2017 IL App (1st) 143242-U

No. 1-14-3242

Order filed March 20, 2017

First Division

IN THE

APPELLATE COURT OF ILLINOIS

FIRST DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 08 CR 15108
	)	
MICHAEL KING,	)	Honorable
	)	Carol Howard,
Defendant-Appellant.	)	Judge, presiding.

JUSTICE HARRIS delivered the judgment of the court.
Justices Simon and Mikva concurred in the judgment.

ORDER

¶ 1 *Held*: Defendant's convictions for five counts of first degree murder and one count of armed robbery are affirmed over his challenge to the sufficiency of the evidence to sustain his convictions. Defendant was not denied his right to a fair trial because the trial court's error in admitting, as substantive evidence, the handwritten statement of a State witness was harmless.

¶ 2 Following a jury trial, defendant Michael King was convicted of five counts of first degree murder and one count of armed robbery. He was sentenced, respectively, to five consecutive terms of natural life imprisonment and a consecutive term of 15 years'

imprisonment. On appeal, defendant contends that the State failed to prove him guilty of the charged offenses beyond a reasonable doubt because, in part, the testimony of codefendant Arthur Brown was unreliable. Defendant also contends that he was denied his right to a fair trial because the trial court improperly admitted, as substantive evidence, the handwritten statement and grand jury testimony of State witness Marcus Price, defendant's half-brother. We affirm.

¶ 3 On April 23, 2008, the bodies of Donovan Richardson, Whitney Flowers, Lakesha Doss, Reginald Walker and Anthony Scales were discovered inside Richardson's house at 7607 South Rhodes Avenue. Doctor Ponni Arunkumar, an assistant chief medical examiner at the Cook County Medical Examiner's Office, testified, as an expert in forensic pathology, that she performed the autopsies of the victims' bodies. The cause of each victim's death was a gunshot wound to the head and the manner of death was homicide.

¶ 4 In August 2008, defendant, along with codefendants Torolan Williams and Arthur Brown, was charged, in part, by indictment with 25 counts of first degree murder, 5 counts of armed robbery, 4 counts of home invasion, and 2 counts of residential burglary. Defendant and Williams were tried separately. Brown pled guilty to one count of first degree murder and agreed to testify against defendant and Williams, in exchange for a State recommended sentence of 24 years' imprisonment.

¶ 5 At trial, the State's theory of the case was that defendant was guilty by accountability of the charged offenses. According to the State's theory of the case, defendant and Williams planned to rob Richardson after having been inside his house on a previous occasion, seen the items therein, and argued about the sale of a piece of jewelry. Defendant had also previously related to Williams that Richardson had, on a prior occasion, boasted about storing his money in a safe located inside the house. In the late evening hours of April 22 or early morning hours of

April 23, 2008, defendant and Williams went to Richardson's house and shot and killed Richardson, Flowers, Doss, Walker and Scales. After committing the murders, defendant and Williams searched the house for drugs or money. They then, with help from Brown, removed various items from the house, including an X-Box videogame console, televisions, guns, and jewelry that the victims were wearing at the time they were killed. The men loaded the items into defendant's car and drove to Williams's house where they unloaded the items. They later sold some of these items to pawn shops. Investigating officers recovered some of the items from the shops and some from the homes of codefendants' acquaintances. At trial, friends of the victims identified the recovered items as having belonged to the victims. Defendant made incriminating statements about his involvement in the murders to Brown and Price. Defendant also admitted to detectives, during a videotaped interview, that he was inside the house at the time the murders occurred, but stated that codefendant Williams was the shooter.

¶ 6 Because defendant is challenging the sufficiency of the evidence to sustain his convictions, we recount in detail the evidence adduced at his jury trial.

FACTUAL BACKGROUND

¶ 7 The record shows that Flowers, Doss, Walker, and Richardson, resided together at Richardson's house at 7607 South Rhodes. On the night of April 22, 2008, the group hosted a barbecue for friends, including Terry Arrington, Andre Yarbrough, April Rutherford, and her boyfriend, Scales. Arrington testified that he grew up with Richardson and would go to his house every day. Arrington arrived at the barbecue about 5:30 p.m. and left about midnight. He described that, during the barbecue, Richardson was wearing earrings, a chain, a watch, a bracelet, and rings on his fingers. Scales and Walker were also wearing earrings and a watch, and Flowers and Doss were wearing earrings.

¶ 8 Yarbrough testified that he knew the victims and was very close to Richardson. Yarbrough was also friends with defendant, whom he had known since they were both five or six years of age. Yarbrough first introduced defendant to Richardson in January of 2008, during a small gathering of people at Richardson's house. During the gathering, Richardson and a drug dealer were joking about money and boasting about which one of them had more money. Yarbrough acknowledged that defendant was present for this conversation. About three weeks before the murders in question, Yarbrough accompanied defendant to Richardson's house and defendant showed Richardson items of jewelry that he wanted to sell. Defendant left the house and returned later that day with Williams, who went upstairs to Richardson's bedroom. Yarbrough testified that, on the night in question, he arrived at the barbecue about 8:30 p.m. and left about 11:30 p.m. When Yarbrough left the barbecue, the remaining people in the house were the five victims and Rutherford.

¶ 9 Rutherford testified that she and Scales arrived at the barbecue about 10 p.m. Rutherford left the barbecue about 11:30 p.m. to pick up a friend in Chicago. When Rutherford and her friend returned to the house, about 12:30 a.m., Rutherford could hear music playing inside the house, but no one answered the front door when she knocked on it. She tried calling Scales's cellular telephone, but he did not answer his phone. Eventually, Rutherford went home and fell asleep.

¶ 10 Later that morning, Rutherford again called Scales's cell phone and received no answer. Rutherford and Arrington then went to Richardson's house. There, they saw that the back door was missing a door knob and that the kitchen was in disarray. When they entered the house, Rutherford saw Flowers slumped against the wall and bleeding. She also saw Richardson lying on the floor motionless. Arrington saw Richardson, Walker, Scales and Doss lying on the floor

near the living room and Flowers slumped against the wall. Arrington testified that none of the victims were wearing the jewelry they wore at the barbecue. Rutherford and Arrington ran out of the house and Rutherford called 911.

¶ 11 Detective Danny Stover was assigned to lead the murder investigation and testified extensively about the course of his nearly 3-month long investigation. Detective Stover described the interior of the house as "ransacked" and recounted the location of the bodies of the victims throughout the house. He also detailed the items recovered from inside the house. In the kitchen, Detective Stover found a box of .22 caliber ammunition. In an open "front closet," the detective found a box of .380 ammunition. In a closet inside the master bedroom, he found an open safe containing four live .32 rounds of ammunition and a box for .32 caliber shells. Detective Stover testified that no weapons were found inside the house. Above the closet in the master bedroom, Detective Stover noticed a television bracket mount, but did not see a television in the room. He also noticed an empty television bracket mount above a door leading to the bathroom inside the master bedroom. Inside another bedroom, Detective Stover saw a television stand with no television on it.

¶ 12 After the scene was processed, a medical examiner was called to remove the bodies of the victims. Detective Stover testified that, as Richardson's body was removed, he found a fired 9 millimeter cartridge case under the body. He also found a fired 9 millimeter cartridge case under Scales's body. Detective Stover further found a fired .380 cartridge case on the back porch of the house. He explained that, given that only three fired bullet casings were recovered, and there were a total of at least six gunshot wounds between the victims, one of the murder weapons may have been a revolver or the shooter picked up the unaccounted for fired bullet casings.

¶ 13 During the course of his investigation, Detective Stover interviewed numerous witnesses,

including Kimberly Finley, Richardson's next-door neighbor. Finley testified that, about 1:20 a.m. on the night in question, she was in her bedroom and heard noises, "like furniture being moved around," coming from Richardson's house. Finley looked through her window, but did not see anything unusual. About an hour later, Finley heard a car pulling up in the alley behind her house and heard someone walking down the stairs of the back porch at Richardson's house. Finley looked through her back window and saw two men walking, one in front of the other, from the back of Richardson's house towards his garage. The man in the rear was carrying a television and wearing gloves and a red and white baseball cap. There was a third man in the alley near a white car. The man carrying the television handed it to the man in front of him and he, with help from the man in the alley, placed it in the trunk of the white car. All three men then entered the car and drove southbound in the alley.

