2011 IL App (2d) 091278-U
No. 2—09—1278
Order filed July 6, 2011

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Circuit Court of Winnebago County.
Plaintiff-Appellee,	)	
v.	)	No. 06—CF—2363
RYAN T. HARMON,	)	Honorable John R. Truitt,
Defendant-Appellant.	)	Judge, Presiding.

JUSTICE BOWMAN delivered the judgment of the court.
Presiding Justice Jorgensen and Justice McLaren concurred in the judgment.

ORDER

Held: Defendant was proven guilty of arson beyond a reasonable doubt, and the trial court did not err by allowing the State to impeach defendant with his juvenile adjudications.

¶ 1 Following a jury trial, defendant, Ryan T. Harmon, was found guilty of six counts of aggravated kidnaping (720 ILCS 5/10—2(a) (West 2006)), one count of robbery (720 ILCS 5/18—1(a) (West 2006)), one count of vehicular hijacking (720 ILCS 5/18—3(a) (West 2006)), and one count of arson (720 ILCS 5/20—1(a) (West 2006)). Convictions were entered on three of the aggravated kidnaping counts and the arson count. Defendant was sentenced to concurrent terms of

20 years' imprisonment for the aggravated kidnaping convictions and a consecutive 5-year sentence for the arson conviction. On appeal, defendant argues that: (1) there was insufficient evidence to prove him guilty beyond a reasonable doubt of arson, and (2) he was denied a fair trial when he was improperly impeached with a prior juvenile adjudication. We affirm.

¶ 2 I. BACKGROUND

¶ 3 On June 28, 2006, defendant was charged by indictment with the aforementioned crimes. The aggravated kidnaping charges alleged, in relevant part, that on June 3, 2006, defendant and Kenneth Chandler kidnaped M.F. (later identified as Michael Feehan) by knowingly and secretly confining him against his will. The charges were aggravated based on alleged acts of punching Feehan and breaking his teeth, robbing Feehan of his wallet, and taking a Buick from him by force. The arson count alleged that defendant, by means of a fire, damaged the Buick, which was owned by Ellen and Jeffrey Feehan. An additional count of robbery, alleging that defendant and Chandler took a woman's purse, was severed from defendant's trial. Co-defendant Chandler's case was also severed from defendant's case.

¶ 4 Prior to trial, the State filed several motions *in limine*, including a motion to allow evidence of defendant's prior juvenile adjudications for impeachment purposes should defendant choose to testify. The trial court initially reserved ruling on the motion. Later, in the midst of the State's case, the trial court ruled that, pursuant to *People v. Harris,* 375 Ill. App. 3d 398 (2007), *aff'd* 231 Ill. 2d 582 (2008), juvenile adjudications are not generally admissible to impeach a defendant's credibility. The trial court stated that the State could impeach defendant with the adjudications only if he first "open[ed] the door" by testifying falsely, such as by saying that he had never been in trouble with the law before or never had prior experience dealing with the police.

¶ 5 Witness testimony began on May 19, 2009. According to evidence presented by the State, then 16-year-old Michael Feehan left the Billiard Café in Rockford on June 2, 2006, at about 11:50 p.m. He got into his car, a 1992 maroon Buick, and put his wallet, phone, and pool cue on the passenger seat. Two black men, later identified as the then 17-year-old defendant and Chandler, approached; defendant came to the driver side window and Chandler came to the passenger side window. Feehan rolled down his window, and defendant asked if he had a lighter. Feehan said that he did not smoke. Defendant then asked if he had any alcohol. Feehan said no, and he said that he would give them some money to buy a lighter at the gas station across the street. Feehan reached over to get his wallet, and when he turned to look back, defendant punched him in the left side of the face, knocking out some teeth.

¶ 6 The men dragged Feehan out of the car and hit and kicked him, telling him to get into the trunk. Feehan complied because they threatened to kill him otherwise. The men searched Feehan for his wallet, and after he told them it was in the car, they closed the trunk. They drove off, with Feehan screaming from the trunk. Feehan heard them talking to other people during some stops, and he also heard them talking to people using the speaker phone on his cell phone.

