2017 IL App (1st) 142195-U
Order filed: March 31, 2017

SIXTH DIVISION

No. 1-14-2195

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 11 CR 18981
	)	
JERREL DILLARD,	)	Honorable
	)	Mary Margaret Brosnahan,
Defendant-Appellant.	)	Judge Presiding.

JUSTICE ROCHFORD delivered the judgment of the court.
Presiding Justice Hoffman and Justice Delort concurred in the judgment.

ORDER

¶ 1 *Held*: We affirmed defendant's conviction and sentence for first degree murder, holding that the State proved him guilty beyond a reasonable doubt, the trial court did not err in the admission of evidence, and the court did not abuse its discretion in instructing the jury.

¶ 2 A jury found defendant, Jerrel Dillard, guilty of first degree murder and personally discharging a firearm proximately causing the death of victim, Henrietta "Calvina" Miles (the victim). The trial court sentenced defendant to 30 years' imprisonment for the first degree murder conviction, and to a consecutive term of 25 years' imprisonment for personally discharging the firearm that proximately caused the victim's death. On appeal, defendant contends: (1) the State failed to prove him guilty beyond a reasonable doubt; (2) the trial court

erred in the admission of evidence; and (3) the trial court abused its discretion in instructing the jury. We affirm.

¶ 3 At trial, Officer Robert Slechter testified that, at about 9:20 p.m., on August 30, 2011, he and his partner, Officer Carlson, were dispatched to 4342 West Maypole Street in Chicago to investigate a shooting. When they arrived at the scene, Officer Slechter saw a large crowd standing around the victim, who was lying unresponsive on the sidewalk bleeding from her head from an apparent gunshot wound. Officer Slechter verified that an ambulance had been called and he notified his superior of the shooting. The ambulance subsequently arrived and the victim was transported to the hospital, where she later died from two gunshot wounds to the head.

¶ 4 Detective Nicholas Nickeas testified that he arrived at the crime scene sometime after 9:20 p.m. on August 30, 2011. Several patrol cars were already there, and the area of the shooting was cordoned off with crime scene tape. The victim had already been taken to the hospital. Detective Nickeas walked around the crime scene and observed a blood stain on the sidewalk where the victim had been shot, a pair of dice, and a necklace.

¶ 5 No fingerprints suitable for comparison were found on the dice. No firearm evidence was found in or around the crime scene.

¶ 6 Detective Thomas Crain testified that Atavia Brown subsequently called Crime Stoppers' hotline regarding the shooting of the victim. On October 5, 2011, Detective Crain, Detective Raschke, and Detective Merica met with Ms. Brown in a secluded area near a high school football field in Normal, Illinois. Ms. Brown told the detectives "certain things" about the shooting, and then she identified defendant's photograph in a photographic array.

¶ 7 The next day, October 6, 2011, Detective Crain learned that Tatiana Webb had been arrested on a warrant and claimed to have information about the shooting. Detective Crain and

Detective Raschke spoke with Ms. Webb at the police station, and then she identified defendant's photograph in a photographic array as the person whom had shot the victim. Ms. Webb subsequently identified defendant in a lineup at the police station.

¶ 8 On October 13, 2011, at about noon, Detective Crain received a telephone call from Ms. Brown. She said that defendant was at an apartment located at 822 Washington Street in Normal, Illinois (the apartment). Detective Crain, Detective Raschke, three additional detectives, two supervisors, as well as other officers from the Normal Police Department, arrived at 822 Washington Street at about 8:15 p.m. Detective Crain knocked on the door to the apartment, which defendant opened. When he saw the officers, defendant tried to close the door, but the officers pushed it open and arrested him.

¶ 9 Four other persons were in the apartment with defendant, specifically: Markia and Antonio Goldman, Ms. Brown, and an unidentified pregnant woman. Detective Crain explained they were investigating a homicide, and Markia and Antonio Goldman agreed to accompany the officers to Chicago to discuss what they knew of the shooting.