¶ 14 Detective Stover testified that, on May 31, 2008, a few weeks after the murders, the investigators received a "break in the case" when Robert Johnson contacted the police department. After speaking with Johnson, Detective Stover began to look for codefendant Williams. On June 9, 2008, Williams was arrested outside of Northwestern Memorial Hospital where he had been visiting his girlfriend, Aasha Cain. In the hospital room, Williams left a duffel bag containing his personal belongings, including an X-Box videogame console. Cain later gave the bag to investigating officers.

¶ 15 After Detective Stover interviewed Williams and Cain, he attempted to locate Orsen Headon and defendant. The record shows that, in May 2008, Williams had moved into Headon's apartment and resided there for about three weeks. Police officers contacted Headon and he consented to a search of his apartment. During the search, officers recovered a flat screen

television, a .38 caliber Special revolver, a single 9 millimeter round from behind a duffle bag and a loaded magazine containing 9 millimeter rounds.

¶ 16 On June 20, 2008, Detective Stover obtained a grand jury subpoena to review recorded telephone calls made by Williams from the Cook County jail. During one of the calls, between Williams and his girlfriend, the couple mentioned Headon and Brown. Detective Stover compiled Brown's background information and obtained a warrant to search his residence. During the search of Brown's house, police found a receipt for an item that Brown had sold to a pawn shop after the murders. Detective Stover also learned that Brown's cellular telephone records showed he was in the area of 76th and Rhodes at the time of the murders.

¶ 17 Federal Bureau of Investigation Special Agent Joseph Raschke testified, as an expert in the field of historical cell phone analysis, that he reviewed the April 22 and April 23 call data records for telephone numbers belonging to Brown and defendant. Special Agent Raschke prepared maps and charts showing that the numbers utilized cell phone towers located in the area of the crime scene at the time and date in question.

¶ 18 Detective Stover further learned that Brown had a June 30, 2008, court date for an unrelated misdemeanor cannabis charge. After Brown failed to appear in court on that date, a warrant was issued for his arrest. On July 1, 2008, Brown was arrested pursuant to the warrant.

BROWN'S TESTIMONY

¶ 19 Brown testified that in April 2008, he lived in Lansing, Illinois, and was employed as a supervisor with the United Parcel Service. He acknowledged that on April 20, 2008, he was pulled over for a traffic violation and arrested for possession of cannabis. He stated that, during the late afternoon, on April 22, 2008, he drank alcohol and smoked marijuana with his friend Michael McKeel in Lansing. At some point, the pair drove to the south side of Chicago in an

attempt to purchase more marijuana, but were unsuccessful. Brown then called codefendant Williams, who lived in the area. Brown had attended high school with Williams and, as of April 2008, he had known Williams for about 10 years. Brown considered Williams to be his "best friend." Brown and McKeel drove to Williams's house and remained there for about 30 minutes.

¶ 20 After Williams made a phone call, the trio drove to 77th Street and Rhodes Avenue to meet with defendant and purchase marijuana. Brown testified that, prior to April 2008, he had met defendant five or six times because defendant was a friend of Williams. Brown had previously purchased marijuana from defendant and defendant had previously given Brown a haircut. Brown identified defendant in open court. Brown, McKeel and Williams arrived in the area of 77th and Rhodes about 10 p.m. Williams used Brown's cell phone to call defendant and then exited the car and walked northbound on Rhodes. About ten minutes later, Williams returned to the car and asked Brown to "stick around" because "they had a sweet lick." Brown explained that a sweet lick was an easy robbery. Williams then walked "back down the block." About 30 minutes later, Williams called Brown and instructed him to walk northbound in the alley.

¶ 21 Brown walked from 77th Street to 76th Street and saw defendant's car, a white Ford Focus, parked in an alley east of Rhodes Avenue. Brown testified that he had previously seen defendant driving that car about three times. Because the car was locked and Williams was not in the area, Brown walked to a fire escape and sat on the stairs. Brown stated that at this time it was close to midnight and that he sat on the stairs for about 30 minutes. Brown then heard a "commotion" near defendant's car and saw defendant, who was wearing gloves, carrying a big flat screen television. Defendant handed the television to Brown and instructed him to place it in the trunk of his car. Because the television did not fit in the trunk, Brown placed it in the back

seat of the car. Defendant then walked towards a house. As he did so, Brown saw two large flat screen televisions, two small flat screen televisions and a couple of duffle bags on the back porch of the house. After defendant and Williams loaded the items into the car, the three men left the area heading southbound in the alley. Defendant drove the car, Williams was in the front passenger seat and Brown was in the back seat.

¶ 22 Brown testified that he did not ask defendant and Williams about the items or what occurred inside the house. Brown stated that he "assumed it was a robbery or maybe a burglary or something like that." As the trio drove to Williams's house, defendant and Williams were laughing and saying "that was crazy." The men unloaded the items from defendant's car and carried them into Williams's house. About 30 minutes later, defendant left the house. Brown slept at Williams's house.

¶ 23 The next morning, Brown saw Williams with a "bunch of stuff out." The items included four TVs, a green X-box videogame console, a lockbox, and jewelry. Brown described the jewelry as a couple of rings, bracelets, some watches, and earrings. About 10 a.m., defendant arrived at Williams's house and the three men drove to the west side of Chicago. Brown stated that they remained near the intersection of Central Avenue and North Avenue for about 20 minutes. They then drove back to Williams's house, where Williams gave Brown a pound of marijuana, earrings, and two watches, a Jojino brand and a Rodeo brand. Brown then left the house.

¶ 24 Later that afternoon, Brown watched the news and learned of the murders in question. Because he thought it was too much of a coincidence that he, Williams and defendant had been in the same area as the murders, Brown called Williams to see if he knew about the murders. Williams told Brown to come to his house because he could not talk about it on the phone.

Brown went to Williams's house and saw "a bunch of guns," including .38 revolver, a 9 millimeter "Hi Point," a 9 millimeter "Sig," .40 caliber Smith and Wesson, and a .380 and a .25 caliber.

¶ 25 Brown testified that, in the weeks following the murders, he spoke with Williams almost every day. He also helped Williams move in with Headon, a high school friend of Williams. Brown stated that, during the move, he saw the same items that he helped defendant and Williams remove from the house on Rhodes. Brown identified the television recovered from Headon's apartment as one of the televisions he helped Williams move into Headon's apartment. This was the same television that defendant instructed Brown to place into defendant's car on the night of the murders. Brown also identified the television recovered from McKeel's house as the same television that he helped defendant and Williams remove from the house on Rhodes. Brown stated that Williams sold this television to McKeel.

¶ 26 Brown eventually learned that, on June 9, 2008, Williams had been arrested. Brown stated that, after Williams's arrest, he spoke to Williams almost every day and visited him in Cook County jail on June 19 and 26, 2008. Brown acknowledged that Williams also called him from the jail and asked him to retrieve a medallion Williams had hidden inside Headon's house. Brown went to the house and asked Headon about the medallion. Headon informed Brown that police had previously searched the house and probably found it.

¶ 27 Brown acknowledged that, on July 1, 2008, he was arrested in connection with the murders. He also acknowledged that, prior to that date, he was required, but forgot, to appear in court regarding his April 20, 2008, cannabis arrest. Brown stated that the arresting officers informed him that he was being arrested for his failure to appear in court on the cannabis charge.

¶ 28 Brown testified that, following his arrest, police questioned him about his whereabouts

on the night of the murders. He acknowledged that initially he lied to police and told them that he was not in the area of 76th and Rhodes on the night in question. Brown stated that he lied to police because he wanted to separate himself from the murders that he did not commit and because he did not want "to tell on" Williams. Brown acknowledged that, despite knowing about the murders, he pawned some of the items that he received from Williams. Brown identified: a Jojino brand watch that he pawned at a Cash America store in Calumet City; a pair of diamond earrings that he pawned at a Jewelry and Loan in Calumet City; and a Rodeo brand watch that he pawned at a Cash America in Merrionette Park.

