2016 IL App (1st) 132363-U

FIFTH DIVISION
June 30, 2016

No. 1-13-2363

IN THE APPELLATE COURT
OF ILLINOIS
FIRST JUDICIAL DISTRICT

	)	Appeal from the
THE PEOPLE OF THE STATE OF ILLINOIS,	)	Circuit Court of
	)	Cook County
Plaintiff-Appellee,	)	
	)	
v.	)	No. 10 CR 16283
	)	
	)	
MICHAEL RUSSELL,	)	Honorable
	)	Mary Margaret Brosnahan,
Defendant-Appellant.	)	Judge Presiding.

PRESIDING JUSTICE REYES delivered the judgment of the court.
Justices Gordon and Lampkin concurred in the judgment.

ORDER

¶ 1 *Held*: The judgment of the circuit court of Cook County is affirmed where: (1) the trial court did not err in barring evidence of an eyewitness's violent character; and (2) the trial court did not abuse its discretion in allowing an Illinois Department of Corrections employee to testify that defendant was on electronic monitoring at the time of the offense.

¶ 2 Following a jury trial, defendant Michael Russell was convicted of first degree murder and sentenced to 55 years in the Illinois Department of Corrections (IDOC), including 20 years

for firearm enhancement. On appeal, defendant argues: (1) the trial court erred in barring evidence of an eyewitness's violent character offered to support defendant's claim that the witness and the victim were the initial aggressors; and (2) the trial court abused its discretion in allowing an IDOC employee to testify that defendant was on electronic monitoring, in violation of section 5-150(1)(c) of the Juvenile Court Act of 1987 (Juvenile Court Act) (705 ILCS 405/5-150(1)(c) (West 2010)). For the reasons that follow, we affirm the judgment of the circuit court.

¶ 3 BACKGROUND

¶ 4 Defendant was arrested and charged by indictment with six counts of first degree murder (720 ILCS 5/9-1(a)(1), (2) (West 2010)) for the death of Tito Lindsey (victim), who was fatally shot on August 9, 2010, at 7:05 a.m. The jury found the State had proven that defendant had personally discharged a firearm during the offense, but also found the State had failed to prove defendant had proximately caused the victim's death. We will recount only those facts and testimonies which are relevant to this appeal.

¶ 5 Pretrial Proceedings

¶ 6 On August 1, 2012, defendant filed a motion *in limine* to bar evidence that defendant was wearing an electronic monitoring device and was "out of range" at the time of the offense. Specifically, the State sought to call a supervisor at IDOC, Thomas Hilliard (Hilliard), to testify that on August 9, 2010, defendant was on an electronic monitoring system and was outside of the 100 foot range of his house from 6:31 a.m. to 7:14 a.m.

¶ 7 In his motion *in limine*, defendant asserted that Hilliard's testimony was unfairly prejudicial because: (1) even if defendant was not at his house at the time of the offense, it does not necessarily indicate he was present or involved in the shooting; and (2) the testimony allows the trier of fact to consider defendant's other crimes. Following a hearing, the trial court

concluded the probative value of Hilliard's testimony outweighed any prejudice to defendant. The trial court stated Hilliard would not disclose to the jury any details regarding defendant's acts underlying his juvenile conviction, and that he was on parole at the time of the offense. The trial court, however, allowed Hilliard to testify he was employed at IDOC as a supervisor because it was crucial to establishing his credibility.

¶ 8 On October 11, 2010, defendant filed a motion to reconsider the trial court's decision to admit Hilliard's testimony. Defendant argued Hilliard's testimony was irrelevant because defendant was not presenting an alibi defense. Defendant further argued admitting the testimony would violate the Juvenile Court Act, which prohibits the use of evidence relating to juvenile proceedings in criminal proceedings. 705 ILCS 405/5-150(1)(c) (West 2010). The trial court denied defendant's motion to reconsider and stated it would allow the State to present testimony that Hilliard is an IDOC employee, but would not allow testimony explaining why defendant was on parole.

¶ 9 On April 25, 2013, defendant filed a second supplemental answer to discovery asserting the affirmative defense of self-defense.

¶ 10 On April 30, 2013, the State filed a motion *in limine* to bar evidence of eyewitness Shaheed Muhammad's (Muhammad) violent character under *People v. Lynch*, 104 Ill. 2d 194 (1984). Defendant sought to introduce evidence that: (1) on November 3, 2011, Muhammad had been arrested for aggravated assault of a police officer, but the case was later stricken from the docket on December 16, 2011; (2) on July 12, 2012, Muhammad was charged with two counts of battery, to which he pled guilty and received a one-year conditional discharge; (3) on September 11, 2012, Muhammad was arrested for criminal trespass after a verbal argument with a CTA agent, but the case was later stricken from the docket on October 25, 2012. In its motion *in*

limine, the State argued defendant should not be allowed to introduce evidence of Muhammad's violent character because only a victim's violent character is admissible under *Lynch*, and Muhammad was not a victim in this case. The State further argued defendant had not properly raised self-defense because the pretrial evidence indicated defendant had chased after the victim and shot him twice. The trial court reserved ruling on the State's motion until defendant properly raised a claim of self-defense.

¶ 11 Shaheed Muhammad

¶ 12 Muhammad, the victim's cousin, testified to the following. Muhammad first encountered defendant a week prior to the shooting. Muhammad and the victim were "chilling" with friends in the victim's house on 101st Street and LaSalle Street in Chicago, when two of their friends rushed into the house. The two friends claimed they were being chased by someone with a gun. Muhammad and the victim went outside with their friends and observed defendant and another individual Muhammad had never observed before. Defendant said "get on the ground, I got a gun" and made a motion under his shirt. Muhammad did not observe a gun. The victim stated, "he don't got no gun." Then, the individual with the defendant threw the first punch at the victim. As a result, the victim slipped and Muhammad ran over to help him. Defendant started fighting with Muhammad and the victim, and the two fought back. The fight lasted 10 to 15 minutes. Defendant left with his friend.

¶ 13 On the night of August 8, 2010, Muhammad slept over at the victim's house. At 7:00 a.m. on August 9, 2010, Muhammad and the victim walked to a gas station on 103rd Street and Wentworth Avenue to purchase some items before the victim went to work. At 102nd Street and Wentworth Avenue, Muhammad noticed a vehicle with four individuals drive past them. He did not recognize anyone in the vehicle. Muhammad observed an individual in the back seat turn

around and watch them.