¶ 7 After several hours, the men popped the trunk and put Feehan's pool cue "over the bed of the trunk" so that he could not sit up or move. They told him that if he did not stop making noise, they would kill him, but if he stopped, he would make it through. Feehan saw that defendant had duct tape with blood seeping through it on his left hand; defendant did not have that on his hand before he punched defendant. The men closed the trunk again. For the majority of the time that Feehan was in the trunk, the car was moving and Feehan was awake, though he also fell asleep at some point.

¶ 8 The next morning, Feehan asked for food and water, and the men stopped and gave him food and water from McDonald's while he was still in the trunk. Later, he heard them driving on a gravel road that he felt like they had already been on, but this time they popped the trunk and started tying him up with duct tape. They were near an abandoned house in a forested area. The men threw Feehan into an outhouse on the property and used branches to secure the door. They told Feehan that they were going to come back, and if he tried to escape and they found him, they would kill him.

¶ 9 After the men drove off, Feehan freed himself from the duct tape and got the door open. He ran to a house where he found some people outside. They helped him call the police and his family. Feehan's father drove him to the hospital, where he was diagnosed with having multiple blunt contusions to the chest and face, a large abrasion on his upper lip, and a fractured front incisor.

¶ 10 Regarding the Buick, Feehan's father, Jeffrey Feehan (Jeffrey), testified that the car was "in pretty good shape, had close to 200,000 miles, [and was] very dependable." It had some rust under the door but no major dents. The interior had leather seats. Jeffery described the car as "pretty loaded," with "all the options." Michael Feehan testified that his parents bought the car less than one year before and that "[i]t was probably like a 1500 dollar car." It was in relatively the same condition in June 2006 as when his family bought it. When asked if it would be fair to say that it was worth more than $150 on June 2, Feehan replied, "For sure."

¶ 11 On June 4, 2006, the police located the Feehans' Buick in a wooded area near an intersection. There were two sets of tire marks in the grassy area, showing that two vehicles had been there. The Buick's interior had smoke and heat damage, and a small area in the back seat was burned. A gas can was in the front seat, with a pair of gloves under it. A partially burnt piece of paper, Feehan's class schedule, was outside on the ground next to the passenger side of the car. An arson investigator

testified that the fire originated in the back seat and was intentionally set. He opined that the fire died out from a lack of oxygen because all of the car's windows and doors were closed. Inside the trunk, the police located a half-eaten burger and a cup from McDonald's, as well as a bag from McDonald's containing a receipt. Pictures from McDonald's security cameras from a time corresponding to the receipt showed a man identified as defendant purchasing food. The pictures also showed gauze or duct tape on his left hand.

¶ 12 A detective qualified as an expert in the area of fingerprint recovery and identification testified that he could not obtain fingerprints from the car's interior due to the soot that was coating everything. He recovered one latent fingerprint from the outside driver's side window, and he matched the print to Chandler. He also matched a latent print from the back of the school schedule to defendant's left thumb.

¶ 13 Defendant provided the following testimony. He was helping his aunt move on "Thursday" and "Friday" (June 2 and 3, 2006), and he cut his hand on Friday while helping move a couch. Therefore, his hand was wrapped in gauze and tape. Also on Friday, Chandler, a friend of defendant's, called and told him he had just come back from Texas. The following day, Chandler picked him up in a maroon Buick, and defendant was with him for about 1½ hours. During that time, they drove to Chandler's friend's house and later picked up a few friends they saw outside. They next drove to the house of a person named Savante. Defendant left Savante's house with Chandler, and Chandler asked defendant to buy some food for him at McDonald's because he was feeling lazy. Defendant admitted being in the video from McDonald's. Defendant gave Chandler the food and asked to be dropped off at his aunt's house so he could keep helping her move. He got there at about 1:30 or 2 p.m. That night, defendant "rapped" with some friends and then went home.