¶ 29 Brown acknowledged that, during his initial police questioning, he learned that police had executed a search warrant at his house and recovered a receipt for the earrings he had pawned. He also learned that, using his cell phone records, police were able to determine that he was in the area of 76th and Rhodes on the night of the murders. Brown acknowledged that, upon being confronted with these items by the police, he decided to "tell them what actually happened." Brown explained that he decided to tell the truth because, although he had participated in a crime, he did not murder any one, and, in order for the police to know that, he had to tell them what actually happened. Brown also acknowledged that he gave a statement to an assistant state's attorney which was substantively similar to his testimony.

¶ 30 Brown testified that, following his statements to police, he was charged, *inter alia*, with five counts of first degree murder. He stated that, on July 2, 2008, while he was being processed at the police station at 26th Street and California Avenue, he saw defendant at the station. Defendant asked Brown what he was "locked up for," and Brown told him "you know what I'm locked up for. I'm locked up for those murders." Defendant responded "how did they get you?"

Brown told defendant that police were able to determine that he was in the area at the time of the murders by examining his cell phone records.

¶ 31 After being charged with the murders, Brown learned that defendant had also been charged with the same offenses. Brown testified that, for the first several months of court proceedings, he and defendant shared the same court dates and, starting in August 2008, they were transported together to court. During one of the transports in 2009, Brown spoke with defendant because "there was just one question [he] had to know." Brown asked defendant "why did you have to kill all them people?" Defendant responded that "he had to do what he had to do because they knew him."

¶ 32 Brown acknowledged that, on May 24, 2012, he entered into a cooperation agreement with the State. Pursuant to the agreement, Brown pled guilty to one count of first degree murder and agreed to testify against defendant and Williams, in exchange for a State recommended sentence of 24 years' imprisonment. Brown acknowledged that, as of the date of his testimony, he was awaiting sentencing on his guilty plea.

¶ 33 McKeel corroborated Brown's version of events. McKeel testified that, after Williams directed him where to park in the area of 77th Street and Rhodes, Williams exited the car. Shortly thereafter, Williams returned to the car and spoke to Brown outside of the vehicle. Williams then walked away from the car. Sometime after, McKeel fell asleep and woke up about 1 a.m. Because Brown was no longer inside the car, McKeel called him, but received no answer. McKeel then drove home. A few days later, he purchased a flat screen television from Williams. McKeel acknowledged that the television was seized by police on July 2, 2008.

¶ 34 Racine Beathea Harris, defendant's wife, testified that she owned a white 2007 Ford

Focus and that defendant drove her car every day. Defendant would drive her to work and pick her up. He was unemployed at the time and did not own a car. Harris testified that she learned about the murders in question from news reports. She stated that, in the days following the murders, defendant became quiet and "really introverted." About this time, defendant had also acquired new "designer" clothing along with new pieces of jewelry, including a crucifix and a "Jesus head." When Harris asked him how he was able to purchase these items, defendant told her "not to worry about it." Harris noticed that defendant and Williams were sharing the jewelry. She also noticed that the floor mats in her car had been changed. In late April or early May 2008, Harris learned that defendant had burned some clothes in an alley behind her house. When she questioned him about the burnt clothing, he told her not to worry about it.

¶ 35 Headon testified that he had known Williams since grammar school. In May 2008, Williams had moved into Headon's apartment and resided there for about three weeks. Headon stated that, when Williams moved into the apartment, he brought with him a duffle bag, a laundry bag, an X-box video game console and two televisions, a 40-inch and a 20-inch flat screen. Headon saw Williams with a gun on two separate occasions. On one occasion, Williams had a silver .45 caliber in the living room and, about a week later, he had a revolver on the dining room table. When Williams moved out of the apartment, he left one of the televisions and the duffle bag in the apartment. Headon acknowledged that, on June 10, 2008, he was contacted by police and he consented to a search of his apartment.

¶ 36 Officers searched Headon's house and recovered a flat screen television, a .38 caliber Special revolver, a single 9 millimeter round from behind a duffle bag and a loaded magazine containing 9 millimeter rounds. After Detective Stover spoke with Headon, a Special Weapons and Tactics (SWAT) team was dispatched to locate defendant at the house of his half-brother,

Price. Defendant was not at the house. Price accompanied the officers to the police station and Detective Stover interviewed him.

PRICE'S TESTIMONY

¶ 37 Price testified that, in April 2008, he, defendant and Williams were driving in defendant's white Ford Focus and Williams showed him a black 9 millimeter handgun. After they exited the car, Williams fired the gun into the air. Price denied that, in May 2008, he spoke to defendant about the murders in question, and that defendant told him that he and Williams had shot the people inside the house. Price acknowledged that, in April or May 2008, defendant asked him to store two flat-screen televisions in his house. Price described the televisions as a 40-inch and a 19-inch large screen. The televisions were subsequently taken when Price's house was burglarized. When Price told defendant about the burglary and that the televisions had been taken, defendant informed him that the televisions were the result of a "lick" and that "he came up on them." Price denied that defendant told him that the televisions were from Richardson's house. Price testified that defendant always carried a gun and that, prior to April 2008, defendant's gun was a .40 caliber. After April 2008, defendant carried a .38 or .380 caliber handgun with a white handle. Price denied that the gun had "CIA" written on it.

¶ 38 Price acknowledged that on June 10, 2008, he gave a handwritten statement to a detective and Assistant State's Attorney (ASA) Jose Villarreal at Area 2 Police Headquarters. Price also acknowledged that he signed each page of the statement and initialed any changes that were made. After Price identified the statement in open court, the State impeached Price with the statement.

¶ 39 In his statement, Price stated that, in May 2008, he talked to defendant about the murders

in question. During the conversation, defendant told Price that one of the people killed was Richardson. Defendant also told Price that he and Williams "did it." Price understood this to mean that defendant and Williams committed the murders in question. During the course of their conversation, defendant told Price that he and Williams went to Richardson's house and they "all kicked it upstairs." Defendant and Williams drank alcohol with Richardson and "some girls," which led to a "commotion." Defendant and Williams then shot all of them. Price also stated that, after his house was burglarized and the televisions that defendant gave to him had been taken, defendant told him that the televisions were from Richardson's house. In the statement, Price acknowledged that he was not threatened or promised anything by the police in exchange for his statement. He also acknowledged that his statement was true. During his direct testimony, Price acknowledged, several times, that his handwritten statement was true, but testified that he "[did not] remember saying any of that."

¶ 40 The State then questioned Price about his grand jury testimony. Price stated that he did not remember testifying in front of the grand jury. He also stated that he did not remember speaking to ASA Luann Snow on the date of his grand jury testimony. The State impeached Price with his grand jury testimony.

¶ 41 In his grand jury testimony, Price acknowledged that, in May 2008, he had a conversation with defendant about the murders in question. During the conversation, defendant told Price that he and Williams "did it." Price testified before the grand jury that defendant told him that he and Williams were at Richardson's house and "gotten into a commotion." Defendant told Price that Richardson was inside the house and that defendant and Williams killed him. Defendant and Williams then shot the people inside the house. At some point, defendant brought a .380 caliber

handgun, which had "CIA" written on it, to Price's house. At trial, Price testified that he did not remember his grand jury testimony.

¶ 42 On cross-examination, Price testified that, about 1 p.m. on June 10, 2008, the date of his arrest, he was walking near the intersection of 67th Street and Marquette Avenue. As he did so, about six unmarked police cars "pulled up" and officers exited the cars with their guns drawn. The officers told Price to "freeze" and kneel with his hands behind his head. The officers then "threw" Price inside one of the police cars and asked for defendant's whereabouts. The officers transported Price to the intersection of 63rd Street and Western Avenue, and asked for his house keys "to prevent [them] from breaking the doors." Price gave the officers his keys and, after an unspecified amount of time, was transported to Area 2 police headquarters. There, the officers handcuffed him to a wall inside a holding cell.

¶ 43 Price stated that he was inside the cell for about 10 hours as the police questioned him. During the questioning, the officers told Price that Williams informed them that he had been the getaway driver and threatened him with jail. Price stated that the officers told him what to say regarding defendant's involvement in the murders and that eventually he "went along with the things that they said." He denied that he had any actual knowledge of what happened at the murder scene because defendant did not tell him anything about it. Price testified that he signed the statement because he thought that would be the only way the officers would allow him to leave the station. He testified that police told him that his grand jury testimony had to be the same as his handwritten statement.