¶ 14 Muhammad and the victim purchased some items at the gas station and headed back toward 102nd Street. As they reached the corner at 102nd Street, the vehicle Muhammad had observed earlier pulled up in the middle of the street, and four men exited the vehicle. Defendant exited from a passenger seat with a handgun in his hand. The driver also had a firearm. Muhammad and the victim remained standing on the sidewalk. Muhammad and the victim did not have any weapons and did not make any motions. The driver told Muhammad and the victim, "don't do it." The two looked at each other, and both started running. Prior to running away, Muhammad believed defendant and the driver were about to open fire.

¶ 15 Muhammad ran towards Wentworth Avenue. The victim did not run with Muhammad. As Muhammad was running, he looked back to observe where defendant and the driver were, and ran into a tree. He tried to hide behind the tree because he thought "they fittin' to open fire." Muhammad observed that defendant and the other men were still standing on the street and hopped over the "nearest gate to a house that was right on the left-hand side of [him]." He did not observe the victim. As he was hopping over a second gate, he heard one of the men say, "shoot, shoot." He heard four or five gunshots. After Muhammad hopped over the second gate, he was in front of a house on Wentworth Avenue where he observed the victim fall to the ground. The victim was trying to crawl backwards, as if he was trying to get away from the shooter, but he could not stand up. Muhammad realized the victim had been shot. He tried to help the victim back to the victim's house, but he was only able to drag him a few feet before the victim began losing consciousness. Muhammad ran back to the victim's house to bring the victim's family to him. When he returned to the scene, he observed a female paramedic assisting the victim. After the police arrived, he spoke with them for approximately two hours.

¶ 16 On August 10, 2010, Muhammad identified defendant in a photo array. On August 19, 2010, he identified defendant again in a physical lineup as the individual he observed exit from a passenger seat with a handgun at the scene.

¶ 17 On cross-examination, Muhammad testified he did not observe anyone firing a firearm but he had heard gunshots. On July 12, 2012, Muhammad was involved in a battery of two individuals and received a sentence of one-year conditional discharge. On September 11, 2012, while he was still on conditional discharge, he was charged with another offense that was later dismissed by the State.

¶ 18 On re-direct examination, Muhammad testified that on July 12, 2012, he pled guilty to misdemeanor battery in exchange for his conditional discharge. On September 12, 2012, he was charged with another misdemeanor in a case that was later dismissed. He did not inform the State that he was a witness in a murder case. He testified that he did not receive any plea offers in exchange for his testimony in this case.

¶ 19 Santrice Lewis

¶ 20 Santrice Lewis (Lewis) testified that in August 2010, she owned a purple Ford Taurus. On August 8, 2010, Lewis was dating defendant's brother. That day, Lewis parked her purple Ford Taurus in front of a house located on West 105th Street in Chicago where defendant and his brother lived, and spent the evening. In the early hours of August 9, 2010, defendant woke her up. He explained he had a nail stuck in his foot and asked Lewis if he could borrow her vehicle to drive to a nearby Citgo gas station. Lewis allowed defendant to take the keys of her vehicle from a dresser and she returned to sleep.

¶ 21 When Lewis awoke again, the keys had been returned to the dresser. Her vehicle, however, was not parked in front of the house. Lewis asked defendant where her vehicle was

located and he informed her it was parked on the next block. Lewis found her vehicle on 104th Street. She observed police officers behind her vehicle. She returned to defendant's residence and asked him why the police were behind her vehicle. Defendant did not respond.

¶ 22 The following day, police officers came to Lewis's house and inquired about her vehicle. Lewis initially informed them her vehicle had been stolen because she had been driving without a license and was scared of possible consequences. She later, "at some point," informed the police officers that defendant had borrowed her vehicle to go to a gas station because he had a nail stuck in his foot. Prior to August 9, 2010, the passenger side mirror on her vehicle was "knocked off" and the back window on the driver's side was broken.

¶ 23 On cross-examination, Lewis testified she did not remember what time defendant asked her for the vehicle keys but that defendant was alone when he took the keys. The keys were on the dresser when she woke up again at 8:00 a.m. on August 9, 2010.

¶ 24 Jennifer Schulz

¶ 25 Jennifer Schulz (Schulz), a paramedic with the Chicago Fire Department, testified for the State as follows. On August 9, 2010, her shift at the firehouse on 104th Street and Wentworth Avenue ended at 7:00 a.m and she was driving north on Wentworth Avenue. As she approached the intersection at 102nd Street and Wentworth Avenue, she heard several noises that sounded like "gunshots or fireworks." She heard three shots. Schulz looked to the east, in the direction of the noises, and observed defendant chasing another man with his arm extended and holding a black semiautomatic weapon. The two men were approximately 30 to 35 feet away from her. Schulz could observe that the man being chased did not have a handgun and looked scared. She did not observe anyone else in the area. As Schulz drove closer to the intersection, she also observed a "grayish purplish" Ford Taurus parked further down on 102nd Street. The vehicle

had an out-of-state license plate and a damaged headlight on the driver's side. Schulz observed the silhouettes of two or three individuals inside the vehicle.

¶ 26 When Lewis observed defendant had a handgun, she started to hit her brakes and swerve toward him because "[she] couldn't see another senseless death in the city." Her vehicle was approximately 15 to 20 feet away from defendant. After she swerved towards defendant, he looked in her direction. His firearm was pointed in her direction at that time. Schulz "straightened her [vehicle] back out and continued [driving north] at a coasting rate of speed," on Wentworth Avenue. She finished crossing the intersection and made a U-turn. Schulz was "about ten feet" away from defendant when she observed the victim running away "about ten feet in front of [defendant]." Defendant fired two more shots in the direction of the victim. The victim collapsed on the grass at the edge of the sidewalk and screamed for help. Schulz called 911.

¶ 27 After defendant shot the victim, he turned around and headed back in the direction of the Ford Taurus. Schulz observed in her rear view mirror the vehicle heading west on 102nd Street. She made a U-turn to head back and help the victim, and observed a man dragging the victim into an alley. Schulz exited her vehicle and went to render aid to the victim.

¶ 28 The victim was bleeding and had a gunshot wound to the middle of his chest. When the police arrived, she spoke with the police officers about what she had observed. The police took her to 104th Street and Princeton Street to identify a purple Ford Taurus with an out-of-state license plate she had observed near the shooting. She observed a bullet casing on the driver's seat.

¶ 29 On August 10, 2010, Schulz identified defendant as the shooter in a photo array. On August 19, 2010, she identified defendant again as the shooter in a physical lineup.