¶ 10 Tatiana Webb testified that she was 23 years old at the time of trial and had a pending armed robbery case for which she had been promised nothing in return for her testimony. In August 2011 she was living with her grandmother in the 4200 block of Maypole Street. She knew defendant from the neighborhood and because she used to date his brother. She also knew the victim from the neighborhood.

¶ 11 On August 30, 2011, in the early evening, Ms. Webb and other people were on the street, watching defendant, the victim, and others play a dice game for money. Ms. Webb was not playing the dice game. The victim was winning a lot of money at the dice game and defendant

was losing money. Defendant and the victim began to argue, and the victim told defendant to "get his feet out of the block."

¶ 12 It began raining, so Ms. Webb went inside a house and defendant left the scene. Ms. Webb subsequently walked out onto the porch and saw defendant return about 20 or 30 minutes after he had left. He was wearing a black hoodie and dark pants which he had not been wearing earlier. Defendant made eye contact with Ms. Webb and then kept walking toward the victim. Ms. Webb testified at trial she could not really see defendant's face under the black hoodie.

¶ 13 Ms. Webb saw defendant pull a gun out of his pocket and shoot the victim in the head. Then defendant walked away. Ms. Webb went home and did not speak with the police that night.

¶ 14 On October 6, 2011, Ms. Webb was arrested on a warrant for violation of probation related to a conviction for possession of a controlled substance and, when she went to the police station, she told detectives what she knew about the murder. At the police station, she identified defendant as the shooter from his photograph she viewed in a photographic array. On October 14, 2011, she identified defendant from a lineup at the police station.

¶ 15 The State impeached Ms. Webb on several points with prior inconsistent statements she made during her grand jury testimony. Specifically, during her grand jury testimony, Ms. Webb stated that: (1) she played dice with defendant and the victim until 6 p.m., when she lost all her money; (2) during the dice game, when the victim told defendant to get his "feet out of the block," defendant told the victim: "F*** you, b****;" the victim responded: "F*** you, n***er;" and defendant said: "B****, do you know what I'll do to you;" and (3) Ms. Webb could see defendant's face under the black hoodie when he walked over to the victim and shot her in the head.

¶ 16 Atavia Brown testified she was 23 years old at the time of trial and had a felony conviction for misuse of a credit card. In the summer of 2011, she lived in the apartment with Markia Goldman, Markia's brother, Antonio Goldman, and Antonio's girlfriend. Ms. Goldman and defendant were dating.

¶ 17 Ms. Brown first met defendant in August 2011, when he visited the apartment to see Ms. Goldman. At that time, defendant had shoulder-length dreadlocks. Defendant moved into the apartment in September 2011. When he moved in, defendant's hair had been cut short; the dreadlocks were gone.

¶ 18 At the end of September 2011, Ms. Brown asked defendant why he had moved to Bloomington. Ms. Brown initially testified she could not remember what defendant said in response, but she subsequently testified that he told her he was hiding because he shot a girl during a dice game in Chicago. Ms. Brown did not remember defendant saying anything more about the shooting, but she was impeached by her grand jury testimony when she stated that defendant told her the victim had been cursing him out, that he had to "put her back in it," and that he had shot the victim in the head.

¶ 19 Ms. Brown later contacted Crime Stoppers, who directed her to contact Chicago police detectives. She met with the detectives on October 5, 2011, and she identified defendant from his photograph in a photographic array. Ms. Brown received about $750 from "detective people" for calling in the tip about defendant.

¶ 20 Markia Goldman testified that, in the summer of 2011, she was living in an apartment at 802 East Washington Street in Bloomington, Illinois, with her brother, Antonio, and Atavia Brown. She was dating defendant. On August 27, 2011, defendant came to the apartment to visit wearing shoulder-length dreadlocks. He left the next day.

¶ 21 On August 30, 2011, defendant called Ms. Goldman and asked if he could stay with her in Bloomington because he wanted to "get away." She agreed, and defendant moved into the apartment in early September. Defendant's hair was now cut short and his braids were gone.