¶ 44 On redirect examination, Price acknowledged that he consented to a search of his house and signed a consent form witnessed by his sister. He also acknowledged that, when he gave his handwritten statement, he was alone with an ASA and the ASA asked him how he had

been treated by the officers. Price told the ASA that the officers treated him "fine." He did not tell the ASA that anyone had threatened him. Price acknowledged that, in his grand jury testimony, he stated that: no one told him what to say in his handwritten statement; no threats or promises were made to him in exchange for his statement; and that the contents of his handwritten statement were true.

¶ 45 Following Price's testimony at trial, the State sought to call ASA Villarreal and ASA Snow to publish to the jury, respectively, portions of Price's handwritten statement and grand jury testimony. Defendant objected and, following a lengthy argument out of the presence of the jury, the court allowed the State to present the witnesses to perfect its impeachment of Price. In doing so, the court limited the State to impeaching Price only with portions of his handwritten statement that were inconsistent with his trial testimony. The court also limited the State to impeaching Price with portions of his grand jury testimony concerning specific matters that he denied at trial.

¶ 46 ASA Villareal testified to the knowing and voluntary circumstances of Price's handwritten statement and, following an in camera sidebar, published portions of the statement to the jury. In his statement, Price stated that, in May 2008, he talked to defendant about the murders and that defendant told him that one of the people killed was Richardson. Defendant also told Price that he and Williams "did it." Price understood this to mean that defendant and Williams committed the murders in question. During the course of their conversation, defendant told Price that he and Williams went to Richardson's house and they all "kicked it upstairs." Defendant and Williams drank alcohol with Richardson and some girls, which led to a commotion. Defendant and Williams then shot all of them. Price stated that defendant may have used a .40 caliber Smith and Wesson handgun that he purchased earlier that year. Price also

stated that, after his house was burglarized and the televisions that defendant gave to him had been taken, defendant told him that the televisions were from Richardson's house.

¶ 47 ASA Snow testified that in June 2008 she presented Price as a witness before the grand jury and, prior to doing so, reviewed with him his handwritten statement to ensure that it was truthful. ASA Snow explained that she discussed with him the nature of grand jury proceedings and asked him how he had been treated by the police. Price told her that he did not have a problem with the police. ASA Snow testified that Price did not mention to her that the officers threatened him, handcuffed him, or told him what to say in his statement. ASA Snow identified a transcript of Price's grand jury testimony and published portions thereof in open court. In his grand jury testimony, Price stated that defendant brought a .380 caliber handgun to his house. The gun had "CIA" written on top of it. Price also stated that defendant told him that he and Williams shot and killed the people inside the house. After Price's house was burglarized and the televisions that defendant gave to Price had been taken, defendant told Price that the televisions were from Richardson's house.

DEFENDANT'S VIDEOTAPED STATEMENT

¶ 48 Detective Stover was recalled and testified about the events leading to defendant's arrest. He stated that, after interviewing Price and Brown, he attempted to locate defendant, but was unsuccessful. On July 8, 2008, Detective Stover learned that defendant had been arrested on July 2, 2008, under the name "Jared Brooks," and was at the Cook County jail. Detective Stover acknowledged that defendant was arrested one day after Brown had been arrested. Detective Stover stated that, at the time he learned of defendant's arrest, he did not know that Brown and defendant had communicated while at the jail. Detective Stover learned of Brown's interaction with defendant on July 11, 2008. On July 14, 2008, pursuant to an arrest warrant, defendant was

transported to Area 2 police headquarters and interviewed by Detective Stover and his partner, Detective Timothy Murphy.

¶ 49 Detective Stover related, in summary, the contents of defendant's three-hour long videotaped interview, prior to the State publishing portions of the interview to the jury. During his interview, defendant related to Detective Stover how close he was with Williams. Defendant stated that he treated Williams "like [his] brother" and "many times *** gave him the shirt right off [his] back." Defendant recounted how Williams had previously asked him to store a 42-inch Vizio brand, flat-screen television. Defendant stated that he did not know where Williams had acquired the television, but he knew that Williams did not pay for it. Defendant stored the television at Price's house. After defendant and Williams grew apart, defendant decided to keep the television.

¶ 50 During the interview, defendant initially denied any involvement in the murders. He then stated that he had been bragging to Williams that Richardson had money. Defendant had told Williams about an incident at Richardson's house, during which defendant was present, involving Richardson and a drug dealer. The drug dealer placed a "wad" of $100 bills on a table and said "that's the kind of money he makes." Richardson replied "man, don't make me go up there and crack open the safe." Sometime after hearing about this incident, Williams suggested to defendant that they should rob Richardson.

¶ 51 In January 2008, defendant arranged for Williams to meet Richardson. Defendant and Williams went to Richardson's house. While they were inside the house, Williams looked around the house and saw a big, flat-screen television mounted on the wall and Richardson playing with an X-Box videogame console. Williams then said "man, he really living." Along with Richardson, Yarbrough and Walker were also inside the house at this time. In the master

bedroom, Williams showed Richardson a medallion and Richardson offered him $1,000 to purchase the medallion. Williams "snatched" the medallion from Richardson's hand and said "I'm good, let's go." Richardson then showed Williams a chain with a "Don P" medallion and said "I'm gonna put you on game." Defendant explained that putting someone on game was a sign of disrespect and that Williams "took it kind of salty." Williams and Richardson then discussed the medallion.

¶ 52 Defendant told Detective Stover that, on the date in question, he called or text messaged Yarbrough, whom he had known for over 20 years, and asked him what he was doing that evening. Yarbrough replied that he was playing pool. Defendant knew that this meant that Yarbrough was at Richardson's house because Richardson was the only person who owned a pool table and Yarbrough and Richardson were very close. That same day, defendant also talked to Williams about getting together and smoking. Williams suggested that they should buy some "cush," a high-grade marijuana. Defendant told Williams that the "cush man" was asleep and suggested that they get together and buy the cush later. Defendant then drove to Williams's house. After defendant picked up Williams, he told Williams that he was going to his brother's house. Williams informed defendant that he was going to his girlfriend's house. Defendant stated that he then gave Williams his cellular phone and the keys to his car, the Ford Focus, and went to his brother's house. Defendant maintained that he had no knowledge about the murders.

¶ 53 Detective Stover informed defendant that he thought defendant was lying because his version of events was not consistent with the information that police had gathered during the course of their investigation. Defendant then began to cry and said that he did not kill anyone. Defendant stated that he and Williams went to Richardson's house and Scales opened the door. Defendant entered the house first, followed by Williams. Inside the house, Scales was playing

pool, Richardson was lying on the couch watching television, and "the girls" were dancing to music. Williams went into the bathroom. When he emerged from the bathroom, he was holding a gun and said "I'm gonna put you up on game." When Detective Stover asked defendant to describe the gun, defendant stated that Williams had two guns, a "silver" one and a "snub revolver." Detective Stover testified that this was the only time during the interview that defendant mentioned that Williams had two guns. Detective Stover identified the gun recovered from Headon's house as a snub-nose revolver.

¶ 54 After Williams said I'm gonna put you up on game, Richardson asked "what's this all about." Williams then shot Richardson in the head. When Detective Murphy asked defendant how Scales and Walker ended up on the floor, defendant paused for a "very long" time. He then answered that, after shooting Richardson, Williams said "don't nobody move. Everybody down." Defendant stated that during this time he was standing between the pool table and the stairs.

¶ 55 Defendant stated that, because Scales only got down on one knee and not all the way down onto the floor, Williams walked over to him, hit him in the face with the gun, and shot him in the head. Flowers then grabbed defendant's leg and started to cry. Williams said "shut up bitch" and then shot her in the head. Defendant said that, at the time, Flowers was "down the wall towards the kitchen." While testifying to the contents of defendant's statement, Detective Stover noted that the location of Flowers's body at the scene was at least eight feet from where defendant said he had been standing. Williams then walked over to Walker, who was lying on the floor in the center of the room with his hands on his head, and asked him the whereabouts of a safe. Walker replied that he did not know where the safe was located. At this point, Doss started "crawling up the stairs" and Williams walked over to her. Detective Stover stated that, from Williams's vantage point in the center of the room, he would not have been able to see

Doss crawling up the stairs. Williams asked Doss where the safe was located and Doss, who was crying and "begging for her life," replied that it was upstairs. Williams then shot her in the head. Defendant stated that Walker was the last person Williams shot. Defendant told the detectives that, during this time, he "didn't do nothing" because he was "stuck."