¶ 14 Defendant testified that he was in the passenger's seat of the Buick when he was with Chandler. He did not remember touching any papers in the car but may have. Defendant denied striking Feehan and throwing him in the trunk. When asked if he threatened Feehan, defendant responded: "No. Honestly, I'm a peaceful guy, don't have no reason to threaten nobody or do nothing to nobody." The State objected, and the trial sustained the objection "as to the last part." At the bench, the State argued that defendant had opened the door to impeachment. Defense counsel argued that the juvenile adjudications did not go towards peacefulness. The trial court ruled that the door had been opened.

¶ 15 On cross-examination, defendant admitted that he was left-handed. He did not recall telling officers on July 4, 2006, that he was homeless. Defendant believed that he told the detectives that he knew about the warrant for his arrest and was planning on turning himself in. Defendant did not know if he told the detectives he had not been riding in a maroon Buick on June 2, 3, or 4. Defendant agreed that he did not tell the detectives that he had hurt his hand while moving furniture.

¶ 16 In rebuttal, an officer testified that on November 6, 2003, defendant received juvenile adjudications for attempted residential burglary and residential burglary. Another officer testified that on July 4, 2006, defendant told the police that he was homeless. Defendant denied knowing Chandler and Savante Brown and said that he had not been in a red Buick on June 2 or 3. The officer asked if defendant got the cut on his left hand from striking Feehan, and defendant said that he did not know what the officer was talking about. Defendant also said that he did not know what the officer was talking about when asked about being seen on the McDonald's video.

¶ 17 Following the jury's guilty verdicts, defendant filed a posttrial motion, which was denied on August 28, 2009. After sentencing, defendant filed a motion to reconsider the sentence, which was denied on December 4, 2009. Defendant timely appealed.

¶ 18 II. ANALYSIS

¶ 19 A. Sufficiency of the Evidence for Arson Conviction

¶ 20 Defendant first argues that he was not proven guilty beyond a reasonable doubt of arson because the prosecution failed to establish that he started the fire and failed to establish the value of the car. Defendant argues that we should review this issue *de novo* because he is not questioning the credibility of the witnesses and is questioning only whether the uncontested facts were sufficient to prove the elements of arson. Defendant cites *In re Ryan B.*, 212 Ill. 2d 226, 231 (2004), where our supreme court applied such a standard. However, that case and others like it where the supreme court applied a *de novo* standard to claims of insufficiency of the evidence (see *People v. Lucas*, 231 Ill. 2d 169, 174 (2008); *People v. Smith*, 191 Ill. 2d 408, 411 (2000)) are distinguishable because they were construing the meaning of statutory terms as applied to facts, unlike this case. See *People v. Jones*, 376 Ill. App. 3d 372, 382 (2007) (distinguishing cases); *People v. Rizzo*, 362 Ill. App. 3d 444, 449 (2005) (same). Further, defendant indirectly contests some facts, such as whether there was definitive evidence that he was left-handed or whether the class schedule was found inside the car. Where there are contested facts, a *de novo* standard is also inappropriate. See *People v. Sims*, 374 Ill. App. 3d 231, 249 (2007).

¶ 21 Therefore, we will apply the traditional standard for reviewing a claim of insufficiency of the evidence. We must determine whether, after viewing the evidence in the light most favorable to the prosecution, *any* rational trier of fact could have found the essential elements of the crime beyond

a reasonable doubt. *Jackson v. Virginia*, 443 U.S. 307, 319 (1979); *People v. Collins*, 106 Ill. 2d 237, 261 (1985). The trier of fact has the responsibility to assess witnesses' credibility, weigh their testimony, resolve inconsistencies and conflicts in the evidence, and draw reasonable inferences from the evidence. *People v. Sutherland*, 223 Ill. 2d 187, 242 (2006). We will not set aside a criminal conviction unless the evidence is so improbable or unsatisfactory that it creates a reasonable doubt of the defendant's guilt. *People v. Siguenza-Brito*, 235 Ill. 2d 213, 225 (2009).