¶ 22 About one week after defendant moved in, Ms. Goldman asked him why he had left Chicago. Defendant only told her he "needed to get out of Chicago." Ms. Goldman was impeached by her grand jury testimony, where she stated that defendant told her he and some friends "were out shooting dice and he got into it with a girl and they were arguing and he shot her."

¶ 23 On October 13, 2011, the police came to Ms. Brown's apartment, kicked in the door, "put everybody down on the ground," and arrested defendant. The officers drove Ms. Goldman and her brother to a Chicago police station; she did not go voluntarily and went with them only because they had threatened to arrest her. She was held for 16 hours until she agreed to make a statement and testify before the grand jury. Then she was allowed to leave.

¶ 24 Ms. Goldman testified on redirect examination that, during her grand jury testimony, when an Assistant State's Attorney asked her how she was treated by the police, she stated that they treated her "all right." Ms. Goldman further told the grand jury that her testimony was voluntary.

¶ 25 Antonio Goldman testified that, in the summer of 2011, he lived with his sister, Markia, Atavia Brown, and Alexia Ewing, at the apartment. At that time, defendant was dating Ms. Goldman. At the end of August 2011, defendant came to visit for a day. Defendant returned in early September 2011 and stayed at the apartment with Mr. Goldman and the others.

¶ 26 On October 2, 2011, Mr. Goldman asked defendant why he had come to stay with them in Bloomington. Defendant replied that he was in trouble and needed to get out of Chicago.

¶ 27 Mr. Goldman denied asking defendant why he was running from the police, and he denied that defendant admitted to killing someone after being "disrespected." Mr. Goldman was impeached by his grand jury testimony when he stated that defendant admitted he was running from the police because he had killed someone who had disrespected him.

¶ 28 On October 13, 2011, police kicked in the door to the apartment and entered with guns drawn. Officers grabbed Mr. Goldman and shoved him against a wall, then kicked him to the ground and placed a gun to his head. Other officers had a gun to his back, and a boot on his neck. The police ordered Ms. Ewing, who was pregnant, to lie on her stomach. Mr. Goldman protested, and the officers told him that if he talked again, they would shoot him in the head.

¶ 29 The officers handcuffed Mr. Goldman and led him out to the police car. Inside the car, the officers removed the handcuffs and told Mr. Goldman that defendant was a "monster" who had killed a girl. The officers drove Mr. Goldman and his sister to a police station in Chicago, where they were placed in separate interrogation rooms. Mr. Goldman was kept overnight at the police station, spoke with detectives, and testified before the grand jury the next day. When asked by an Assistant State's Attorney before the grand jury how he had been treated by police, Mr. Goldman stated he had been treated fairly. Following his grand jury testimony, a detective drove Mr. Goldman back to Bloomington.

¶ 30 Mr. Goldman had a prior conviction of domestic battery and was serving his prison term for that offense at the time of trial.

¶ 31 Lataurus Robertson testified that, in the summer of 2011, she was living in Bloomington and dating Lavion Goings, who lived in Chicago. Mr. Goings introduced her to defendant, who was a friend of his. She spent July 4, 2011, with defendant and Mr. Goings and introduced defendant to her niece, Markia Goldman. Defendant and Ms. Goldman began dating.

¶ 32 Defendant and Mr. Goings visited Ms. Robertson in Bloomington for her birthday at the end of August 2011. Defendant moved in with Ms. Goldman sometime after that. Defendant had changed his hairstyle; when Ms. Robertson first met him in the summer of 2011, he wore dreadlocks in a ponytail, but when he moved in with Ms. Goldman, he was bald.

¶ 33 Ms. Robertson denied asking defendant about anything that happened in Chicago. She was impeached by her grand jury testimony when she stated that defendant told her he was playing a dice game with a girl who called him a b****, and he shot her in the head.