¶ 56 Williams then took defendant's cell phone and went upstairs for about two minutes. Defendant said he remained downstairs because he felt "frozen." When Williams returned downstairs he gave defendant a pair of gloves and they both went upstairs to Richardson's bedroom. Defendant stood in the doorway of the room as Williams searched the room. Defendant stated that he searched the master bathroom because Williams told him to do so. Williams then went to the girls' rooms and defendant could hear him searching the rooms. Williams "boosted" defendant into the attic of the house, but there was "nothing up [t]here." Defendant described the areas of the house searched by Williams. Detective Stover testified that defendant's descriptions were consistent with what he had observed at the scene. When asked what he and Williams were looking for inside the house, defendant responded "weed or money." Defendant told the detectives that he helped Williams roll Richardson's body off the couch and carry televisions, jewelry and guns out of the house. Some of these items, defendant and Williams packed into a bag.

¶ 57 Defendant told the detectives that Brown and another man were outside the house and that his Ford Focus was parked on Rhodes Avenue across from the house. After Brown helped Williams and defendant carry a large television, the trio left the scene in defendant's car and drove to Williams's house. Brown was in the back seat of the car along with many of the items they removed from Richardson's house. After the murders, defendant told Williams that they had to "get rid of" the items. Williams agreed and told defendant to take the items to "Tony's" on

North Avenue. Defendant, Williams and Brown then drove to Tony's where defendant pawned a bracelet, a gold chain, and two rings, one that belonged to Richardson and one that belonged to Scales. Defendant stated that he acquired Richardson's .380 caliber handgun a few days after the murders. He also stated that he threw away the floor mats of his car and the clothes he was wearing during the murders because he "didn't want any of this to come back on [him]."

¶ 58 Detective Stover went to the North Avenue Gold and Silver Exchange, a pawn shop, and spoke to Anthony Civinelli. Detective Stover reviewed the shop's transaction records and found receipts bearing Williams's identification. The receipts were dated April 28, 2008, and May 28, 2008. Civinelli testified that defendant twice visited the pawn shop to sell jewelry. The first time, defendant asked Civinelli to appraise a "cross thing." The second time, defendant and Williams came to the store together and Civinelli bought a thin little chain from defendant. Civinelli identified a receipt, dated April 28, 2008, for his purchase of two men's rings for $350 from Williams. Civinelli also identified a receipt, dated May 28, 2008, for his purchase of a "hollow chain" for $240 from Williams. These items were later melted and sold. On cross-examination, Civinelli was impeached with his grand jury testimony where he testified that, on both occasions, Williams came into the pawn shop by himself.

¶ 59 Corey Todd Brown, Walker's first cousin, testified that he was familiar with all the victims and would go to Richardson's house three to four times a week. He stated that he made some repairs to the house, including removing a door knob, installing flat-screen televisions on the walls and wiring a video gaming system. Todd Brown identified the X-Box console in this case as being the video gaming system he installed at Richardson's house. He stated that the X-Box was a "special edition," green and orange color, which he had never seen before or after installing it at Richardson's house. Todd Brown also identified the television recovered as the

same one he installed at Richardson's house. He explained that it was a Vizio brand television with a distinctive white scratch at the bottom of the frame. Todd Brown further identified earrings belonging to Doss, Walker's watch, and Richardson's chain and Jojino brand watch.

¶ 60 Chicago Police Detective Sylvia Van Witzenburg testified that on June 9, 2008, she went to R & J Jewelers and Pawners in Berwyn and recovered a Jesus Christ "head charm." She also recovered a store receipt showing that Williams pawned the charm on May 7, 2008, for $700. Detective Van Witzenburg testified that this was the same piece of jewelry that Williams showed to Richardson prior to the murders.

¶ 61 Aaron Horn, a forensic scientist at the Illinois State Police Crime Lab testified, as an expert in firearms identification, that he examined a total of five fired bullets, three fired cartridge casings and a .38 Special caliber revolver. Four of the fired bullets were recovered from the bodies of the victims and one bullet was recovered at the scene of the murders. The bullet recovered from Scales's body was a .38 caliber. Horn testified that, because the bullet was damaged, he was unable to determine any rifling characteristics. The bullet recovered from Walker's body was too damaged for a caliber or rifling determination. The bullet recovered from Richardson was a .380/.38 caliber with six lands and grooves and a right-hand twist. The bullet recovered from Flowers's body was a .38 caliber with an unknown number of lands and grooves and a right-hand twist. This bullet was a Nyclad bullet. Horn testified that he has performed about 2370 examinations in his career and has examined a Nyclad bullet less than 10 times.

¶ 62 Horn determined that the two fired 9 millimeter casings recovered from the living room of Richardson's house were fired from the same firearm. The fired casing recovered from the back porch of the house was .380 caliber. Horn test fired the .38 Special revolver and found that it contained six lands and grooves and had a right-hand twist. After comparing the test fired

bullet to the four bullets suitable for comparison, Horn concluded he could neither identify nor eliminate the fired bullets as having been fired from the .38 Special revolver. The two 9 millimeter cartridge casings were not designed to be fired by a revolver.

¶ 63 Robert Berk, a trace evidence analyst at the Illinois State Police Crime Lab, testified, as an expert in trace evidence analysis, that he tested the .38 Special revolver and determined that it had been used to fire Nyclad ammunition. The Sate then rested.

DEFENDANT'S TESTIMONY

¶ 64 Defendant acknowledged that in 2003 he was convicted in a military court of conspiracy to commit kidnapping and aggravated assault, and was sentenced to 10 months' confinement. Defendant met Williams in 2005 when they were both employed at a library. Defendant acknowledged that he and Williams were "very close" friends. In January 2008, Williams introduced defendant to Brown, who was friends with Williams. Defendant stated that he had been in Brown's company a few times prior to the night in question.

¶ 65 On the date in question, Defendant drove his wife to work and picked her up about 10:30 p.m. He acknowledged that he had called Williams several times that day and the two spoke on the telephone. About 11 p.m., defendant drove to Williams's house. There, he saw Williams and Brown standing in front of the house. Williams walked to where defendant had parked his car and asked defendant if he had cush. Defendant responded that he did not and that the cush-man was asleep. Shortly thereafter, they left the house in separate cars. Defendant acknowledged that they left the house about the same time, but stated that they did not leave together. Defendant drove to Richardson's house and parked on 76th near the corner of Rhodes.

¶ 66 Defendant stated that he first met Richardson when he was seven years of age and, in

2008, visited his house on three or four occasions. On one of those occasions, in February 2008, Williams accompanied defendant to Richardson's house and tried to sell Richardson a white gold "Jesus face" medallion. After Williams refused Richardson's offer of $1,000 for the medallion, the pair "exchanged" words, including Richardson telling Williams that he was going to "put [him] up on game."

¶ 67 After arriving at the corner of 76th and Rhodes, defendant called Yarbrough, whom he was friends with since preschool, but Yarbrough did not answer his phone. Defendant stated that it was about midnight and that he did not see Williams or Brown in the area. Defendant rang the doorbell at Richardson's house and Scales opened the door. Defendant went inside the house and asked Richardson if he had cush. Richardson responded that he did not, and the two spoke for a few minutes. The doorbell then rang and, after Scales opened the door, Williams entered the house. Defendant told Williams that Richardson did not have cush and that they "wasted a trip" to Richardson's house. Defendant then left the house. As he did so, Williams followed him outside and asked to use his cell phone. Williams called Brown and then returned the phone to defendant, who left the area about 12:30 a.m. and drove to his friend's, Monique's, house at 76th and Evans Avenue.

¶ 68 Defendant remained at his friend's house until about 2:30 a.m., when Williams texted him and asked to be picked up at Richardson's house. Defendant drove to the house and Williams instructed him to park in the alley behind the house. After defendant did so, he saw Brown, standing near the back gate of Richardson's house, holding a large television. Defendant helped Brown load the television into the car. As Brown walked towards the house, defendant saw Williams, exiting the house, carrying a bag and a television. Defendant denied that he was wearing gloves or a hat. The men loaded the items into the car and drove to Williams's house.