¶ 30 On December 24, 2011, Schulz observed a business card on her desk in one of the firehouses she worked at, but she was not aware the card was left for her. On December 28, 2011, Schulz had a phone conversation with Investigator Kim Taylor (Investigator Taylor). Schulz, however, did not recall if Investigator Taylor informed her that she was a defense investigator assigned to this case. Schulz told Investigator Taylor she would not be able to speak with her until the following day because she was at work. Schulz did not recall receiving any voicemails from Investigator Taylor. On February 29, 2012, Schulz received a text message from fellow paramedic Jerry Williams (Williams), that someone at the public defender's office was trying to reach her. Schulz told Williams she would not speak with anyone unless they personally contacted her.

¶ 31 Schulz was later recalled to testify for the defendant. She testified that after the shooting, she observed the shooter walk to the Ford Taurus and enter the vehicle through the driver's side. She did not observe whether the shooter entered the vehicle through the front or the rear of the vehicle.

¶ 32 Harvey Lee Cook

¶ 33 Harvey Lee Cook (Cook) testified he lived on 104th Place in Chicago. In the early hours of August 9, 2010, he observed a vehicle stop, and three individuals jump out of the automobile and start to run. Cook testified that two of the State's exhibits were photographs of the vehicle he had observed.

¶ 34 Detective James Carlassare

¶ 35 Detective James Carlassare (Detective Carlassare) testified to the following. On August 9, 2012, Detective Carlassare was assigned this case. When he arrived at the scene, he observed two .380 caliber shell casings in the middle of 102nd Street. The casings were from a

.380 semiautomatic. Detective Carlassare learned the victim had been transported to the hospital and had died. He also learned the victim had a gunshot wound to his back and another gunshot wound to his right wrist. Detective Carlassare spoke with Muhammad, Schulz, and another individual about what they had observed. Based on the information he gathered from these conversations, he located the Ford Taurus on 104th Street. Detective Carlassare observed the front headlight cover on the driver's side was broken and had tape over it. There were other damages to the vehicle. Schulz identified the vehicle as the Ford Taurus she had observed earlier at the shooting. Detective Carlassare noticed additional shell casings on the driver's seat. The shell casings recovered from the driver's seat were the same caliber of shell casings that were recovered on 102nd Street. Later, two .22 caliber fired bullets were recovered in an autopsy performed on the victim's body.

¶ 36 When Detective Carlassare was near the Ford Taurus, Lewis approached him. She introduced herself as the owner of the vehicle and informed him that it had been stolen. Thereafter, Lewis left but returned and informed Detective Carlassare that defendant and a woman had also been in the vehicle.

¶ 37 On August 10, 2010, Schulz identified defendant in a photo array compiled by Detective Carlassare. He then obtained a search warrant and had the Ford Taurus processed. He also spoke with Lewis again, and this time she identified defendant as someone she knew. On August 19, 2010, defendant was arrested. Detective Carlassare arranged a physical lineup that included defendant, and Schulz and Muhammad each identified defendant without hesitation.

¶ 38 On cross-examination, Detective Carlassare testified he spoke with Muhammad at the scene. Muhammad had informed him that he observed four people exit a Ford Taurus, and that the gunmen were seated in the front passenger seat and the driver's seat. Muhammad told

Detective Carlassare he did not observe who fired the gun. Muhammad further conveyed he knew defendant from an incident that had occurred a week or two prior to the shooting. Muhammad said it was a "minor incident" that occurred in front of the victim's house. Detective Carlassare acknowledged he did not mention the prior incident in any of the reports he had prepared for this case. Detective Carlassare also spoke with Schulz. She informed him defendant was the only shooter she had observed and that he had a semiautomatic weapon. Schulz further told Detective Carlassare she heard one gunshot before she looked over to observe the shooting. She did not mention she heard three shots in quick succession before she looked over. She also did not inform Detective Carlassare that she tried to swerve her vehicle and drive toward defendant.

¶ 39 On re-direct examination, Detective Carlassare testified he did not ask the forensic investigators to conduct a gunshot residue test on Muhammad because he was not a suspect.

¶ 40 Dr. James Filkins

¶ 41 Dr. James Filkins (Dr. Filkins), a medical examiner, performed the autopsy on the victim's body. He testified the victim had a gunshot wound to his back and another gunshot wound at the back of his right hand. Dr. Filkins recovered bullets from each of these wounds. The cause of death was the result of multiple gunshot wounds. Dr. Filkins further testified there was no evidence of close range firing.

¶ 42 Forensic Scientist Toni Brubaker

¶ 43 Forensic Scientist Toni Brubaker (Brubaker) testified as an expert in the field of firearms identification. The forensic examination of the bullets recovered from the victim's body revealed that both were .22 caliber bullets. Brubaker could not determine whether the two .22 caliber bullets were fired by the same firearm. She also examined the three .380 cartridge cases

and opined that they were all fired from the same firearm. Brubaker further examined the .22 caliber bullets that were recovered from the victim's body, and testified they could not be identified or examined as being fired from the same firearm. Brubaker testified the gun that fired the .380 shell casings could not have fired the .22 caliber bullets.

¶ 44 Thomas Hilliard

¶ 45 Prior to Hilliard's testimony, defendant renewed his objection to the testimony. Defendant argued that any reference to Hilliard's employment at IDOC would violate a rule that a defendant cannot be impeached with his juvenile conviction. The trial court stated its prior ruling would stand. The trial court explained Hilliard would be permitted to testify he was an IDOC employee, but he would not be allowed to testify that he monitors individuals that are on parole, convicted, or that have "gone to" IDOC. The trial court further noted the State was not offering Hilliard's testimony to impeach defendant, and stated it would not admit testimony that defendant was convicted as a juvenile, and "what it was for."

¶ 46 Hilliard testified he was employed as a supervisor of electronic monitoring at IDOC. He testified to the following. Electronic monitoring is used to monitor individuals and is comprised of a home-based station that is connected to a phone outlet in the household, and an apparatus that is attached to an individual's ankle. The home-based station sends out a signal to the apparatus, every one to seven minutes, to make sure the monitoring device is working. When an individual goes outside a hundred feet from the home-based station, the station sends a signal to IDOC's automated system, indicating that the individual is "out of range."