¶ 22 In order to prove defendant guilty of arson as charged, the State had to prove that, by means of fire, defendant damaged personal property of another (the Buick) without his consent, and the property had a value of $150 or more. See 720 ILCS 5/20—1(a) (West 2006). Defendant first argues that there was insufficient evidence that he was the one who burned the Buick. Defendant notes that the prosecution's theory regarding his involvement with burning the Buick was that:

> "the left-handed man who threw that punch that broke Michael Feehan's front tooth used his left hand to hold this piece of paper, light it on fire and that's why his left thumb print is so clearly displayed right here *** It was a fire set by this Defendant."

Defendant contends that while it was reasonable for the jury to conclude that he punched defendant, it was unreasonable to then leap to the conclusion that he lit a piece of paper on fire to burn the Buick.

¶ 23 Defendant argues as follows. There was evidence to show that Chandler drove the Buick at some point because Chandler's print was found on the driver's side window. Although defendant's left thumb print was found on the class schedule, there is no telling when his print got on the schedule, as he could have picked up the paper and left the print on it while riding in the passenger seat between June 2 and 4. If he were right-handed, it would make sense for him to pick up

something to the left of him with his left hand. If he were left-handed, it would not make sense for him to hold the paper with his left hand and light it with his right hand. There was no evidence that the class schedule was used to start the fire, as the testimony was inconsistent as to whether the paper was found outside the car or inside on the front seat, whereas the primary burn damage occurred in the back seat. The State did not present any evidence of when the fire was set, or that defendant was with Chandler at that time. It might be argued that it was logical for him and Chandler to want to destroy evidence of their crimes against Feehan, but the jury was not instructed on accountability, and there was no evidence to show who was actually involved with setting fire to the Buick.

¶ 24 We conclude that there was sufficient evidence that defendant was involved in setting fire to the Buick. Although no one saw defendant lighting the car on fire or at the scene of the arson, a " 'conviction can be sustained upon circumstantial evidence as well as upon direct, and to prove guilt beyond a reasonable doubt does not mean that the jury must disregard the inferences that flow normally from the evidence before it.' " *People v. Patterson*, 217 Ill. 2d 407, 435 (2005), quoting *People v. Williams*, 40 Ill. 2d 522, 526 (1968). Arson in particular is, by nature, secretive and usually not capable of direct proof. *People v. Dukes*, 146 Ill. App. 3d 790, 794 (1986). Defendant and Chandler were the last people seen by Feehan with the Buick, and they were the only people known to have a motive to destroy it. Further, there were two sets of tire marks where the Buick was found, which would indicate that at least two people were at the scene and most likely drove off in the second vehicle after setting fire to the Buick. As the State points out, there was also evidence that defendant was the main actor in hijacking the car and kidnaping Feehan, as he was the one who approached the driver's side window, punched Feehan, and bought the food from McDonald's. Defendant's leadership role in the prior sequence of events creates at least a slight inference that he

likely took an active part in lighting the Buick on fire. More importantly, however, is also the undisputed fact that defendant's left thumb print was found on the partially-burned class schedule. Defendant argues that the location of the schedule was contested, but all of the initial witnesses at the scene and those charged with gathering the physical evidence stated that it was outside the car, as shown by photographs from the scene. The only witness testifying that he saw the class schedule inside the car was Detective Hoey, who also stated that the detectives who arrived before had the role of photographically documenting evidence and recovering it, and they may have moved the paper. In any event, viewing the evidence in the light most favorable to the State, there was ample evidence that the schedule was found outside the car.

¶ 25 Defendant admitted on cross-examination that he was left-handed, removing any question as to whether he may have been right-handed. Although he argues that it would not make sense for him to light the paper with his right hand, a rational trier of fact could surmise that he could have held the paper with his right hand while holding a lighter with his left hand and then transferred the paper to his left hand before setting the car on fire. Or, defendant could have held the paper with his left hand while Chandler lit it. Further, the jury could reasonably infer that defendant used the paper to start the fire in the back seat and then threw or dropped the paper on the ground, especially considering that it was the only object found outside of the car and that it was burned even though the fire inside the car self-extinguished from a lack of oxygen. In sum, viewing all of the evidence in the light most favorable to the State, the circumstantial evidence here was sufficient for a rational jury to conclude beyond a reasonable doubt that defendant was involved with setting fire to the car. Defendant's explanations of how his print may have otherwise appeared on the schedule is merely

a hypothesis of innocence that the trier of fact was not required to accept and elevate to the status of reasonable doubt. See *People v. Evans*, 209 Ill. 2d 194, 212 (2004).