¶ 69 As they drove, defendant asked Williams "what [did] you just do" and Williams responded "I just took care of that business with [Richardson]." Defendant understood that to mean that Williams sold Richardson the medallion. Defendant helped Williams and Brown unload the items from the car and carry them into Williams's house. There, defendant saw the X-Box and another small television. Defendant asked Williams how he acquired all these items, and Williams responded "just be cool, watch the news. I put your [friend] in the news." Defendant left Williams's house about 3 a.m.

¶ 70 The next morning, about 9 a.m., defendant called Williams and asked him about the events of the previous night. Williams told him "you got to watch the news, man. Just know that I took care of your [friend]." Defendant understood this to mean that Williams killed Richardson. Defendant hung up the phone and called 911, but did not say anything to the operator because he was scared, did not know if Williams was telling the truth, and did not want to get involved in the murders. About an hour later, defendant spoke with Williams in person and Williams told him "exactly" what happened inside Richardson's house. Brown was present for this conversation. Defendant stated that, from that moment on, he became "very moody" because he had "a lot to take in *** and think about." Defendant acknowledged that he changed the floor mats in his car. He denied that he burned clothes in Harris's backyard and stated that he burned a mouse he had caught.

¶ 71 Defendant testified that, in July 2008, he was arrested for possession of marijuana. He acknowledged that he told the arresting officers that his name was Jared Brooks. Defendant stated that he gave the officers a false name because he knew the police were looking for him and had previously deployed a SWAT team to his house. He acknowledged that, following his arrest, he spoke to Brown in a holding area at the Cook County jail. About ten days later,

defendant spoke to Detectives Stover and Murphy. Defendant stated that he spoke to the detectives because he "wanted them to feel like [he] was helping them" and, in doing so, he placed himself inside the house. Defendant testified that he knew he could not contradict anything that had already been told to the police, so he "continued on with the description of what [he] was told happened at the house." Defendant denied participating in the murders and being inside Richardson's house at the time of the murders.

¶ 72 On cross-examination, defendant acknowledged that he was trained to use a gun in the military prior to receiving a bad conduct discharge. He also acknowledged that he considered Williams his "right-hand man" and that, on the date in question, he had called him 18 times on the telephone. Defendant stated that, prior to the night of the murders, he had been in a relationship with Monique for about seven weeks. He acknowledged that he did not know her last name or home address. He also acknowledged that he did not inform the police that he went to Monique's house on the night in question. The day after the murders, defendant drove Williams and Brown to a pawn shop on North Avenue. Defendant acknowledged that, before doing so, Williams had told him that he had killed Richardson. Defendant stated that, despite knowing about the murders, he drove Williams and Brown to the pawn shop because that is what he had "scheduled" for that day and the reason why he had called Williams "all those times" the previous day. Defendant denied going into the pawn shop with Williams and Brown. He acknowledged that, the next morning, he brought a gold chain to Civanelli at the pawn shop, but stated that the chain was not related to the murders.

¶ 73 Defendant acknowledged that on July 2, 2008, he saw Brown at the Cook County jail and Brown told him that police were able to determine his whereabouts on the night of the murders by examining his cell phone records. Brown also told defendant that Williams had been arrested

because police were able to trace his movements using his cell phone records. Brown further told defendant that detectives were aware that defendant's phone records placed him in the area of the murders on the night in question. Defendant acknowledged that he was interviewed by police ten days after his conversation with Brown and that he had ten days to think about the police investigation.

¶ 74 Defendant stated that all the information he told police in his initial videotaped statement was information that he had received from Williams and Brown during his three conversations with them about the murders. During cross-examination, the State played portions of defendant's videotaped statement and questioned him regarding his knowledge of specific details about the murders. Defendant stated that he knew that, on the night in question, "the girls" (Rutherford and her friend) had knocked on the door of the house for a minute or two and that a cell phone inside the house then made a "buzzing" sound because this information was related to him by Williams and Brown. He acknowledged that, in his statement, he detailed the order in which the victims were killed, what they were wearing at the time, their skin complexions, and where they had been killed inside the house. Defendant stated that some of this information he "made up to make it look like [he] was telling a good story because [he was] trying to help the police."

¶ 75 Defendant acknowledged that he did not inform the police that he went to Monique's house on the night in question. He also acknowledged that when police questioned him about the 911 call that he placed after the murders he told them that he did not intentionally place the call. Defendant stated that he removed the phone chip from his phone because he "didn't have any use for [his] phone anymore," and denied removing the chip because he had heard that Williams had been arrested. He also denied that he told Price that he and Williams killed the people inside the

house, and that the televisions were from Richardson's house. Defendant further denied that he told Brown that he killed the victims.

¶ 76 During closing arguments, the State recounted the evidence presented and argued that defendant and Williams were "partners in crime" and that defendant was legally responsible for Williams's conduct. In recounting the evidence, the State noted that defendant had told Price that he and Williams had committed the murders. The State reviewed the jury instructions concerning prior inconsistent statements and explained to the jury that Price's handwritten statement and grand jury testimony are evidence, "as if [he] got up on the stand and said the same thing that he said six years ago[.]" The State then stated that it was for the jury to determine whether Price made the statements and, if so, what weight should be given to those statements. In response, defendant argued, in relevant part, that Price's statement was the result of police coercion.

¶ 77 In rebuttal, the State argued that Price's statement was not a result of police coercion where he repeated the statement to ASA Villarreal and ASA Snow in front of the grand jury. In doing so, the State stated:

> "[M]y partner read the instruction about prior inconsistent statements and when you can treat those as substantive evidence just as if it came from the witness stand, and those statements are Marcus Price, in both the form of a handwritten statement to [ASA] Villarreal as well as his grand jury testimony before [ASA] Snow, that comes in as substantive evidence just as if he uttered those words from the witness stand when you heard that evidence from those two assistant state's attorneys."

¶ 78 During deliberations, the jury sent three notes to the court, including a request to see Price's handwritten statement and grand jury testimony. After hearing argument from the parties, the court instructed the jury: "You have heard the evidence. Please continue to deliberate." The

jury found defendant guilty of five counts of first degree murder and one count of armed robbery. Defendant appeals.

ANALYSIS

¶ 79 On appeal, defendant raises two issues. First, he challenges the sufficiency of the evidence to sustain his convictions. Second, he contends that he was denied his right to a fair trial because the trial court improperly admitted, both, as substantive evidence and for purposes of impeachment, Price's handwritten statement and grand jury testimony.

¶ 80 Before addressing defendant's challenge to the sufficiency of the evidence, we first consider whether the trial court erred in allowing the State to introduce Price's handwritten statement and grand jury testimony as substantive evidence and for purposes of impeachment. We note, as acknowledged by defendant, that Price's handwritten statement and grand jury testimony are not included as part of the record on appeal. In his brief, defendant states that Price's prior statements are included as part of codefendant Williams's record on appeal. Although these items are not included on appeal, the record before us is satisfactory to resolve the issue raised where Price's prior statements were published to the jury and used for impeachment purposes during Price's direct testimony.

¶ 81 Defendant's argument regarding Price's prior statements consists of two parts. First, defendant argues that Price's handwritten statement and grand jury testimony that described what defendant told him about the murders should not have been admitted as substantive evidence under section 115-10.1 of the Code of Criminal Procedure of 1963 (Code) (725 ILCS 5/115-10.1 (West 2012)) because Price did not have personal knowledge of the events defendant described, as required by the statute. Second, defendant also argues that Price's handwritten statement and

grand jury testimony were inadmissible for purposes of impeachment because Price's testimony did not affirmatively damage the State's case.

¶ 82 The State concedes that the court erred in admitting, as substantive evidence, Price's handwritten statement, but maintains that this error was harmless where Price made the same statements in his grand jury testimony which was indisputably admissible, as substantive evidence, under section 115-10.1(c)(1) of the Code. The State does not address defendant's argument regarding whether the trial court erred in admitting Price's handwritten statement and grand jury testimony for purposes of impeachment.

