2019 IL App (1st) 160238-U
Order filed: October 11, 2019

FIRST DISTRICT
FIFTH DIVISION

No. 1-16-0238

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 20740
	)	
RAYMOND HARRIS,	)	Honorable
	)	Charles P. Burns,
Defendant-appellant.	)	Judge, presiding.

JUSTICE ROCHFORD delivered the judgment of the court.
Justices Hall and Delort concurred in the judgment.

ORDER

¶ 1 *Held*: We affirmed defendant's convictions for robbery and first degree murder, finding that the State's remarks during rebuttal closing argument did not constitute reversible error.

¶ 2 A jury convicted defendant, Raymond Harris, of robbery and first degree murder and the trial court sentenced him to mandatory natural life imprisonment under the Habitual Criminal Act (730 ILCS 5/5-4.5-95(a)(West 2016)) based on his prior Class X convictions for armed

robbery, aggravated arson, and attempted first degree murder. On appeal, defendant contends that the State made improper and prejudicial remarks during closing argument. We affirm.[1]

¶ 3 The evidence at the jury trial established that the victim, 73-year-old Virginia Perillo, had worked as a registered nurse at Rush Hospital for over 30 years. On the evening of October 22, 2011, the victim drove to her home at 3302 South Parnell in Chicago by herself after attending the 4 p.m. mass at St. Mary of Perpetual Help Church. At around 5:25 p.m., she stopped to make a purchase at Cermak Produce ("the store"). At trial, the victim's son, Mark Perillo, viewed the store's surveillance videotape from October 22, and identified the victim and her black handbag from which she was retrieving money to pay the cashier. Mr. Perillo explained that the victim usually carried "a couple hundred dollars" in cash in an envelope inside her black handbag.

¶ 4 Joe Liberti testified that he lives in the victim's neighborhood, a few houses south of her. At about 7:15 p.m. on October 22, 2011, he drove past the victim's garage and saw that the garage door was closed. Judy Naujokas, another of the victim's neighbors, testified that at about 7:30 or 7:45 p.m. on October 22, 2011, she noticed that the victim's garage door was open, which was "very unusual." The garage light was off.

¶ 5 When Mr. Liberti returned at about 9:15 p.m., he also saw that the victim's garage door was open and that "something was out of the norm, and there was somebody lying on the ground in the garage." Mr. Liberti exited his vehicle and saw that the victim was lying in the center of the garage in a pool of blood and he called 911.

¶ 6 Officer Paul Weichert testified that he arrived at the scene at 9:26 p.m. and saw the victim lying on the floor of the garage between two vehicles. The driver's side door to one of the

[1] In adherence with the requirements of Illinois Supreme Court Rule 352(a)(eff. July 1, 2018), this appeal has been resolved without oral argument upon the entry of a separate written order stating with specificity why no substantial question is presented.

vehicles was open and the engine was running. There was blood around the victim's head, and she had obviously suffered "massive trauma" to her face. The swelling and bruising was so severe that the officer could not make out the victim's facial features. Officer Weichert radioed for paramedics.

¶ 7 Officer Weichert was aware that one of the victim's neighbors, Anastasio Tejerna, had a criminal record and was on parole. Officer Weichert informed other officers at the scene about Mr. Tejerna. Detective Thomas Carr subsequently interviewed Mr. Tejerna, but determined that he was not involved in the murder.

¶ 8 The victim was subsequently taken to the hospital. Detective Carr testified that he went to the hospital to try and speak with the victim, but that he was unable to do so due to the extent of her injuries. While at the hospital, Detective Carr went through the victim's personal belongings and determined that she only had $12 in cash.

¶ 9 The victim died in the hospital. The medical examiner who performed the autopsy testified that she observed bruising and hemorrhaging around both eyes, and bruising on the lips and chin, as well as on the front, side, and back of the head. The medical examiner also observed fractured bones in both of her eye sockets, four fractured ribs, and a fractured bone on the left side of her skull. The medical examiner concluded that the cause of death was "multiple injuries due to a beating," and that the manner of death was homicide.

¶ 10 Officer David Ryan testified he arrived at the crime scene at approximately 11:35 p.m. after the victim had been transported to the hospital. He saw two cars, a Lexus and an Acura, parked in the garage and a "large pool of blood" between the two cars. He also saw a pair of eyeglasses on the floor of the garage, on the driver's side of the Acura. Behind the Acura, he saw a receipt from an Au Bon Pain store.