¶ 26 Defendant also argues that there was insufficient evidence that the Buick was worth over $150. Defendant argues that although there was evidence that the car was "probably" worth $1,500 in 2005, there was no evidence as to the value of the car in June 2006, when the incident was alleged to have occurred. Defendant maintains, "There was not a word of testimony regarding value at the relevant time," as required as an element of arson. Defendant argues that the mechanical condition of a 10 to15-year-old car could conceivably render it valueless. Defendant argues that there were photographs showing damage to the car after the arson but no expert testimony or estimate to prove the car's value at the relevant time.

¶ 27 Defendant's argument is meritless. Testimony established that the car was a 1992 Buick with about 200,000 miles on it. Jeffrey testified that the car was "pretty loaded" with "all the options." He also testified that it was "in pretty good shape" and "very dependable," thereby providing evidence of its mechanical condition. That it was operating without detrimental problems was also shown by the fact that defendant and Chandler were able to drive it for the more than 12 hours Feehan was in the trunk. Feehan testified that his parents bought the car less than one year before, probably for $1,500. In direct contradiction to defendant's argument that there was no evidence of its value at the time in question, Feehan was asked if it was worth more than $150 *on June 2* and responded in the affirmative.

¶ 28 The "owner of property of a usual and ordinary nature may testify to its value where he has some familiarity with the property." *People v. Richardson*, 169 Ill. App. 3d 781, 784 (1988). On point is the State's cite to *People v. Nelson*, 117 Ill. App. 2d 431 (1969). There, a car's owner

testified that he had purchased a car for $1,358 and that its value at the time of its theft was about $800 or $900. *Id.* at 432. The court stated that cars, like furniture, are commonplace; that there were relatively few makes of cars; and that their prices are better known and more widely discussed than any other important article of commerce. The court held that the owner's testimony established beyond a reasonable doubt that the car was worth over $150. *Id.* at 433. Defendant argues that there are many more makes of cars on the road today than in the 1960s, when *Nelson* was decided, and that people now are not as familiar with the value of used cars. Defendant's argument is not persuasive, as the more commonplace nature of cars today could indicate that a greater percentage of people personally own cars and therefore should have an increased familiarity with their value. Significantly, the State was not required to prove the exact value of the Buick beyond a reasonable doubt, but only that it was worth more than $150. The description of the Buick's condition was more extensive here than that revealed in *Nelson*; there was testimony regarding the purchase price of the car from Feehan, who also testified that it was worth more than $150 at the time in question; it is undisputed that the car was operable; and the jury was able to view photographs of the car. Accordingly, there was sufficient evidence presented for the jury to conclude beyond a reasonable doubt that the car was worth more than $150 at the time of the arson.

¶ 29 B. Juvenile Adjudications

¶ 30 Defendant next argues that the trial court erroneously allowed him to be impeached with his previous juvenile adjudications, thereby denying him a fair trial. The trial court ruled that the State could impeach defendant only if he first opened the door to such impeachment through his testimony. When defendant was questioned on the stand if he threatened Feehan, he responded: "No. Honestly, I'm a peaceful guy, don't have no reason to threaten nobody or do nothing to

nobody." The State objected, and the trial court sustained the objection "as to the last part." The State then argued at the bench that defendant had opened the door to impeachment, and the trial court agreed, allowing the State to subsequently introduce evidence of defendant's juvenile adjudications. Defendant argues that juvenile adjudications are not generally allowed for impeachment; that his testimony did not open the door to such impeachment; and that the trial court should not have allowed such impeachment because it had already sustained the State's objection to his statement, thereby removing it from the jury's consideration.