¶ 83 After carefully reviewing the record, we find that the trial court erred in admitting, as substantive evidence, Price's handwritten statement, but that this error was harmless in light of Price's virtually identical grand jury testimony which was properly admitted as substantive evidence. We also find that we need not address whether the trial court erred in admitting Price's handwritten statement and grand jury testimony for purposes of impeachment because the evidence against defendant that could be considered substantively by the jury was overwhelming such that the error, if any, was harmless.

¶ 84 We initially note, as pointed out by the State, that defendant has waived review of the issue regarding whether the trial court erred in admitting, as substantive evidence, Price's handwritten statement because, at trial, defense counsel only made a "general objection" without reference to section 115-10.1(c)(2) of the Code and the personal knowledge requirement. The State argues that waiver is appropriate because defendant also failed to raise this specific issue in his posttrial motion and, as such, the trial court had no opportunity to rule on the issue.

¶ 85 In his reply brief, defendant asks this court that, if forfeited, we consider his argument

under the plain error doctrine. He argues that we should address the error under the first prong of the plain error doctrine because the evidence was closely balanced. He also argues that trial counsel's ineffectiveness for failing to object to the error implicates the second prong of the plain error doctrine by affecting the fundamental fairness of the proceedings.

¶ 86 It is well-settled that, to preserve an issue for review, a defendant must both object at trial and raise the issue in a written posttrial motion. *People v. Enoch*, 122 Ill. 2d 176, 186 (1988). A general objection is typically not enough to preserve an issue for review, because objections to evidence should designate the particular testimony considered objectionable and point to its objectionable features. *People v. Wilson*, 2012 IL App (1st) 101038, ¶ 34; see *People v. Pastorino*, 91 Ill. 2d 178, 192 (1982) (finding that a general objection to the use of a prior inconsistent statement waives the issue for appeal).

¶ 87 However, the rule of waiver is a limitation on the parties, not this court. *People v. Sangster*, 2014 IL App (1st) 113457, ¶ 66 (citing *People v. Williams*, 188 Ill. 2d 293, 301 (1999)). Here, although we could find this error waived based on defense counsel's failure to object at trial and raise the issue in a written posttrial motion specifically referencing section 115-10.1 of the Code, we choose to review it on the merits because the record shows numerous objections by counsel and lengthy arguments by both parties regarding the admissibility of Price's prior statements. Moreover, because defendant's claim of error rests on his right to a fair trial, and the State, in part, concedes error, we will not apply the waiver rules. See *Sangster*, 2014 IL App (1st) 113457, ¶ 66. Instead, we choose to review the issue on the merits.

¶ 88 If we find error, we will consider whether the error is harmless. See *Wilson*, 2012 IL App (1st) 101038, ¶ 37. Prior to doing so, we must first determine whether the trial court erred in admitting, as substantive evidence, the portions of Price's handwritten statement and grand jury

testimony that recount defendant's statements about the murders. The State concedes that the court erred in admitting, as substantive evidence, Price's handwritten statement, but argues that this error was harmless in light of Price's virtually identical grand jury testimony which was properly admitted as substantive evidence. We agree with the State.

¶ 89 The admission of evidence lies within the discretion of the trial court, and we will not reverse the court's decision to admit evidence absent an abuse of that discretion. *Wilson*, 2012 IL App (1st) 101038, ¶ 38. The general rule is that hearsay, an out of court statement offered to prove the truth of the matter asserted, is inadmissible at trial. *Id.* Here, neither party disputes that the contents of Price's handwritten statement and grand jury testimony contain hearsay. However, there is an exception to the hearsay rule for prior inconsistent statements of a testifying witness, which may be admitted to impeach the credibility of the witness. *People v. McCarter*, 385 Ill. App. 3d 919, 932 (2008). Under section 115-10.1(c), a prior inconsistent statement may be offered not just for purposes of impeachment, but as substantive evidence, provided the witness is subject to cross-examination and the statement:

> "(1) was made under oath at a trial, hearing, or other proceeding, or
>
> (2) narrates, describes, or explains an event or condition of which the witness had personal knowledge, and
>
> (A) the statement is proved to have been written or signed by the witness, or
>
> (B) the witness acknowledged under oath the making of the statement either in his testimony at the hearing or trial in which the admission into evidence of the prior statement is being sought, or at trial, hearing, or other proceeding[.]" 725 ILCS 5/115-10.1(c) (West 2012).

¶ 90 We begin our analysis by finding that Price's grand jury testimony clearly met the requirements of section 115-10.1 and was therefore properly admitted as substantive evidence. First, Price's grand jury testimony was "inconsistent" with his testimony at trial where he repeatedly stated that he did not remember the grand jury proceedings. See *People v. Campbell*, 2015 IL App (1st) 131196, ¶ 63 ("The term 'inconsistent' is not confined to 'direct contradictions but may be found in evasive answers, *** silence, or changes in position.' " (quoting *People v. Flores*, 128 Ill. 2d 66, 87 (1989) (finding that witness's testimony claiming no memory of facts surrounding alleged offense held to be inconsistent, making detailed grand jury testimony admissible)). Second, neither party disputes that Price testified on this issue at trial and was subject to cross-examination about the statement. Finally, Price's grand jury testimony was made under "oath at a trial, hearing, or other proceeding." 725 ILCS 115-10.1(c)(1) (West 2012). Accordingly, the trial court properly admitted, as substantive evidence, Price's grand jury testimony.

¶ 91 That said, defendant argues, the State concedes, and we agree, that portions of Price's handwritten statement are inadmissible under section 115-10.1(c)(2) because Price lacked "personal knowledge" of the "event" described in the statement, *i.e.* the murders. See *People v. Simpson*, 2015 IL 116512, ¶32-34; and cases cited therein (under the personal knowledge requirement of Section 115-10.1(c)(2), a prior inconsistent statement is not admissible as substantive evidence unless the witness actually perceived the events that are the subject of the statement or third party admission). Accordingly, we find that the trial court erred in admitting those portions of Price's handwritten statement that describe what defendant told him about the murders. See *Wilson*, 2012 IL App (1st) 101038, ¶ 42. This includes: defendant's account of

what happened inside Richardson's house; his statements to Price that he and Williams "did it;" and that the televisions were from Richardson's house.

¶ 92 The State maintains, and we agree, that the error in admitting Price's handwritten statement was harmless because Price made the same statements in his sworn grand jury testimony, which we have found admissible under Section 115-10.1(c)(1) of the Code. 735 ILCS 5/115-10.1(c)(1) (West 2012)); (*Wilson*, 2012 IL App (1st) 101038, ¶ 56. Here, the error was harmless because the jury was permitted to consider substantively virtually identical evidence in Price's grand jury testimony, which contained all the portions of Price's handwritten statement that we have found was not properly admitted. See *Wilson*, 2012 IL App (1st) 101038, ¶ 56; *People v. Harvey*, 366 Ill. App. 3d 910, 921-22 (2006); see also *People v. Simms*, 285 Ill. App. 3d 598, 610 (1996) (error in admitting evidence was harmless where it was cumulative of properly admitted evidence).

¶ 93 Defendant argues that "the State saturated the fabric of the trial with this inadmissible evidence," pointing out that the State adduced this evidence from multiple sources. Defendant maintains that this repetition was particularly egregious where: (1) the evidence was adduced from three authority figures, the two ASAs and one detective; (2) the evidence was relied upon heavily in the State's closing arguments; and (3) the jury was persuaded by this evidence as demonstrated by its note, during deliberations, requesting to see Price's handwritten statement and grand jury testimony. However, even if Brown's testimony was somewhat weakened by evidence that he took a plea deal, his testimony provided strong corroboration for defendant's statement to police. The jury also heard strong circumstantial evidence of defendant's guilt in the form of the items recovered and defendant's attempts to avoid detection after the murders. Although the State relied on Price's prior statements during closing arguments, it also relied on

all the evidence set forth above during its lengthy argument. Finally, the fact that the jury sent a note during its deliberations requesting to see Price's handwritten statement and grand jury testimony is of little consequence where Price's grand jury testimony was clearly admissible and virtually identical to his handwritten statement.