¶ 11 Officer Ryan testified that he looked underneath the Acura and saw part of a watchband "just to the rear of the driver's door." He then looked inside the vehicle and searched for the watch. Eventually, he "saw the watch just poking out a little from under the driver's seat on the front driver's side floor."

¶ 12 Defendant's brother, James Tinnel, testified that in mid-October 2011, defendant temporarily moved in with him at his residence at 2920 South Dearborn in Chicago, which Officer Weichert testified was about one mile from the victim's residence. Defendant arrived with a gym bag full of clothes, and nothing else. While living with Mr. Tinnel at 2920 South Dearborn, defendant spent much of his time on the Internet, looking for jobs and seeking shelters where he could stay once he moved out of Mr. Tinnel's residence.

¶ 13 On October 22, 2011, defendant's mother hosted a family party at her house at 817 East 130th Place in Chicago. Mr. Tinnel and his wife arrived at the party around 6:30 p.m. Defendant got a ride from his cousin and arrived about 9:30 or 10 p.m. Defendant was wearing a brand new "jogging suit" as well as a black necklace and baseball cap that Mr. Tinnel had never seen him wear before. At the party, defendant pulled out three or four $100 dollar bills, as well as some $10 and $20 dollar bills and began counting them. Defendant told Mr. Tinnel that an ex-girlfriend, Michelle Rogers, had wired him the money through Western Union. However, Ms. Rogers testified that she did not send defendant money in October 2011, and had only wired him money on two occasions—$50 in June 2011, and $30 in August 2011.

¶ 14 Mr. Tinnel testified that at the family party, defendant pulled out a wedding band and engagement ring and said he wanted to propose to a woman named Lorraine Reed. Mr. Tinnel described the wedding band and engagement ring as "dullish" like they were "old and used." Mr.

Tinnel's wife, Tina Scott, similarly testified that the wedding band and engagement ring were "tarnished" and "dull" and did not look brand new.

¶ 15 On the day after the family party, October 23, 2011, defendant asked Mr. Tinnel whether he knew of a jewelry store that could resize, clean and engrave the engagement ring and wedding band prior to his presenting them to Ms. Reed. Mr. Tinnel drove defendant to a jewelry store named City Sports, where defendant spoke to the owner, Mr. Chong, who stated that he would have to send the ring and wedding band to another store to have the requested work performed on them. Mr. Chong told defendant to come back on October 27; defendant agreed, and paid Mr. Chong $60 in cash.

¶ 16 Marcos Torres testified that he works at a jewelry repair shop on Montrose Avenue and that some of his work includes cleaning and engraving rings. In late October 2011, Mr. Chong brought him the engagement ring and wedding band that defendant had dropped off on October 23. Mr. Torres removed old engravings on the wedding band and engagement ring and put in new engravings. He also cleaned the ring and wedding band and then returned them to Mr. Chong.

¶ 17 Loraine Reed testified that on October 27, 2011, she and defendant went to City Sports, where defendant picked up the engagement ring and wedding band, one of which was engraved with her name and the other engraved with her birth date. Then they went to defendant's mother's house, where defendant gave her the newly engraved ring and wedding band and proposed to her.

¶ 18 Jaime Bartolotta, a forensic scientist employed by the Illinois State Police, testified that on November 7, 2011, he conducted DNA testing on swabs taken from the watch recovered from the victim's car and identified a mixture of DNA from at least three people. Mr. Bartolotta was

able to identify a major male DNA profile. The DNA profile was searched in a DNA database[2] and an association was made with defendant.

¶ 19 Detective David Feltman testified that the next day, November 8, 2011, he and some other members of the U.S. Marshall's Fugitive Task Force arrested defendant in Elgin, Illinois. Later that day, Detective Feltman spoke with Ms. Reed and recovered the engagement ring and wedding band that defendant had given to her. Detective Carr showed photographs of the wedding band and engagement ring to the victim's son, Mark Perillo, on November 8 and told him that they had been recovered from the suspected murderer. Mr. Perillo identified the engagement ring and wedding band as belonging to the victim. The wedding band and engagement ring were subsequently shown to Mr. Perillo at trial, and he testified that they belonged to the victim and that he had seen them "countless" times during his "whole life growing up" because she always wore them.