¶ 47 On August 9, 2010, there was an electronic monitoring system in place for defendant. In the early morning hours, the system indicated defendant was "out of range" from 5:56 a.m. to 6:31 a.m. and again from 6:31 a.m. to 7:11 a.m. At approximately 1:55 p.m., defendant

contacted the electronic monitoring system and reported he had to move to his father's house in Calumet City, because there was a power interruption at his house. Defendant was given permission to move to Calumet City. At approximately 4:00 p.m., defendant was instructed to unplug his home-based unit, and plug it back in when he arrived in Calumet City. At 8:23 p.m., defendant reported to the electronic monitoring system he had moved to Calumet City.

¶ 48 Hilliard was familiar with the southeast area of Chicago. He testified that 104th Place, 102nd Street and Wentworth Avenue, and the Citgo gas station on 103rd Street near Wentworth Avenue, are all located outside the 100 feet range from defendant's residence on 218 West 105th Street.

¶ 49 The State rested and defendant moved for a directed verdict, which the trial court denied. Thereafter, the parties stipulated that, if called to testify, Natalie Peete (Peete), a victim witness liaison with the Cook County State's Attorney's Office, would testify she was with an Assistant State's Attorney (ASA) when the ASA interviewed Muhammad. Peete would further testify that during the interview, Muahmmad informed them defendant had punched the victim, but did not indicate that he was involved in the fight.

¶ 50 Investigator Kimyona Taylor

¶ 51 Investigator Taylor testified she was employed as an investigator at the Cook County Public Defender's office. In December 2011, she received an assignment to locate and interview Schulz. Investigator Taylor attempted to locate Schulz several times at different firehouses and also left her business card for her, but Schulz did not contact Investigator Taylor. On December 28, 2011, Investigator Taylor spoke with Schulz on the telephone. Schulz asked Investigator Taylor to call her again the following day on December 29, 2011, to schedule an interview. Investigator Taylor called Schulz the next day, but was not able to speak with Schulz.

Investigator Taylor never spoke with Schulz about this case.

¶ 52 Michael Russell

¶ 53 Defendant testified on his own behalf as follows. In August 2010, defendant was 18 years old and lived on West 105th Street with his mother and two brothers. A week or two before the shooting on the evening of August 9, 2010, defendant encountered the victim and Muhammad in the evening at Princeton Park located on 99th Street and Princeton Street. During a game of dice with the victim, Muhammad, and seven other men, defendant won $300 from the victim. The victim communicated to defendant he needed half of the money back but defendant refused. Thereafter, the victim made "indirect threats" and commented, "M * * *'s take my money." Defendant collected his money and left the park.

¶ 54 As defendant was walking home, he noticed the victim, Muhammad, and some other men following him. Defendant turned toward them and the victim demanded half of his money back. Defendant refused, and the victim swung a punch. Then, the other men started swinging punches at defendant. Defendant fell to the ground and "balled up" to avoid the punches. During this time, someone took the money out of his pocket, and the men "ran off." Defendant "got up, wiped [himself] off" and continued to walk home.

¶ 55 When defendant was near his residence, he encountered four friends. He told them he had been beaten and robbed. He asked for their assistance in obtaining his money back. Defendant and his friends found the victim, Muhammad, and the other men from the park on Wentworth Avenue between LaSalle Street and Perry Street. Defendant approached the group and asked the victim to return his money. The victim said to him he "got to get it like Tyson." Defendant understood this to mean he had to fight for the money. The victim directed defendant to walk to the middle of the street to fight. Defendant and the victim both started swinging, and

landed punches on one another. At some point, the victim fell to the ground. The fight was over and defendant and his friends left. Defendant told the victim, "I don't even want the money, you can have the money." Defendant did not fight with Muhammad that day.

¶ 56 Three or four days later, defendant was shooting dice again in Princeton Park when the victim and Muhammad walked up to him. Defendant did not believe there would be a problem because they had already "fought it out." The victim and Muhammad, however, attacked him and beat him up with their fists and feet. Defendant had won money that day but the two men did not take his money. After the two men left the park, defendant returned home.

¶ 57 On August 9, 2010, defendant awoke between 5 a.m. and 6 a.m. to use the bathroom and he stepped on a nail at the bottom of the staircase. When he could not find any hydrogen peroxide to clean the wound, he woke up Lewis, his brother's girlfriend. He explained he had stepped on a nail and showed her his foot. Defendant then asked if he could drive her vehicle to a gas station for hydrogen peroxide. Lewis grabbed her keys to her purple Ford Taurus off a dresser and gave them to defendant.

¶ 58 As defendant was driving to the gas station, he noticed a light in Danielle's house.[1] Danielle was a friend. He went to her home and she gave him hydrogen peroxide to clean his wound. Thereafter, defendant left his friend's house. He was returning to the vehicle when he ran into Jarvis Thomas (Javo) and Richard Bynum (Rico). Javo asked defendant if he could drive him to buy some marijuana. Defendant initially told him he could not take him because he was driving Lewis's vehicle, but he eventually agreed to drive them after Javo assured him it would be "real quick." Defendant drove Javo and Rico to a house near 101st Street and Perry Street. He stayed in the vehicle while Javo went inside to purchase marijuana. After Javo returned with the marijuana, defendant drove and parked the vehicle in front of Javo's house.

[1] Danielle's last name is not indicated in the record.

Defendant does not smoke marijuana, but Javo and Rico smoked marijuana on Javo's porch.[2]

¶ 59 Rico asked defendant to drive him to his house so that he could change his clothes. At approximately 6:30 a.m., defendant returned home to ask Lewis if he could use her vehicle again, but he was unable to awaken her. He decided to drive Rico to his house on 96th Street and Harvard Street and Javo joined them. After Rico changed his clothes, defendant drove south on Wentworth Avenue.

¶ 60 As defendant was approaching 103rd Street, he observed the victim and Muhammad walking out of a gas station. He decided he would "catch up with these guys and try to talk to them and get an understanding as far as nipping in the bud." He told Javo and Rico he needed to "holler at these dudes real quick," and turned into the gas station parking lot, changed directions, and headed north on Wentworth Avenue toward the victim and Muhammad. He turned eastbound on 101st street, then turned westbound on 102nd street. When defendant observed the victim and Muhammad walking eastbound on 102nd street, he parked in the middle of the street and exited the vehicle. Javo and Rico remained in the vehicle.

¶ 61 Defendant stated, "let me holler at you," which meant he wanted to talk to them. He testified he wanted to "nip in the bud the altercation," so that he could return to Princeton Park. The victim handed something to Muhammad, but defendant did not observe what it was. The victim then pulled up his shorts and started skipping toward defendant with his fists balled up. Defendant thought the victim might hit him. He put his hands up and said, "I am just trying to holler at you," but the victim punched defendant in the jaw. Defendant put his head down because he felt a "little bit unconscious." He tried to punch back, but the victim's punches overwhelmed him. The victim punched defendant two or three more times.