¶ 31 Defendant argues that we should review this issue *de novo* because the facts are uncontested and the question is whether, as a matter of law, the prior juvenile adjudications were admissible into evidence. We agree that the question of whether juvenile adjudications can be used at all against a testifying defendant is a question of law that we review *de novo*. *People v. Villa*, 403 Ill. App. 3d 309, 314 (2010), *appeal allowed*, 237 Ill. 2d 586 (Sept. 29, 2010). However, if we determine that juvenile adjudications are admissible, we will review the trial court's decision to admit defendant's adjudications under the circumstances of this case under an abuse of discretion standard. See *People v. Mullins*, 242 Ill. 2d 1, 7 (2011) (a trial court's decision to allow impeachment of a defendant by admitting a prior conviction is reviewed for an abuse of discretion).

¶ 32 The State argues that defendant forfeited his argument by not raising it in a posttrial motion. See *People v. Enoch*, 122 Ill. 2d 176, 186 (1988) (to preserve an issue for review, the defendant must object at trial and raise the issue in a written posttrial motion). However, defendant asks that we review the issue for plain error. The plain error doctrine allows a reviewing court to consider an unpreserved error where either (1) a clear error occurs and the evidence is closely balanced, or (2) a clear error occurs that is so serious that it affected the fairness of the trial and challenged the

integrity of the judicial process. *People v. Piatkowski*, 225 Ill. 2d 551, 564-65 (2007). In applying the plain error test, the first step is to determine whether error occurred at all. See *Piatkowski*, 225 Ill. 2d at 565.

¶ 33 Citing *People v. Montgomery*, 47 Ill. 2d 510, 517 (1971), defendant argues that a juvenile adjudication cannot be used for impeachment purposes. In *Montgomery*, our supreme court adopted a draft of Federal Rule of Evidence 609, which provided the following regarding juvenile adjudications:

> " 'Evidence of juvenile adjudications is generally not admissible under this rule. The judge may, however, allow evidence of a juvenile adjudication *of a witness other than the accused* if conviction of the offense would be admissible to attack the credibility of an adult and the judge is satisfied that admission in evidence is necessary for a fair determination of the issue of guilt or innocence.' " (Emphasis added.) *Montgomery*, 47 Ill. 2d at 517, quoting 51 F.R.D. 391.

Thus, impeachment of a defendant with a juvenile adjudication was prohibited under *Montgomery*.

¶ 34 Later, the legislature amended section 5—150(1)(c) of the Juvenile Court Act of 1987 (705 ILCS 405/5—150(1)(c) (West 2008)) to provide that juvenile adjudications are admissible:

> "in criminal proceedings in which anyone who has been adjudicated delinquent under Section 5—105 [(705 ILCS 405/5—105 (West 2008))] is to be a witness *including the minor or defendant if he or she testifies*, and then only for purposes of impeachment and pursuant to the rules of evidence for criminal trials." (Emphases added.) 705 ILCS 405/5—150(1)(c) (West 2008).

This court has held that under the amended version of section 5—150(1)(c), a defendant's prior juvenile adjudication may be used to impeach him in the same manner as adult convictions, using the *Montgomery* balancing factors. *Villa*, 403 Ill. App. 3d at 317.

¶ 35 In *People v. Bond*, 405 Ill. App. 3d 499 (2010), the Fourth District disagreed with our holding in *Villa*. The *Bond* court held that section 5—150(1)(c) requires impeachment of a defendant with a juvenile adjudication to be done pursuant to the rules of evidence for criminal trials, and the rule adopted in *Montgomery* prohibits such impeachment. *Id.* at 512. The *Bond* court further pointed out that this state's newly codified rules of evidence include the rule announced by the *Montgomery* court. *Id.* at 509, citing Ill. R. Evid. 609(d) (eff. Jan. 1, 2011). The court noted that the committee comments to Rule 609 state that the codification of *Montgomery* in Rule 609(d) was not intended to resolve the issue of whether section 5—150(1)(c) makes juvenile adjudications admissible for impeachment purposes. *Id.*, citing Ill. R. Evid. 609(d), Committee Comments (eff. Jan. 1, 2011). However, the court also cited Rule of Evidence 101, which states that a rule of evidence or supreme court decision control over a statutory rule of evidence. *Id.*, citing Ill. R. Evid. 101 (eff. Jan. 1, 2011).