¶ 20 On November 9, 2011, Detective Carr obtained a search warrant to collect a buccal swab from defendant "for DNA purposes." A major male DNA profile found on swabs taken from the watch recovered from the victim's vehicle matched defendant's DNA profile obtained from the buccal swab. Such a match would be expected to occur in approximately 1 in 3.5 quintillion unrelated black persons, 1 in 1.9 quintillion unrelated white persons, or 1 in 1.0 quintillion unrelated Hispanic persons.

¶ 21 Also, the watchband found underneath the victim's car tested positive for the presence of blood. DNA testing on the blood concluded that a major profile matched the victim's profile (meaning that the blood on the watchband belonged to the victim). Such a match would be

[2] The database was a criminal database known as CODIS, but pursuant to a pretrial motion *in limine* filed by defendant, the jury was only told that it was a "DNA database" and was not informed that it was made up of criminal offenders.

expected to occur in approximately 1 in 60 quintillion unrelated black persons, 1 in 3.8 quintillion unrelated white persons, or 1 in 100 quadrillion unrelated Hispanic persons.

¶ 22 At defendant's trial, the watch was shown to Mr. Tinnel, Ms. Reed, and to defendant's aunt, and they all identified it as belonging to defendant. Mr. Tinnel stated that he had seen defendant wearing the watch every day while defendant was staying at Mr. Tinnel's residence the week before the murder on October 22. Defendant's mother testified that a "few days" after the October 22 family party, defendant asked her if he had seen his watch, and she told him no.

¶ 23 Following all the evidence, the jury convicted defendant of robbery and first degree murder and the trial court sentenced him to natural life imprisonment under the Habitual Criminal Act (730 ILCS 5/4.5-95(a)(West 2016)). Defendant appeals.

¶ 24 Defendant contends that the State made improper remarks during rebuttal closing arguments that denied him a fair trial. A prosecutor is allowed wide latitude during closing arguments, and may comment on the evidence presented at trial, as well as any fair, reasonable inferences therefrom. *People v. Nicholas*, 218 Ill. 2d 104, 121 (2005); *People v. Cook*, 2018 IL App (1st) 142134, ¶61. On review, we consider the challenged remarks in the context of the record as a whole, in particular the closing arguments of both sides. *People v. Williams*, 313 Ill. App. 3d 849, 863 (2000). Statements are not improper if they were provoked or invited by defense counsel's argument. *People v. Glasper*, 234 Ill. 2d 173, 204 (2009). Reversal is warranted only if the prosecutor's improper remarks substantially prejudiced defendant, that is, if the remarks constituted a material factor in his conviction. *People v. Wheeler*, 226 Ill. 2d 92, 123 (2007).

¶ 25 As for our standard of review, defendant cites *Wheeler*, which held that "[w]hether statements made by a prosecutor at closing argument were so egregious that they warrant a new

trial is a legal issue this court reviews *de novo*." *Id.* at 121. The State responds that the applicable standard of review is unsettled, citing *People v. Kelley*, 2015 IL App (1st) 132782, ¶75, which noted that although the supreme court in *Wheeler* held that a *de novo* standard applied, it cited with approval *People v. Blue*, 189 Ill. 2d 99 (2000), which had applied an abuse of discretion standard. More recently, though, this court has held that a careful review of supreme court precedent reveals that no conflict exists, and that we will apply an abuse of discretion analysis to determinations about the trial court's decision as to the propriety of a prosecutor's remarks during argument, but will review *de novo* the legal issue of whether any improper remarks by the prosecutor were so egregious as to warrant a new trial. *Cook*, 2018 IL App (1st) 142134, ¶64; *People v. Davis*, 2018 IL App (1st) 152413, ¶68. We adhere to *Cook*'s analysis of the standard of review.

¶ 26 Defendant first complains about the following remarks made by the prosecutor during rebuttal argument:

> "ASSISTANT STATE'S ATTORNEY: Let me ask you this. If [defendant] got these rings from some type of legal means, let's all know one thing, is there any evidence in this case that [defendant] got these rings in any other manner—
>
> DEFENSE COUNSEL: Objection.
>
> ASSISTANT STATE'S ATTORNEY: —than wrenching them off the lifeless fingers of [the victim]?
>
> THE COURT: What's the basis of your objection?
>
> DEFENSE COUNSEL: Burden shifting.
>
> THE COURT: I don't believe it is burden shifting. It's overruled.