[2] In his opening brief, defendant states Javo and Rico were smoking marijuana on defendant's porch. The record, however, indicates defendant testified Javo and Rico were smoking marijuana on Javo's porch.

¶ 62 After the victim threw the first punch, defendant heard Javo and Rico exit the vehicle. Thereafter, defendant heard a gunshot coming from Muhammad's direction. He looked up and observed a revolver in Muhammad's hand. Muhammad was "skipping backwards [and] shooting the gun." Defendant, Javo, and Rico dove into the Ford Taurus to avoid being shot. Defendant heard three more gunshots. Once they were in the vehicle, Rico handed defendant a semiautomatic weapon and told him, "shoot back, shoot back." Defendant did not know Rico had a firearm in the vehicle.

¶ 63 Defendant exited the vehicle with the handgun. Muhammad observed the firearm and said, "come on, come on." Defendant fired the weapon, but he did not aim at anyone. He fired once at the side of the vehicle, and two more times in the air. Defendant observed the victim run toward a corner and Muhammad run toward a gate of a house. He returned to the vehicle and drove home. He parked the vehicle a block away from his house on 104th Street and Wentworth Avenue. Defendant did not call the police.

¶ 64 On August 19, 2010, defendant was arrested and later interviewed by a detective. Defendant did not inform the detective that he and Muhammad had each fired a handgun at the scene. He did not think the police would believe Muhammad had fired a weapon. Defendant further testified that on the morning of August 9, 2010, he was wearing an electronic monitoring bracelet. Although he was regularly given permission to be away from his house at certain times, he was not authorized to be out of range at the time of the incident.

¶ 65 On cross-examination, defendant testified as follows. A few weeks before the shooting, after the victim and his friends beat up defendant and took his money, defendant went looking for the victim and his friends because he was not afraid of them. Defendant acknowledged that on August 9, 2010, he did not ask electronic monitoring for permission to enter Danielle's house.

¶ 66 On August 10, 2010, defendant testified that when he fired a handgun at the scene, the victim was running away from him. After defendant returned to the vehicle, he tossed the weapon onto the passenger seat. Defendant further testified that after he drove home, he parked the vehicle a block away from his house because the vehicle "shut off." He did not inform Lewis the automobile had stopped working or that he had fired a gun.

¶ 67 Defendant further admitted that when he spoke with the detective on August 19, 2010, he denied having any part in the shooting. He did not inform the detective that, prior to the shooting, he had been involved in a fight with the victim and that the victim had robbed him. He did not convey that he had observed the victim hand something to Muhammad, that Muhammad had fired the first gunshot, and that defendant had also fired a handgun. Instead, defendant informed the detective that he had jumped out of the vehicle and that Rico was the shooter.

¶ 68 On redirect examination, defendant denied he fired the shot that killed the victim. Defendant maintained he had fired in the air. On re-cross examination, defendant testified he knew he did not kill the victim based on "what [he] was told" and "the reports in this case," including reports that the weapon he fired was a .380 semiautomatic while the victim was shot with a .22 caliber firearm.

¶ 69 Defendant's *Lynch* Motion

¶ 70 Following defendant's testimony, defense counsel renewed his *Lynch* motion, seeking to present evidence regarding two separate incidents involving Muhammad. *Lynch*, 104 Ill. 2d at 199-200. Defendant maintained that evidence relating to Muhammad's violent and aggressive nature was admissible under the second prong of the *Lynch* decision, because the State and defendant provided conflicting accounts as to who was the initial aggressor. *Id*. Defendant sought to call Police Officer Cooper and Sergeant Brown to testify that on November 3, 2011,

they responded to a call regarding a disturbance at a McDonald's.[3] When the officers attempted to place Muhammad under arrest for his involvement in the disturbance, he took a swing at Sergeant Brown. Muhammad was charged with aggravated assault of a police officer and the case was stricken from the docket on December 16, 2011. Defendant also sought to call two women who would testify that on July 12, 2012, a group of individuals including Muhammad, walked up to the two women in a public park. After an argument, Muhammad swung and struck one of the women, and ran off with her purse and the purses of several other women that were present. Muhammad pled guilty to battery on August 28, 2012, and received a one-year conditional discharge.

¶ 71 The State responded there was no evidence that Muhammad had fired a weapon or that he was the initial aggressor. The State further argued the evidence indicated defendant was the initial aggressor because defendant admitted he started following the victim and Muhammad when he observed them leaving a gas station.

¶ 72 The trial court denied defendant's motion to admit testimony under *Lynch*, finding that evidence of Muhammad's violent character would not "shed light" on determining which party was the initial aggressor. According to the trial court, defendant's testimony suggested Muhammad fired a handgun only after a verbal dispute between defendant and the victim had escalated to a fist fight. Thus, the trial court concluded, the conflict presented was whether defendant or the victim was the initial aggressor, and it would "not [allow] in [Muhammad's] prior bad acts." Thereafter, defendant rested its case.

¶ 73 Jury Instructions

¶ 74 At the close of evidence, the trial court instructed the jury on self-defense and second-degree murder based on an unreasonable belief in the need for self-defense. The trial court also

[3] The record does not indicate the last names of Officer Cooper and Sergeant Brown.

instructed the jury on accountability, over defendant's objection.

¶ 75 Closing Arguments

¶ 76 In their closing argument, the State attacked defendant's credibility. The State noted "the first time we're hearing" "[defendant] say, * * * [Muhammad] shot him" and that "[the victim] started [the fist fight]" was during the trial. The State further noted "the first time we hear about [the] robbery [and the] jumping" was also during the trial. The State also pointed out that before the trial, defendant denied any involvement in the shooting, and he had instead informed the detectives that Rico had fired a handgun at the scene. The State further asserted defendant had "tailored his testimony based on conversations with his attorneys * * * and the reports that he read" because defendant had testified he knew he did not shoot the victim based on "what [he] was told" and "the reports in this case."

¶ 77 Following closing arguments, the jury deliberated and found defendant guilty of first-degree murder. The jury further found the State proved defendant had personally discharged a firearm during the offense, but found the State failed to prove defendant had discharged a weapon that proximately caused the victim's death.