¶ 34 Ms. Robertson denied driving to Chicago with defendant after he confessed to the shooting. She was impeached by her grand jury testimony when she stated that she found out where the victim's funeral was going to be held, and drove to Chicago on the day of the funeral with her mother, her children, and defendant in her car. She drove past the funeral and told defendant that the funeral was for the victim. Defendant borrowed her cell phone and made three phone calls during the drive, and he discussed the shooting during those calls.

¶ 35 Ms. Robertson testified at trial that, on October 13, 2011, the police came to her house and told her they wanted to take her to the police station to talk about defendant. They drove her to a police station in Chicago, where they told her how they wanted her to testify before the grand jury. The officers threatened to place her children in the custody of the Illinois Department of Children and Family Services if she did not cooperate. She stayed overnight at the police station and testified the next day before the grand jury. The police then drove her back to Bloomington.

¶ 36 On redirect examination, Ms. Robertson testified she did not voluntarily agree to talk with the police or to cooperate with their investigation of defendant. The State requested a sidebar, and sought to impeach Ms. Robertson's testimony that she did not voluntarily cooperate

with the police by introducing evidence that she had voluntarily turned over to the police a bag of bullets that she found in her house. Defendant objected on the basis that the bullets were never matched to the shooting at issue here and, therefore, were not relevant. The trial court allowed the State to question Ms. Robertson about her giving the police the bullets, ruling that such evidence impacted the credibility of her testimony that she never voluntarily cooperated with the police in their investigation of defendant.

¶ 37 The State then questioned Ms. Robertson whether she had given the police a bag of bullets that she found inside a coat in the apartment. She denied doing so. Ms. Robertson was impeached by her grand jury testimony when she stated that she gave Detectives Raschke and Crain a small plastic bag of bullets that she had found inside a coat belonging to Mr. Goings.

¶ 38 During a sidebar following Ms. Robertson's testimony, the trial court asked the defense whether it wanted a limiting instruction informing the jury that there is no allegation that the bullets belonged to defendant, and that the evidence regarding the bullets was only to be considered when determining Ms. Robertson's credibility. Defendant refused the court's offer of a limiting instruction.

¶ 39 The trial court subsequently called another sidebar and, again, asked defendant if he wanted a limiting instruction. Defendant again said no, and the trial court offered to craft its own limiting instruction. Defendant stated that he wanted no limiting instruction given, as it would only "draw *** more attention to bullets in this case."

¶ 40 The State offered to elicit testimony from Detective Crain that he received the bag of bullets from Ms. Robertson, and that the bullets were not connected to defendant. The court agreed. Over defendant's objection, the court stated that it would allow the State to ask

Detective Crain "were the bullets that were tendered to you by Lataurus Robertson ever in any way connected to [defendant] and the answer would be no."

¶ 41 Detective Crain testified that, after defendant's arrest, he learned that Ms. Robertson might have information about the shooting. He and two other officers drove to Ms. Robertson's apartment in Bloomington, knocked on the door, explained they were investigating a crime, and asked to speak with her. She was "very cooperative" and gave the detective a bag of bullets. Detective Crain further testified:

> "Q. [T]hose bullets that she gave you were not connected to [defendant] in any way, correct?
>
> A. No, they were not."

¶ 42 Detective Crain asked Ms. Robertson to come to the police station to talk about the shooting, and she agreed. Ms. Robertson went to the police station and, the next day, she testified before the grand jury.

¶ 43 Following all the trial testimony, the trial court admitted into evidence, pursuant to section 115-10.1 of the Code of Criminal Procedure of 1963 (725 ILCS 5/115-10.1 (West 2012)), the prior inconsistent statements of Ms. Webb, Mr. Goldman, Ms. Goldman, and Ms. Robertson that they made during their grand jury testimony. The trial court gave the jury IPI Criminal No. 3.11 (4th ed. 2000), which instructed the jury that it may substantively consider the witnesses' prior inconsistent statements made under oath to the grand jury.