¶ 36 Still, Rule 609(d) does not purport to resolve any alleged conflict between section 5—150(1)(c) and *Montgomery*, and *Villa* held that there was no conflict. *Villa*, 403 Ill. App. 3d at 317. The *Villa* court addressed the separation of powers issue, stating that the legislature has the power to amend a statute to alter a rule of evidence announced in a judicial decision. *Id.* at 318. Thus, the precedent in this district remains that, as a matter of law, a testifying defendant may be impeached with juvenile adjudications, just as with adult convictions.

¶ 37 We note that in this case the trial court did not rule that the State could automatically impeach defendant with his prior juvenile adjudications simply because he chose to take the stand, but rather ruled that the State could impeach defendant only if he first opened the door to such impeachment through his testimony. The trial court relied on *Harris*, 375 Ill. App. 3d 398. There, the appellate court held that juvenile adjudications are generally not admissible to impeach a defendant's credibility, but they may be offered for impeachment when an adult defendant takes the stand and testifies falsely or presents a false or misleading portrayal of himself. *Id.* at 406. The court held that the defendant sufficiently opened the door for the admission of his juvenile record when he testified, " 'I don't commit crimes.' " *Id.* at 400, 407. Our supreme court affirmed. *People v. Harris*, 231 Ill. 2d 582 (2008). It stated that "[t]here is no question that a defendant can open the door to the admission of evidence that, under ordinary circumstances, would be inadmissible." *Id.* at 588. Our supreme court held that the trial court acted within its discretion in allowing the State to impeach defendant with evidence of his prior juvenile adjudications, because although the defendant may have been trying to communicate how he was currently living his life, it was reasonable for the trial court to construe his statement as a comprehensive denial of ever having engaged in crimes. *Id.* at 591.

¶ 38 Accordingly, regardless of the conflict between *Villa* and *Bond*, it is clear that a defendant may be impeached with a juvenile conviction if he first opens the door to such impeachment through his testimony. See *People v. Rodriguez*, 408 Ill. App. 3d 782, __ (2011). Here, when asked if he threatened Feehan, defendant responded: "No. Honestly, I'm a peaceful guy, don't have no reason to threaten nobody or do nothing to nobody."

¶ 39 Defendant argues that this case is distinguishable from *Harris* because there the defendant stated, "I don't commit crimes," whereas here he did not claim to have led a crime-free life. Defendant argues that the central question is whether a defendant is attempting to mislead the jury about his criminal background. See *Harris*, 231 Ill. 2d at 590 (stating that the pivotal question was whether the defendant was "attempting to mislead the jury about his criminal background" when he stated that he did not commit crimes). Defendant maintains that his comment that he was a "peaceful guy" was not a comprehensive denial of his criminal history, but rather more akin to testimony about a character trait that cannot be impeached by specific acts of misconduct.

¶ 40 Defendant's argument is not persuasive. The *Harris* court did state that the issue in that particular case was whether the defendant was trying to mislead the jury about his criminal background when he stated that he did not commit crimes. *Id.* However, that does not mean that a defendant can be impeached with a juvenile adjudication only if he tries to mislead the jury about his criminal background. Rather, the question is whether the defendant was attempting to mislead the jury through his testimony. See *id.* at 591; *Villa*, 403 Ill. App. 3d at 319 ("the question for admissibility is not whether defendant testified to having led a crime-free life; rather, the 'pivotal question' is whether defendant testified in a manner that may be reasonably construed as an attempt to mislead the jury"); see also *Rodriguez*, 408 Ill. App. 3d at __ (the defendant opened the door to be impeached with his juvenile adjudications when he gave contradictory testimony about what he told the police and acknowledged that he lied to them). In any event, such a distinction is not critical here. In response to the question of whether he had threatened Feehan, defendant testified: "No. Honestly, I'm a peaceful guy, don't have no reason to threaten nobody or do nothing to nobody." We give great deference to a trial court's interpretation of witness testimony (*Harris*, 231