¶ 78 Posttrial Proceedings

¶ 79 The trial court denied defendant's motion for a new trial and sentenced him to 55 years in the Illinois Department of Corrections. The trial court also denied defendant's motion to reconsider his sentence. This appeal followed.

¶ 80 ANALYSIS

¶ 81 On appeal, defendant argues: (1) the trial court erred in barring evidence of Muhammad's violent character, as the evidence supported his claim that Muhammad and the victim were the initial aggressors; and (2) the trial court abused its discretion in allowing a supervisor at IDOC

to testify that defendant was on electronic monitoring, in violation of the Juvenile Court Act (705 ILCS 405/5-150(1)(c) (West 2010)). We address each issue in turn.

¶ 82 Character Evidence

¶ 83 Defendant asserts the trial court erred in barring evidence of Muhammad's violent character. Defendant argues the excluded evidence was admissible under *Lynch* to establish the violent propensity of Muhammad, whom defendant claims was acting in concert with the victim as the aggressors. *Lynch*, 104 Ill. 2d at 199-200. According to defendant, "the law allows *Lynch* evidence [to be admitted] against multiple individuals when they are acting in concert as aggressors," and thus the trial court violated his rights to due process and a fair trial by excluding this evidence. Specifically, defendant seeks to introduce testimony that, after the shooting, Muhammad faced charges of: (1) aggravated assault of a police officer; and (2) battery of two individuals.

¶ 84 In response, the State contends the trial court properly exercised its discretion in excluding evidence of Muhammad's violent character because: (1) the evidence defendant sought to admit postdated the shooting; and (2) Muhammad was not a victim. According to the State, only evidence of a victim's violent acts that occurred before the charged offense are admissible under *Lynch*.

¶ 85 A trial court's determination regarding the relevance and admissibility of evidence will not be reversed absent an abuse of discretion. *People v. Morgan*, 197 Ill. 2d 404, 455 (2001). An abuse of discretion occurs when the trial court's decision is " 'arbitrary, fanciful or unreasonable' " or when no reasonable person would take the same view. *People v. Illgen*, 145 Ill. 2d 353, 364 (1991).

¶ 86 A victim's aggressive and violent character may be used to support a self-defense claim

in two ways: (1) to establish that the defendant's knowledge of the victim's violent tendencies affected his perceptions of and reactions to the victim's behavior; and (2) to support the defendant's version of the facts where there are conflicting accounts of the incident at issue. *Lynch*, 104 Ill. 2d at 199-200. Under the first prong, "the evidence is relevant only if the defendant knew of the victim's violent acts." *People v. Figueroa*, 381 Ill. App. 3d 828, 841 (2008). Under the second prong, which applies here, the defendant's knowledge of the victim's violent character at the time of the event is irrelevant, but there must be conflicting accounts of the incident. *Id.* The victim's character is circumstantial evidence, which may provide the jury with additional facts to help decide what really happened. *Lynch*, 104 Ill. 2d at 200.

¶ 87 We note that reliable evidence of a victim's violent tendencies that postdate the charged offense may be relevant under the second prong of *Lynch*. *People v. Ciavirelli*, 262 Ill. App. 3d 966, 972 (1994). Without regard to the merits of defendant's self-defense claim, however, we find the trial court's decision to exclude evidence that Muhammad faced charges of aggravated assault and battery after the shooting, was not so arbitrary, fanciful, or unreasonable to constitute an abuse of discretion for the following reasons. *Illgen*, 145 Ill. 2d at 364.

¶ 88 Defendant argues that evidence of a third party's aggressive tendencies is admissible where the third party and the victim acted in concert against the defendant. On this point, we find defendant's reliance on *In re W.D.*, 194 Ill. App. 3d 686 (1990), *People v. Robinson*, 163 Ill. App. 3d 754 (1987), *People v. Pogue*, 312 Ill. App. 3d 719 (1999), and *People v. Bowman*, 2012 IL App (1st) 102010 to be unpersuasive.

¶ 89 In *W.D.*, the victim and a third party jointly acted as aggressors against the defendant's cousin, after which the defendant allegedly stabbed the victim in his relative's defense. *W.D.*, 194 Ill. App. 3d at 707. The trial court excluded evidence that at the time of the charged offense,

defendant knew the third party was armed with a bottle, threatened the defendant's cousin with a bottle immediately prior to and during the fight, and had a handgun. *Id*. The appellate court found reversible error, holding the excluded evidence was admissible to establish how the defendant's personal knowledge of his cousin's attackers "affected his perceptions of and reactions to their behavior," under the first prong of *Lynch*. *Id*. at 707-08. That is not the case here, as defendant seeks to admit evidence of Muhammad's violent character under the second prong of *Lynch*.

¶ 90 In *Robinson*, a victim was killed while the defendant allegedly acted in self-defense against a third man. *Robinson*, 163 Ill. App. 3d at 772. The court held that, although the victim was not the aggressor, the defendant should have been allowed to introduce evidence of the victim's prior violent acts against the defendant to demonstrate his state of mind when he acted in self-defense against the third man. *Id*. at 774. However, in the instant case, defendant attempts to introduce character evidence of Muhammad, who was not the victim. *Figueroa*, 381 Ill. App. 3d at 843 (finding *Lynch* inapplicable where defendant attempted to introduce violent character evidence of people who were at the scene but were not his victims). In his reply brief, defendant acknowledges these factual distinctions, but maintains *Robinson* demonstrates this court's favorable recognition of sister jurisdictions allowing third-person character evidence when the third party is acting in concert with the victim. In so arguing, defendant cites to *Robinson*, 163 Ill. App. 3d at 774, in which this court cited to several out-of-state cases and noted there is authority for presenting third-person character evidence in other proper circumstances. That statement, however, was *dictum*, as it was not an integral part of the opinion or essential to the outcome of the case; the court held the defendant should have been allowed to introduce evidence of the victim's prior violent acts against him. *Id*.

¶ 91 In *Pogue*, the defendant attempted to introduce character evidence of a bystander that was neither a victim nor an aggressor. *Pogue,* 312 Ill. App. 3d at 729. In finding the evidence was properly excluded, the *Pogue* court held that where the evidence points to only one possible aggressor in a group, evidence of the violent propensities of other members of the group is irrelevant and inadmissible under *Lynch*. *Id*. Based on this analysis, defendant leaps to the conclusion that where a victim is a member of a group of purported aggressors, evidence demonstrating the violent tendencies of any of the aggressors may be admissible. We find defendant's reasoning and reliance on *Pogue* unpersuasive.