¶ 44 During the jury instruction conference, defendant noted that Ms. Webb and Ms. Brown had pending charges against them at the time of trial that could have impacted their willingness to curry favor with the State and testify against defendant. Defendant tendered the following

non-Illinois Pattern Jury Instruction (non-IPI instruction) to inform the jury how it was to consider Ms. Webb's and Ms. Brown's testimony:

> "You may consider as bearing upon the credibility of a witness for the State that he has been arrested for and charged with a crime and that, therefore, may have an interest or motive in testifying in support of the State's position. You may consider such evidence even if it has not been shown that any promises of leniency have been made or that any expectation of special favor exists in the mind of a witness."

¶ 45 The trial court denied the proposed non-IPI instruction and, instead, gave the jury IPI Criminal No. 1.02 (4th ed. 2000), which states:

> "Only you are the judges of the believability of the witnesses and of the weight to be given to the testimony of each of them. In considering the testimony of any witness, you may take into account his ability and opportunity to observe, his memory, his manner while testifying, any interest, bias, or prejudice he may have, as well as the reasonableness of that testimony when you put it together in light of all of the other evidence in the case."

¶ 46 The jury convicted defendant of first degree murder and of personally discharging a firearm proximately causing the victim's death. The trial court sentenced defendant to 55 years' imprisonment. Defendant appeals.

¶ 47 On appeal, defendant first contends that the State failed to prove him guilty of first degree murder beyond a reasonable doubt. When presented with a challenge to the sufficiency of the evidence, the relevant question is whether, when viewing all the evidence in the light most favorable to the State, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. *People v. Davis*, 2016 IL App (1st) 142414, ¶ 10. We will

not substitute our judgment for the trier of fact's credibility determinations; rather, the weight to be given the testimony of the witnesses, the credibility of the witnesses, the resolution of any inconsistencies and conflicts in the evidence, and the reasonable inferences to be drawn from the testimony are the responsibility of the trier of fact. *Id*.

¶ 48 We consider the evidence against defendant, including the trial testimony and the grand jury testimony that was substantively admitted pursuant to section 115-10.1.

¶ 49 Ms. Webb testified at trial that on August 30, 2011, following a dice game in which the victim was the big winner, defendant was the big loser, and the two of them had argued, defendant left for about 30 minutes and then returned and shot the victim in the head.

¶ 50 Ms. Brown testified at trial that, in September 2011, defendant moved into the Bloomington apartment. She noticed defendant had changed his hair style since the last time she saw him only a few days earlier, having cut off his shoulder-length dreadlocks; Ms. Goldman and Ms. Robertson confirmed that defendant shaved off his dreadlocks prior to moving to Bloomington. Ms. Brown asked defendant why he had come to live in Bloomington. Defendant told her that he had shot a girl in a dice game in Chicago.

¶ 51 Ms. Webb testified before the grand jury that prior to the shooting, she heard defendant and the victim arguing, and defendant told the victim: "B****, do you know what I'll do to you?"

¶ 52 Mr. Goldman testified before the grand jury that defendant admitted to killing someone who had disrespected him.

¶ 53 Ms. Goldman testified before the grand jury that defendant told her he shot a girl after arguing with her during a dice game.

¶ 54 Ms. Robertson testified before the grand jury that defendant told her he shot a girl in the head after she called him a b**** during a dice game. Ms. Robertson further stated that she subsequently drove defendant past the victim's funeral, and he made three phone calls in which he discussed the shooting.

¶ 55 An Assistant Cook County Medical Examiner confirmed that the victim had been shot in the head and that the manner of death was homicide.

¶ 56 Viewing all this evidence in the light most favorable to the State, a rational trier of fact could have found defendant guilty of first degree murder beyond a reasonable doubt.

¶ 57 Defendant argues, though, that Ms. Webb was not a credible witness against him, where: (1) she had a motive to testify falsely because she had participated in the dice game leading to the shooting and could have been a suspect had she not implicated defendant; (2) she waited 37 days before identifying defendant to the police and she only identified defendant after having been arrested on unrelated criminal charges; (3) she indicated the shooting occurred around 6:30 p.m. when it actually occurred closer to 9:30 p.m.; (4) and she testified at trial that she could not clearly see defendant's face at the time of the shooting.