Ill. 2d at 590), and here we conclude that it was reasonable for the trial court to interpret defendant's response as a blanket statement that he never would and never had committed a crime against another person, similar to the assertion of a crime-free life *Harris*. Therefore, pursuant to *Harris*, the trial court acted within its discretion by allowing the State to impeach defendant with evidence of his juvenile adjudications.

¶ 41 Defendant further argues that the trial court improperly admitted the impeachment evidence because the trial court had already sustained the State's objection to his statement. Defendant maintains that sustaining an objection removes the subject from the jury's consideration. See *People v. Reed*, 108 Ill. App. 3d 984, 993 (1982). Defendant argues that once the trial court sustained the objection, the State should not have been allowed to then carry through on the very subject that was removed from the jury's consideration.

¶ 42 Defendant's argument is not persuasive. First, the trial court's ruling was unclear, as it stated that it was sustaining the objection "as to the last part," without additional clarification. The trial court also never instructed the jury to disregard the testimony. Further, when the State subsequently asked, at the bench, to impeach defendant with his juvenile adjudications based on his testimony and the trial court granted that request, the trial court effectively reversed its ruling and allowed defendant's testimony to stand.

¶ 43 In sum, the trial court barred the State from impeaching defendant's with his juvenile adjudications unless defendant first opened the door to such impeachment through his testimony. Despite this advance notice, defendant proceeded to testify in a manner that the trial court could reasonably construe as a denial of having ever committed a crime against another person, thereby allowing the State to offer the impeachment evidence under *Harris*. Even if, *arguendo*, defendant

is correct that *Harris* requires more of a direct denial of a criminal background or that the trial court should not have allowed such impeachment because it first sustained the State's objection, under *Villa* the State was allowed to introduce evidence of defendant's juvenile adjudications in the same manner as adult convictions for impeachment, using the *Montgomery* balancing test. The record shows that the trial court applied the balancing test to defendant's juvenile adjudications, thereby making the necessary findings for the State to introduce them for impeachment purposes regardless of the content of defendant's testimony. As we have found no error in the trial court's ruling, there can be no plain error. *People v. Calhoun*, 404 Ill. App. 3d 362, 382 (2010).

¶ 44 Defendant additionally argues that his trial counsel was ineffective for not arguing that *Montgomery* expressly prohibits the introduction of a defendant's prior juvenile adjudications and for failing to include the impeachment issue in his posttrial motion. To prevail on a claim of ineffective assistance of counsel, a defendant must satisfy the two-pronged test set forth in *Strickland v. Washington*, 466 U.S. 668 (1984). *People v. Albanese*, 104 Ill. 2d 504, 526 (1984). The defendant must first establish that, despite the strong presumption that counsel acted competently and that the challenged action was the product of sound trial strategy, counsel's representation fell below an objective standard of competence under prevailing professional norms, to the extent that he or she was not functioning as the counsel guaranteed by the sixth amendment. *People v. Manning*, 227 Ill. 2d 403, 416 (2008). Second, the defendant must establish prejudice by showing a reasonable probability that the proceeding would have resulted differently had counsel's representation not been deficient. *People v. Houston*, 229 Ill. 2d 1, 11 (2008). Here, defendant cannot satisfy either prong, as we have examined the merits of his argument and concluded that, as a matter of law, juvenile adjudications are admissible in the same manner as adult convictions, and, even otherwise, under

Harris the trial court acted within its discretion when it allowed the State to impeach defendant with his adjudications.

¶ 45 III. CONCLUSION

¶ 46 For the reasons stated, we affirm the judgment of the Winnebago County circuit court.

¶ 47 Affirmed.