¶ 92 In addition, defendant's reliance on *Bowman* is inapposite. In *Bowman*, this court stated that evidence of a third person's reputation for violence may be admissible in a case of self-defense where an innocent victim is injured as a result of the defendant's actions. *Bowman*, 2012 IL App (1st) 102010, ¶ 33. This statement was however, *dictum*, as it was not essential to the outcome of the case. The *Bowman* court held that the trial court did not err in excluding evidence of the third party's propensity for violence because the defendant failed to provide an adequate foundation or offer of proof, which is an issue irrelevant in this case. *Id*. ¶¶ 37-43.

¶ 93 Assuming *arguendo* the trial judge erred in excluding the evidence of Muhammad's violent character, the error was harmless. In the instant case, we find there was ample evidence presented as to Muhammad's violent character and the relationship between Muhammad and defendant. As defendant acknowledges in his brief, he testified he was "jumped and beaten up by [the victim] and Muhammad" on two separate occasions prior to the shooting. Specifically, defendant testified Muhammad and the victim "jumped him" and "beat [him] up" with "their fists and their feet" less than a week before the shooting. Muhammad also testified he and the victim were involved in a physical altercation with defendant a week prior to the shooting.

Moreover, on redirect-examination, Muhammad testified that he pled guilty to a charge of battery on two women on July 12, 2012, in exchange for conditional discharge. Muhammad further testified that while on conditional discharge, he was "caught" in another case and a violation of conditional discharge was filed against him and later withdrawn as a result of a plea agreement. Even if we were to find the trial court erred in excluding evidence that Muhammad faced charges of aggravated assault and battery after the shooting, we would find such error to be harmless beyond a reasonable doubt because defendant was able to present substantial evidence concerning Muhammad's propensity to violent behavior. *People v. Cleveland*, 140 Ill. App. 3d 462, 472 (1986) (error harmless beyond a reasonable doubt where the court had previously admitted substantial evidence concerning aggressor's propensity to violent behavior).

¶ 94 Testimony on Electronic Monitoring

¶ 95 Defendant asserts the trial court abused its discretion in allowing Hilliard to testify that defendant was on IDOC's electronic monitoring program. Defendant maintains he was placed on the program as a result of a juvenile adjudication. Defendant argues that accordingly, when the trial court allowed Hilliard to testify that defendant was on the program, he was effectively testifying to a sentence defendant received in a juvenile proceeding. In doing so, defendant claims the trial court admitted improper evidence about a juvenile adjudication to the jury in violation of the Juvenile Court Act, which prohibits the use of evidence relating to juvenile proceedings in criminal proceedings. 705 ILCS 405/5-150(1)(c) (West 2010). Defendant further argues the trial court's error was not harmless, where its judgment was "entirely dependent on a credibility contest between [defendant's] and Muhammad's version of events."

¶ 96 In response, the State argues defendant misreads and misinterprets the record in claiming that Hilliard "directly testified about [defendant's] sentence in a juvenile proceeding,"

"[discussed] the details about [defendant's] placement on [IDOC's] electronic monitoring program," and "[informed] the jury directly" that the home electronic monitoring "resulted from a juvenile adjudication." The State maintains Hilliard did not testify about defendant's juvenile history, juvenile adjudication, or why he was placed on electronic monitoring. The State argues that accordingly, defendant's claim that the trial court violated the Juvenile Court Act when it admitted Hilliard's testimony, is without merit. The State further argues that because evidence of defendant's guilt was overwhelming, even if the trial court erred in admitting Hilliard's testimony, any error was harmless.

¶ 97 Generally, evidentiary rulings are left to the sound discretion of the trial court. *People v. Jackson*, 232 Ill. 2d 246, 265 (2009). In the instant case, however, defendant argues the trial court violated section 5-150(1) of the Juvenile Court Act when it admitted Hilliard's testimony. 705 ILCS 405/5-150(1) (West 2010). In doing so, defendant is essentially arguing that evidence of an individual's placement on IDOC's electronic monitoring program is necessarily indicative of "evidence or adjudications" under section 5-150(1) of this Act. *Id*. Because this issue involves the proper interpretation of the term "evidence or adjudications" under the Juvenile Court Act, it presents a question of law to be reviewed *de novo*. *People v. Baskerville*, 2012 IL 111056, ¶ 18.

¶ 98 The starting point for the resolution of any question of statutory construction is the plain language of the statute. *People v. Fiveash*, 2015 IL 117669, ¶ 11. "The cardinal rule of statutory construction is to give effect to the intent of legislature." *People v. Donoho*, 204 Ill. 2d 159, 188 (2003). The most reliable indicator of legislative intent is the language of the statute. *Fiveash*, 2015 IL 117669, ¶ 11. When possible, the court should interpret the language of a statute according to its plain and ordinary meaning. *Donoho*, 204 Ill. 2d at 171.

¶ 99 Defendant bases his contention on section 5-150(1)(c) of the Juvenile Court Act (705 ILCS 405/5-150(1)(c) (West 2010)), which provides in part:

> "Evidence and adjudications in proceedings under this Act shall be admissible:
>
> * * *
>
> (c) in proceedings under this Act or in criminal proceedings in which anyone who has been adjudicated delinquent * * * is to be a witness including the minor or defendant if he or she testifies, and then only for purposes of impeachment and pursuant to the rules of evidence for criminal trials."

¶ 100 In the instant case, there is nothing in the record, including Hilliard's testimony, to indicate defendant was previously adjudicated delinquent or that any evidence admitted in this case was used in any other proceeding under the Juvenile Court Act. The record does not establish that defendant's placement on IDOC's electronic monitoring program was used as evidence in any juvenile court proceeding. No evidence was presented that defendant was placed under electronic monitoring because of a juvenile adjudication. Nor does defendant's placement on electronic monitoring necessarily indicate he was adjudicated in a juvenile court proceeding. There could be other reasonable inferences, other than adjudication, to explain why defendant was on electronic monitoring. 730 ILCS 5/5-8A-3(f) (applications for electronic home detention may include pretrial or pre-adjudicatory detention). Accordingly, section 5-150(1) of the Juvenile Court Act does not preclude the admission of Hilliard's testimony in this case. 705 ILCS 405/5-150(1) (West 2010).