¶ 94 Furthermore, the evidence against defendant was overwhelming such that any error in admitting the handwritten statement was harmless. See *Sangster*, 2014 IL App (1st) 113457, ¶ 68. Contrary to defendant's argument, the jury's finding of guilt did not depend solely on Price's prior statements. In determining whether defendant was guilty by accountability of the charged offenses, the jury heard from multiple witnesses, including defendant, about the nature of his relationship with Williams and the events of the night in question. At trial, defendant acknowledged that Williams was his "right-hand man." In his videotaped statement, defendant gave a detailed account of the murders. Although in his statement defendant stated that Williams was the shooter, he admitted: knowing that Williams wanted to rob Richardson; introducing Williams to Richardson; being inside the house during the murders; helping Williams roll Richardson's body off the couch; searching the house with Williams after the murders; removing the items from the house with his car; and, later, selling the items to pawn shops.

¶ 95 In addition, Brown testified that he helped defendant and Williams remove items from Richardson's house on the night of the murders. His testimony was corroborated by Richardson's next door neighbor who saw three men removing the items from the house. Brown also testified that defendant told him that he killed the people inside the house because they were familiar with him. Many of the items that the men removed from Richardson's house were recovered by police. At trial, these items were identified by friends of the victims as having belonged to the victims. Civinelli testified that, shortly after the murders, defendant and Williams sold him

jewelry that was identified by other witnesses as, essentially, being proceeds of the crimes in question.

¶ 96 Defendant, however, challenges the sufficiency of the evidence used to convict him. In reviewing this issue on appeal, we determine whether after viewing 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. Austin M.*, 2012 IL 111194, ¶ 107. Under this standard, a reviewing court does not retry the defendant or substitute its judgment for that of the trier of fact with regard to the credibility of witnesses, the weight to be given to their testimony, and the reasonable inferences to be drawn from the evidence. *Id.*; *People v. Sutherland*, 223 Ill. 2d 187, 242 (2006). A criminal conviction will be reversed only if the evidence is so improbable or unsatisfactory that there exists a reasonable doubt of the defendant's guilt. *People v. Siguenza-Brito*, 235 Ill. 2d 213, 225 (2009).

¶ 97 Here, defendant was found guilty of five counts of first degree murder and one count of armed robbery under accountability principles. A person is legally accountable for the criminal conduct of another when:

> "[B]efore or during the commission of an offense, and with the intent to promote or facilitate such commission, he solicits, aids, abets, agrees or attempts to aid, such other person in the planning or commission of the offense." 720 ILCS 5/5-2(c) (West 2008).

To show accountability, the State was required to establish beyond a reasonable doubt that: (1) the defendant solicited, ordered, abetted, agreed or attempted to aid another in the planning or commission of the crime; (2) the defendant's participation took place before or during the commission of the crime; and (3) the defendant had the concurrent intent to promote or facilitate

the commission of the crime. *People v. Perez*, 189 Ill. 2d 254, 267-68 (2000).

¶ 98 In analyzing the evidence presented, we note that our supreme court, has long recognized that the underlying intent of the accountability statute is to incorporate the principle of the common-design rule. *People v. Fernandez*, 2014 IL 115527, ¶ 13. A defendant's presence at the scene of a crime and his knowledge that a crime is being committed, without more, is not sufficient to establish accountability. *People v. Taylor*, 164 Ill. 2d 131, 140 (1995). However, active participation is not a requirement for conviction under an accountability theory. *Id.* Rather, the fact finder may infer a common design from the circumstances surrounding the unlawful conduct. *Id.* at 140-41. Moreover, proof that the defendant was present during the perpetration of the offense, that he maintained a close affiliation with his companion after the commission of the crime, and that he failed to report the crime are all factors that the trier of fact may consider in determining the defendant's legal accountability. *Id.* at 141.

¶ 99 We initially note that defendant's videotaped statement is not included as part of the record on appeal. Despite this deficiency, however, we are able to resolve the issue raised where Detective Stover testified to the contents of defendant's statement.

¶ 100 After reviewing the evidence in the light most favorable to the State, we conclude that there was sufficient evidence for a rational trier of fact to find defendant guilty of the murders and armed robbery under an accountability theory. As mentioned, according to defendant's own statement, he was aware, prior to the murders and robbery, that Williams, his "right-hand man," wanted to rob Richardson. The record also shows that defendant introduced Williams to Richardson. On the night in question, defendant and Williams, together, went to Richardson's house. Although defendant stated that Williams was the shooter, he admitted: being inside the house during the murders; helping Williams roll Richardson's body off the couch; searching the

house with Williams after the murders and wearing gloves while doing so; removing the items from the house with his car; and, later, selling the items to pawn shops.

¶ 101 At no time did defendant discourage Williams from killing the victims or show his disapproval of the commission of the crimes. To the contrary, defendant fled the scene and failed to report the murders. Defendant also encouraged Williams to "get rid of" the items from Richardson's house. In addition, defendant maintained a close relationship with Williams after the murders as evidenced by Harris's testimony that he and Williams shared the jewelry removed from Richardson's house. Moreover, defendant acknowledged that he threw away the floor mats of his car and the clothes he was wearing during the murders because he "didn't want any of this to come back on [him]." Defendant also removed the chip from his telephone and, upon his arrest for an unrelated offense, told the arresting officers that his name was Jared Brooks because he was aware that police were looking for him in connection with the murders. Therefore, taking into account defendant's actions surrounding the perpetration of the crime, we find that a rational trier of fact could have concluded that defendant was guilty of the murders and armed robbery based on accountability.

¶ 102 In reaching this conclusion, we are not persuaded by defendant's reliance on *People v. Washington*, 375 Ill. App. 3d 1012 (2007). Here, unlike *Washington*, there was evidence presented regarding who shot the victims. *Id.* at 1025-26. In his own statement, defendant identified Williams as the shooter. As such, unlike in *Washington*, here it was possible for the jury to find defendant guilty by accountability of the conduct of the principal, Williams. *Id.* at 1031-32.

¶ 103 We are likewise not persuaded by defendant's reliance on *People v. Ash*, 102 Ill. 2d 485

(1984). Here, unlike *Ash*, Brown's allegedly unreliable testimony was not the only evidence identifying defendant as the offender. See *Ash*, 102 Ill. 2d at 493-95. As mentioned, Brown's testimony corroborated defendant's own statement, which was sufficient to establish his guilt under accountability principles.

¶ 104 Defendant nevertheless argues that the evidence was insufficient because the State: (1) failed to present direct physical evidence that he was at the scene of the murders; (2) failed to present reliable identification evidence; and (3) relied "heavily" on the accomplice testimony of Brown, who avoided being prosecuted for the charged offenses by pleading guilty.

¶ 105 We note that defendant's videotaped statement, combined with Price's grand jury testimony and the circumstantial evidence presented, would be sufficient to sustain his convictions under the theory of accountability. This aside, defendant's contentions are essentially asking us to reweigh the evidence in his favor and substitute our judgment for that of the trier of fact, which is not the role of this court. See *People v. Abdullah*, 220 Ill. App. 3d 687, 693 (1991) ("A reviewing court has neither the duty nor the privilege to substitute its judgment for that of the trier of fact"). A reviewing court will not reverse a conviction simply because defendant claims that a witness was not credible. *People v. Evans*, 209 Ill. 2d 194, 211-12 (2004).

¶ 106 Although Brown's credibility may have been affected by his plea agreement with the State, this issue was clearly presented to the jury during his direct testimony and cross-examination. As mentioned, it was the responsibility of the trier of fact to determine his credibility, the weight to be given to his testimony and to resolve any inconsistencies and conflicts in the evidence. *Sutherland*, 223 Ill. 2d at 242. Based on its ruling, the jury resolved these inconsistencies in favor of the State. In doing so, the jury was not required to disregard the inferences that flow from the evidence or search out all possible explanations consistent with a

defendant's innocence and raise them to a level of reasonable doubt. *People v. Alvarez*, 2012 IL App (1st) 092119, ¶ 51. We will not substitute our judgment for that of the trier of fact on these matters. *Sutherland*, 223 Ill. 2d at 242. As mentioned, this court will reverse a defendant's conviction only when the evidence is so improbable or unsatisfactory that it creates a reasonable doubt as to the defendant's guilt. *Siguenza-Brito*, 235 Ill. 2d at 225. This is not one of those cases.

CONCLUSION

¶ 107 For the reasons stated we affirm the judgment of the circuit court of Cook County.

¶ 108 Affirmed.