> ASSISTANT STATE'S ATTORNEY: If he got them by some legitimate means, why is the first thing he does when he gets up on the morning after the murder, goes to his brother James and say do you know a jeweler where I can take these rings? Where did he get them from? If he got them by legitimate means, how come they were tarnished which James, his brother, and Tina Marie, his sister-in-law, told you. Why were they dirty? If he got them in the way [defendant] wishes and hopes and prays that you believe he got them, why does he need to have the old engraving taken out and have them resized? It's because he killed for them. That was the price of [the victim's] life."

¶ 27 The prosecutor's argument was made in rebuttal to defendant's closing argument in which he claimed that the engagement ring and wedding band did not belong to the victim, and that like "countless" other people, defendant legally obtained the engagement ring and wedding band to propose to his "loved one."

¶ 28 Defendant argues on appeal that the prosecutor's rebuttal argument was error as it sought to shift the burden of proof by implying that he should have taken the witness stand and testified about how he obtained the wedding band and engagement ring through "legal means." The prosecution has the burden of proving defendant's guilt beyond a reasonable doubt. *People v. McGee*, 2015 IL App (1st) 130367, ¶69; *People v. Lopez*, 152 Ill. App. 3d 667, 677 (1987). It is improper for the prosecution to shift the burden of proof during argument. *Id.*; *People v. Johnson*, 208 Ill. 2d 53, 115 (2004). However, the prosecutor may properly comment on defendant's failure to submit any evidence supporting his theory of the case or refuting the State's case against him, as long as the prosecutor does not state that defendant was obligated to present evidence creating reasonable doubt of his guilt. See *People v. Luna*, 2013 IL App (1st)

072253, ¶129 (citing *People v. Albanese*, 104 Ill. 2d 504, 521-22 (1984)); *People v. Glasper*, 234 Ill. 2d 173, 212 (2009).

¶ 29 In the present case, the prosecutor's rebuttal argument was an allowable attack on defendant's theory that the engagement ring and wedding band did not belong to the victim and that he legally obtained the engagement ring and wedding band in order to propose to Ms. Reed. The inference that the prosecutor was instead asking the jury to draw—that defendant murdered the victim and robbed her of the wedding band and engagement ring, and passed them off as if he had obtained them legally—was based on the following evidence that the State introduced in its case-in-chief, *not* on any failure by defendant to present exculpatory evidence: (1) Mr. Tinnel's testimony indicating that when defendant temporarily moved in with him in October 2011, he did not have the money to pay for a wedding band and engagement ring; (2) the testimony of Mr. Tinnel and Ms. Scott that when defendant first showed them the wedding band and engagement ring on the night of the murder, they were tarnished and dull and looked old and used; (3) Mr. Tinnel's testimony that the morning after the murder, defendant asked him if he knew of a jeweler, thereby indicating that defendant had not himself purchased the wedding band and engagement ring from a jeweler; (4) Mr. Tinnel's, Ms. Scott's, and Mr. Torres' testimony regarding defendant's hiring of the jeweler the day after the murder to remove the existing engravings on the wedding band and ring and replace them with new engravings; (5) Ms. Reed's testimony that five days after the murder, defendant gave her the engagement ring and wedding band, which were engraved with her name and birth date, and proposed to her; and (6) Mr. Perillo's testimony identifying the engagement ring and wedding band recovered from Ms. Reed as belonging to his mother, the victim, and that they were readily identifiable to him because the victim "always" wore them.

¶ 30 An Illinois supreme court case, *Glasper*, 234 Ill. 2d at 173, is informative. In *Glasper*, the defendant there, Michael Glasper, was convicted of first degree murder and attempted first degree murder and sentenced to consecutive terms of 80 and 30 years' imprisonment. *Id.* at 179. On appeal to the supreme court, Mr. Glasper argued that the State shifted the burden of proof to him when it stated during rebuttal arguments, in response to his argument that his confession was coerced: "And that stuff that happened in that room earlier? Where's the evidence of that? Where is the evidence that this guy was treated anything other than as good as you are here in this room?" *Id.* at 212.