¶ 58 Defendant also argues that Ms. Brown was not a credible witness against him, where: (1) she was on probation for felony misuse of a credit card at the time of trial; (2) her statement against defendant resulted in a $750 reward; (3) she did not immediately call police to report defendant's confession to her; and (4) she continued to live in the same apartment with defendant for two weeks after the confession.

¶ 59 As discussed earlier in this order, it is for the trier of fact, not the reviewing court, to assess the credibility of the witnesses. *Id.* The jury obviously found Ms. Webb and Ms.

Brown's trial testimony implicating defendant to be credible, and we will not substitute our judgment for its credibility determination.

¶ 60 Defendant also argues that, the remaining witnesses: Mr. Goldman; Ms. Goldman; and Ms. Robertson, all recanted their grand jury testimony implicating him in the shooting. However, a recanted prior inconsistent statement admitted under section 115-10.1 can support a conviction, even where there exists no other corroborative evidence. *People v. Armstrong*, 2013 IL App (3d) 110388, ¶ 23; *People v. Morrow*, 303 Ill. App. 3d 671, 677 (1999). Here, though, there was other corroborative evidence, where Ms. Webb testified at trial to her witnessing defendant shoot the victim in the head following an argument during a dice game, and Ms. Brown testified at trial that defendant told her he had shot a girl during a dice game in Chicago. Also, dice were found at the scene where the victim was shot.

¶ 61 As discussed, all this evidence, viewed in the light most favorable to the State, was sufficient for a rational trier of fact to find defendant guilty of first degree murder and, therefore, we affirm his conviction.

¶ 62 Next, defendant contends the trial court erred by admitting the evidence that Ms. Robertson gave the police a bag of bullets that she found in Mr. Goings' coat. "All relevant evidence is admissible, except as otherwise provided by law." Ill. R. Evid. 402 (eff. Jan. 1, 2011). "Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence." Ill. R. Evid. 403 (eff. Jan. 1, 2011). The admissibility of evidence at trial is reviewed for an abuse of discretion. *People v. Morgan*, 197 Ill. 2d 404, 455 (2001).

¶ 63 The trial court admitted the bullet evidence because the court found it relevant in assessing the credibility of Ms. Robertson's testimony that she did not voluntarily cooperate with the police investigation. Defendant argues on appeal that other evidence would have sufficed to illustrate Ms. Robertson's cooperation with the investigation, and that the limited probative value of the evidence regarding the bullets was substantially outweighed by its prejudicial effect in wrongly intimating to the jury that the bullets were somehow tied to defendant.

¶ 64 We need not determine whether the trial court abused its discretion in admitting the bullet evidence, because any error was harmless where Detective Crain specifically testified that the bullets were not connected to defendant, and where (as discussed earlier when addressing the sufficiency of the evidence) there was overwhelming other evidence of defendant's guilt. See *People v. Slack*, 2014 IL App (5th) 120216, ¶ 24 ("Error is deemed harmless where the evidence supporting a defendant's conviction is so overwhelming that the defendant would have been convicted even if the error was eliminated.").

¶ 65 Next, defendant contends the trial court erred by refusing to give the jury his proposed non-IPI instruction regarding how the jury was to consider Ms. Webb's and Ms. Brown's testimony in light of the fact they had criminal charges pending against them at the time of trial and may have testified against him to curry favor with the State.

¶ 66 "The purpose of jury instructions is to provide the jury with correct legal principles that apply to the evidence, thus enabling the jury to reach a proper conclusion based on the applicable law and the evidence presented in a case." *People v. Jackson*, 331 Ill. App. 3d 279, 290 (2002). In criminal cases, "the IPI Criminal instruction shall be used, unless the court determines that it does not accurately state the law." Ill. S. Ct. R. 451(a) (eff. April 8, 2013). A non-IPI instruction may be given "[w]henever IPI Criminal does not contain an instruction on a subject

on which the court determines that the jury should be instructed." *Id*. The non-IPI instruction given on that subject "should be simple, brief, impartial, and free from argument." *Id*.

