defendant's final ineffective assistance of counsel argument is that defense counsel should have filed a pretrial motion to suppress the photo array identification evidence based on the fact that it was unduly suggestive. Namely, defendant contends that in the photo array, defendant is the only one of the six individuals with braids, and that D.F. testified at trial that defendant had "dreads or braids." Defendant argues that the photo array was suggestive and that defense counsel should have moved to suppress D.F.'s photo identification of defendant.

¶ 52 The decision whether to file a motion to suppress evidence "is traditionally viewed as one of trial strategy, and counsel benefits from a strong presumption that his failure to challenge the validity of the accused's arrest or to seek the exclusion of certain evidence was proper." *People v. Little*, 322 Ill. App. 3d 607, 611 (2001). To overcome this presumption, defendant must show

a reasonable probability that the motion would have been granted, and that the outcome of the trial would have been different had the motion been granted. *Id.*

¶ 53 Defendant contends that even though this court has held that a physical lineup is not impermissibly suggestive simply because the defendant was the only person in a lineup with braided hair (*People v. Love*, 377 Ill. App. 3d 306, 311-12 (2007)), here it is impermissibly suggestive because it was a photo array and defendant had no control over how his hair was depicted in that array. This argument does not show a reasonable probability that the motion would have been granted. Moreover, defendant does not show that the outcome of the trial would have been different had the motion been granted. D.F. later identified defendant in a physical lineup at the police station, and identified defendant in court. Accordingly, defendant cannot overcome the presumption that defense counsel's failure to seek exclusion of the photo array evidence was proper. See *Little*, 322 Ill. App. 3d at 611.

¶ 54 D. Insufficiency of Evidence

¶ 55 Defendant's final argument on appeal is that the State did not prove him guilty of his convictions beyond a reasonable doubt where the State failed to prove that he possessed an actual firearm. Defendant contends that the State offered no evidence that the object in defendant's hand met the statutory definition of a firearm as it was not introduced at trial, and there was no circumstantial evidence that established the object in defendant's hand was a firearm "rather than a toy or replica gun." The State responds that it proved defendant guilty of all three offenses beyond a reasonable doubt where there was sufficient evidence to support the fact that defendant possessed a firearm.

¶ 56 As defendant points out, armed habitual criminal, attempt aggravated criminal sexual assault, and aggravated kidnapping in this case all required proof that defendant possessed a

firearm. See 720 ILCS 5/24-1.7(a) (West 2010); 720 ILCS 5/8-4(12-14)(a)(8) (West 2010); and 720 ILCS 10-2(a)(6) (West 2010)). Defendant asks this court to reverse his conviction for armed habitual criminal and to reduce his other convictions to attempt criminal sexual assault, and kidnapping, and to remand the case for resentencing on those lesser offenses.

¶ 57 Where a defendant challenges the sufficiency of the evidence, we must decide whether, after considering all of the evidence in the light most favorable to the State, whether a rational trier of fact could find each element of the offense beyond a reasonable doubt. *People v. Jones*, 219 Ill. 2d 1, 33 (2006). "It is not the province of this court to substitute its judgment for that of the jury, and we will not reverse a conviction unless the evidence is so unreasonable, improbable, or unsatisfactory that it raises a reasonable doubt of defendant's guilt." *Id.*

¶ 58 In this case, D.F. unequivocally testified that defendant was holding a gun when he forced D.F. into his car on the night in question. The jury found D.F. to be a credible witness, and his testimony alone was sufficient to establish that defendant was armed during the robbery. *People v. Thomas*, 189 Ill. App. 3d 365, 370 (1989); *People v. Garcia*, 229 Ill. App. 3d 436, 438-39 (1992). Officer Akins testified that D.F. described defendant's gun as "black." Detective Barnes testified that D.F. told him that defendant had a large semi-automatic gun. We thus conclude that this evidence, when considered in a light most favorable to the State, was sufficient to find that defendant was in possession of a firearm during the offense, and that the State proved him guilty of all three offenses beyond a reasonable doubt.

¶ 59 III. CONCLUSION

¶ 60 For the foregoing reasons, we affirm the judgment of the circuit court of Cook County.

¶ 61 Affirmed.

¶ 62