¶ 31 The supreme court found no erroneous shifting of the burden of proof, where: (1) the prosecutor's comments were invited by defendant's argument that he had been coerced into confessing; (2) the prosecutor was merely pointing out that no evidence existed to support defendant's theory of coercion, and (3) the prosecutor did not state that defendant was required to present evidence proving his innocence. *Id.*

¶ 32 Similarly, here, the prosecutor's comments during his rebuttal closing argument were invited by defendant's closing argument that he was innocently in possession of the wedding band and engagement ring because he was planning to propose to his "loved one." By arguing during rebuttal that the evidence indicated that the wedding band and engagement ring had been forcefully taken from the victim, the prosecutor was merely pointing out that there was no evidence supporting defendant's argument that they rightfully belonged to him instead of to the victim. The prosecutor never stated that defendant was required to present evidence proving his innocence. Accordingly, pursuant to *Glasper*, we find no error.

¶ 33 The cases cited by defendant, *People v. Beasley*, 384 Ill. App. 3d 1039 (2008), *People v. Smith*, 402 Ill. App. 3d 538 (2010), *People v. Euell*, 2012 IL App (2d) 101130, *People v. Lopez*,

152 Ill. App. 3d 667 (1987), and *People v. McGee*, 2015 IL App (1st) 130367, are factually inapposite. In *Beasley*, the State shifted the burden of proof by stating during closing argument that it was "unconscionable" for "the defense" not to test certain items for fingerprints. 384 Ill. App. 3d at 1048. In *Smith*, where the defendant was convicted of the attempted murder and aggravated battery of a peace officer, the prosecutor shifted the burden of proof during closing argument by directing the jury's attention to defendant's failure to testify that he did not know that the victim was a peace officer. 402 Ill. App. 3d at 548-49. In *Euell*, the State shifted the burden of proof by stating during closing argument that there was no evidence "from the defense standpoint" that a witness had attempted to frame the defendant, and by commenting on the questions that defendant should have asked the witness. 2012 IL App (2d) 101130, ¶20. In *Lopez*, the State shifted the burden of proof by specifically naming 11 witnesses that defendant failed to call as witnesses. 152 Ill. App. 3d at 678-79. In *McGee*, the State shifted the burden of proof by commenting on defendant's failure to call as witnesses two persons who were aware of facts material to the question of his guilt or innocence. 2015 IL App (1st) 130367, ¶71. In contrast to *Beasley*, *Smith*, *Euell*, *Lopez*, and *McGee*, the prosecutor's comments here during rebuttal closing argument were invited by the defendant's closing argument regarding his theory of the case that defendant was legally in possession of the wedding band and engagement ring. The prosecutor pointed out that there was no evidence supporting defendant's theory, but the prosecutor never stated or implied that defendant was required to provide any evidence proving his innocence. Accordingly, we find no reversible error.

¶ 34 Defendant next argues that the prosecutor misstated the evidence by arguing that defendant had the old engraving on the engagement ring and wedding band removed. Defendant's contention is without merit. Mr. Tinnel and his wife, Ms. Scott, testified that on the

day after the murder, he drove defendant to a jeweler, Mr. Chong, so that the engagement ring and wedding band could be cleaned, resized, and engraved. In turn, Mr. Chong brought the jewelry to Mr. Torres to perform the requested work. Mr. Torres testified to removing the old engravings and putting in new engravings. Accordingly, the prosecutor's comment accurately summarized the testimony of Mr. Tinnel, Ms. Scott, and Mr. Torres and was not error.

¶ 35 Finally, defendant contends that the prosecutor made "dishonest" remarks in rebuttal closing argument in response to defendant's closing argument that had asked why the State never took any DNA from the neighbor who was on parole, Mr. Tejerna, to test whether his DNA was also on the watch recovered from the victim's car. The State argued in rebuttal:

> "ASSISTANT STATE'S ATTORNEY: Talk about the parolee next door. And you hear the parolee next door, and you think that's a gift from the gods, it's got to be. But what evidence in this case is there that ties Anastasio Tejerna to this crime? Why didn't they get his DNA? *** Can you imagine the conversation that the detective would have had going in front of a judge to try to get this guy strapped down get his DNA—
>
> DEFENSE COUNSEL: Objection.
>
> THE COURT: Objection is overruled.
>
> ASSISTANT STATE'S ATTORNEY: Great, detective, what do you got? He is on parole. What else do you got? He lives next door. Are you kidding me, are you kidding me? Can you imagine the questions that the judge would ask once he stopped laughing. What were the proceeds in the case? Some rings and some money. Is there any evidence that the parolee next door has them? No, but that guy had them. Oh, well, how about any physical evidence at the scene? Well, there is a watch found at the scene. Oh, was it the parolee's watch, do people identify it? No, they all say it's that guy's watch. How about

forensic science, science, DNA? Yeah, we got some of that. We got a major profile with 1 in 3.5 with 18 zeros after it with a match. Is that [the] parolee's? No, it's that guy's."