¶ 67 "It is within the sound discretion of the trial court to determine whether a non-IPI instruction should be given, and the trial court's determination will not be disturbed absent an abuse of that discretion. [Citation.] A trial court abuses its discretion in declining to give a non-IPI instruction when the jury is left to deliberate with instructions that are unclear, misleading or contain inaccurate statements of law." *Jackson*, 331 Ill. App. 3d at 290.

¶ 68 Defendant argues on appeal that the trial court should have given the non-IPI instruction because IPI Criminal No. 1.02, which the trial court gave instead and which addresses how the jury is to assess a witness's interest or bias, contains a committee note providing "[w]hile this instruction contains most of the usual elements of believability, the Committee recognizes that the evidence of a particular case could call for the insertion of additional elements." IPI Criminal 4th No. 1.02, Committee Note. The Committee Note then cites *People v. Franz*, 54 Ill. App. 3d 550 (1977), which held that "[an] instruction informing the jury that it could consider the evidence that a witness was addicted to drugs at the time of the crime in judging that witness' credibility would have been proper." *Id.* at 555. However, the present case does not involve evidence that any of the witnesses were addicted to drugs, and therefore *Franz* is inapposite.

¶ 69 Defendant also attempts to draw an analogy to cases involving accomplices, noting that "a special instruction on accomplice testimony has been required when an accomplice testifies for the prosecution. [Citation.] An instruction on that issue is provided for by IPI Criminal No. 3.17." *People v. Grabbe*, 148 Ill. App. 3d 678, 686 (1986). IPI Criminal No. 3.17 provides that, "[w]hen a witness says he was involved in the commission of a crime with the defendant, the testimony of that witness is subject to suspicion and should be considered by you with caution. It

should be carefully examined in light of the other evidence in the case." IPI Criminal No. 3.17 (4th ed. 2000).

¶ 70 Defendant argues that, similar to an accomplice, a witness with pending criminal charges should be considered with caution because she might testify against defendant only to curry favor with the State. Accordingly, defendant contends that the trial court should have given his non-IPI instruction, which would have specifically instructed the jury to consider that a witness's pending criminal charges might motivate her to testify in favor of the State.

¶ 71 We disagree. In denying defendant's non-IPI instruction, the trial court stated:

> "With respect to adding a second paragraph to 1.02 [*i.e.*, adding the non-IPI instruction regarding how to consider the testimony of a witness with pending criminal charges], I will deny that. *** [A] majority, anecdotally probably 70% of cases heard in this building, involve witnesses from one side or the other that have a case pending themselves, so if that was the intent of the IPI Committee [to specially instruct about how to consider the testimony of a witness with pending criminal charges], it would have been created specifically. You can certainly argue the witnesses' interest, bias, or prejudice. Wide latitude was granted during cross-examination. I believe 1.02 covers it."

¶ 72 We agree with the trial court that, in the absence of a specific IPI instruction regarding how to consider the testimony of a witness with pending criminal charges, the clear intent of the Illinois Supreme Court Committee on Pattern Jury Instructions was that the jury be broadly instructed, pursuant to IPI Criminal No. 1.02, that it may consider "*any* interest, bias, or prejudice" of a witness when considering the believability of his testimony. (Emphasis added.) IPI Criminal No. 1.02 (4th ed. 2000). As IPI Criminal No. 1.02 is broadly worded to cover the jury's consideration of "any" interest, bias or prejudice of a witness, such an instruction

adequately informs the jury that it may take into account, when assessing witness credibility, any bias or prejudice it perceived by a witness with pending criminal charges at the time of his testimony. Therefore, defendant's non-IPI instruction was not required to be given.

¶ 73 For the foregoing reasons, we affirm the circuit court.

¶ 74 Affirmed.