¶ 101 Further, assuming *arguendo* that section 5-150(1) of the Juvenile Court Act does preclude the admission of Hilliard's testimony, any such error was harmless. Our supreme court has held that under the Juvenile Court Act, evidence and adjudications in juvenile proceedings

are admissible against a testifying defendant for impeachment only. *People v. Lindsey*, 2013 IL App (3d) 100625, ¶ 36. Specifically, a defendant's prior juvenile adjudication is admissible for impeachment, only if a defendant opens the door by attempting to mislead the jury about his criminal background while testifying. *Id.* (citing *People v. Villa*, 2011 IL 110777, ¶ 45). In this case, the trial court did not admit Hilliard's testimony for impeachment purposes but to provide "credence to [the State's] witnesses and their set of facts" that defendant shot the victim.

¶ 102 The improper admission of evidence is, however, harmless error if no reasonable probability exists that the verdict would have been different if the evidence had been excluded. *People v. Lynn*, 388 Ill. App. 3d 272, 282 (2009). "When deciding whether error is harmless, a reviewing court may (1) focus on the error to determine whether it might have contributed to the conviction; (2) examine the other properly admitted evidence to determine whether it overwhelmingly supports the conviction; or (3) determine whether the improperly admitted evidence is merely cumulative or duplicates properly admitted evidence." *Lindsey*, 2013 IL App (3d) 100625, ¶ 39.

¶ 103 Here, Hilliard's testimony was merely cumulative or duplicative of other properly admitted evidence that placed defendant at the crime scene. *Id.* ¶ 44; *People v. Becker*, 239 Ill. 2d 215, 240 (2010) (in determining harmless error, a reviewing court may consider whether the improperly admitted evidence is merely cumulative). Defendant admitted during the trial that he had a handgun and did fire the weapon in the air and not at anyone. Schulz, an eyewitness, testified she observed defendant fire two shots towards the victim, and later identified him as the shooter in a photo array, a lineup, and again in court. Muhammad testified he observed defendant with a handgun at the scene. Therefore, Hilliard's testimony, that defendant was more than 100 feet away from his home when the shooting occurred, is merely cumulative. *Becker,*

239 Ill. 2d at 240.

¶ 104 Moreover, even if Hilliard's testimony challenged defendant's credibility in the eyes of the jury, the testimony would still be cumulative because there was ample evidence to challenge defendant's credibility aside from this testimony. *Lindsey*, 2013 IL App (3d) 100625, ¶ 44. Defendant gave statements to the police that were inconsistent with his trial testimony in material respects. On direct-examination, defendant testified he had observed Muhammad with a revolver and heard a gunshot from Muhammad's direction at the scene, but admitted he did not convey this information to the detectives after his arrest. On cross-examination, defendant testified he fired a weapon at the crime scene. He again admitted, however, that when questioned by a detective after his arrest, he denied any involvement in the shooting and informed the detective that Rico was the shooter. The State used these inconsistencies during its closing argument to argue the defendant lacked credibility. The State further asserted defendant had "tailored his testimony based on conversations with his attorneys * * * and the reports that he read," because defendant had testified he knew he did not shoot the victim based on "what [he] was told" and "the reports in this case." Additionally, the jury was able to judge defendant's credibility when he testified in his own defense. Accordingly, there was ample evidence to challenge defendant's credibility aside from Hilliard's testimony, rendering any error harmless. *Id.* (trial court's erroneous admission of the defendant's prior juvenile adjudication was harmless where the State presented additional evidence to attack defendant's credibility). Furthermore, the evidence was overwhelming that defendant fired a handgun at the scene.

¶ 105 In reaching this conclusion, we find *People v. Miller*, 311 Ill. App. 3d 772 (2000), relied on by defendant, distinguishable from the case at bar. Defendant compares his case to *Miller*, in which the appellate court held the defendant was prejudiced by the disclosure of an arrest that

occurred when he was a juvenile. *Miller*, 311 Ill. App. 3d at 778, 786. Based on this holding in *Miller*, defendant argues that admitting Hilliard's testimony was prejudicial, because the testimony disclosed "more than a mere arrest." Defendant, however, concentrates on only a portion of the opinion in *Miller* and interprets the court's holding out of context.

¶ 106 In *Miller*, during an offer of proof outside the presence of a jury, a police officer testified he had questioned defendant as to whether he had touched the victim inappropriately. *Id.* at 774. In response, the defendant informed the officer he had previously been arrested as a juvenile and that "he had done a lot of bad things *in the past*." *Id*. (Emphasis added.) During the trial, however, the State phrased its question to the officer so that the defendant's reference to his bad acts as having been "in the past" was omitted. *Id*. at 785-86. The statement admitted to the jury conveyed only that the defendant had responded he had "done a lot of bad things" to the officer's question. *Id*. at 786. The *Miller* court found the portion of the admitted statement was misleading, as the jury could reasonably believe the defendant had acknowledged he had "done a lot of bad things" to the victim. *Id*. To clarify his statement, the defendant was put in the untenable position of having to explain to the jury that he made the statement in reference to his prior arrests as a juvenile. *Id*. at 786. Further, the *Miller* court found the admitted statement amounted to extrinsic acts evidence that was highly prejudicial with no probative value for any material question other than defendant's propensity to commit crime. *Id*. It was for all of these reasons that the *Miller* court found the admission of the statement to be prejudicial. *Id*. at 785.

¶ 107 Defendant's reliance on *Miller* is not persuasive. In *Miller*, the statement that was admitted was misleading because the trial court admitted only a portion of the defendant's statement. *Id*. at 785-86. This prejudiced the defendant by forcing him to explain the admitted testimony and further reveal that he had been arrested as a juvenile. *Id*. at 786. In the present

case, however, defendant was not forced to explain Hilliard's testimony or reveal evidence regarding any juvenile proceedings. He had already testified he was present at the shooting, and thus his whereabouts at the time of the shooting was not a material issue. Further, the *Miller* court found the portion of the statement that was admitted amounted to extrinsic acts evidence that had no probative value for any material question other than the defendant's propensity to commit crime. *Id*. In this case, Hilliard's testimony was relevant to establish that defendant was not at his house at the time of the shooting, and to corroborate eyewitnesses's testimony that defendant was at the scene. Accordingly, we find *Miller* to be inapposite to the case at bar.

¶ 108 Taking all of the above factors into consideration, we find that even if the court's ruling in admitting Hilliard's testimony was error in violation of the Juvenile Court Act, such error was harmless beyond a reasonable doubt. *Becker*, 239 Ill. 2d at 240.

¶ 109 CONCLUSION

¶ 110 For the reasons stated above, we affirm the judgment of the circuit court of Cook County.

¶ 111 Affirmed.