¶ 36 Defendant argues on appeal that pursuant to section 5-4-3 of the Unified Code of Corrections (730 ILCS 5/5-4-3 (West 2016)), Mr. Tejerna would already have been required to provide a DNA sample for use in the Combined DNA Index System (CODIS) prior to his release on parole, meaning that the prosecutor was "dishonest" when he argued that he would have had to go in front of a judge and convince him to "strap down" Mr. Tejerna so as to retrieve his DNA.

¶ 37 Initially, we note that prior to trial, defendant filed a motion *in limine* asking that the State be barred from referring to CODIS as an "offender database," or otherwise informing the jury as to how those profiles got in the database. The court granted the motion, ordering the prosecutor to refer to CODIS only as a "computerized database" with no mention that it is made up of criminal offenders. Thus, defendant's own *in limine* motion prevented the State from informing the jury that, as a parolee, Mr. Tejerna's DNA was already present in CODIS.

¶ 38 Further, contrary to defendant's argument on appeal, the prosecutor's statement during rebuttal closing argument that a search warrant would be needed to collect Mr. Tejerna's DNA was not "dishonest" where the trial testimony established that the officers obtained just such a search warrant for confirmatory samples of defendant's own DNA, even though his DNA was also already present in CODIS. Given this context, we find no error in the prosecutor's rebuttal argument that the State would have had to similarly go into court and seek a search warrant for Mr. Tejerna's DNA. The State's argument as to why such a search warrant was unlikely to have been granted, specifically, that Mr. Tejerna was not found with any of the proceeds from the victim, and that the watch recovered from the victim's car was identified by defendant's family

members as belonging to him, and was conclusively matched to defendant via DNA evidence, accurately reflected the evidence at trial and was not error.

¶ 39 Also, even if the prosecutor's argument did constitute error, it did not constitute a material factor in defendant's conviction given all the evidence against him, specifically: the evidence that the victim was beaten to death in her garage and robbed of the money in her black handbag sometime between 7:15 p.m. and 9:15 p.m. on October 22, 2011; the testimony of defendant's brother and sister-in-law concerning his staying with them near the victim's house, and his late arrival to the family party at about 10 p.m. on the night of the murder; defendant's wearing of new clothes and his flashing of a wad of cash including multiple $100 dollar bills at the family party on the night of the murder, and his lies that he obtained the cash from an ex-girlfriend; defendant's display at the family party of a dull engagement ring and wedding band, which he took to the jeweler the next day to have old engravings removed, and to have them resized and engraved to Ms. Reed; defendant's proposal to Ms. Reed five days after the murder, during which he gave her the newly engraved engagement ring and wedding band; the victim's son's subsequent identification of the engagement ring and wedding band as belonging to the victim, and his explanation that he could positively identify the engagement ring and wedding band because he had seen them "countless" times while growing up as the victim always wore them; the DNA evidence and witness testimony conclusively identifying the watch found in the victim's car as belonging to defendant; and the DNA evidence conclusively identifying the blood on the watchband underneath the victim's car as belonging to the victim. Given all this evidence, we cannot say that the complained-of prosecutorial remarks constituted a material factor in defendant's conviction, and therefore reversal is not warranted. See *Wheeler*, 226 Ill. 2d at 123.

¶ 40 Defendant argues that the evidence was close, such that any error during rebuttal argument was prejudicial, because the "narrow time frame" did not provide him with enough time to attack the victim, clean up, and get to the party at his mother's house about 15 miles away. However, contrary to defendant's argument, the evidence indicated that the attack could have occurred just after 7:15 p.m., and that defendant arrived at the party at around 10 p.m., giving him almost 3 hours to attack the victim, clean up, and travel to his mother's house. The time frame was not so "narrow" as to preclude defendant from having committed the offense.

¶ 41 Finally, any error was cured where the trial court instructed the jury that closing arguments are not evidence and that it should disregard any argument not based on the evidence. See *People v. Desantiago*, 365 Ill. App. 3d 855, 866 (2006).

¶ 42 For all the foregoing reasons, we affirm the circuit court.

¶ 43 Affirmed.