2015 IL App (2d) 121352-U
No. 2-12-1352
Order filed March 31, 2015



IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

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| THE PEOPLE OF THE STATE OF ILLINOIS,<br><br>Plaintiff-Appellee,<br><br>v.<br><br>CHRISTOPHER L. JACOBSEN,<br><br>Defendant-Appellant. | )<br>)<br>)<br>)<br>)<br>)<br>)<br>)<br>)<br>) | Appeal from the Circuit Court of Lake County.<br><br><br><br>No. 11-CF-70<br><br>Honorable Mark L. Levitt, Judge, Presiding. |

JUSTICE BIRKETT delivered the judgment of the court.
Justices Hutchinson and Burke concurred in the judgment.

**ORDER**

¶ 1 *Held*: The evidence was sufficient to prove defendant guilty beyond a reasonable doubt where defendant's financial circumstances and prospects, along with his actions, belied his assertion that he lacked the intent to permanently deprive the victim of its funds.

¶ 2 Following a jury trial, defendant, Christopher L. Jacobsen, was convicted of the offense of theft (720 ILCS 5/16-1(a)(1)(A) (West 2010)), specifically, of writing over $60,000 worth of checks to himself while he held the office of treasurer for the victim, the Libertyville Boys Club (the Club). Defendant contends that the evidence was insufficient to prove him guilty of theft

because he did not intend to permanently deprive the Club funds, rather the checks he wrote were supposed to be short-term loans that he intended to repay. We affirm.

¶ 3 I. BACKGROUND

¶ 4 We summarize the pertinent facts in the record. The Club runs football programs, both flag and tackle, for local youth in third through eighth grades. Defendant had been involved with the Club for 20 years, and had served on the board and, in 2009, as treasurer. Defendant's financial irregularities stemming from his service as the Club's treasurer from early in 2009 to the end of 2010 were discovered in December 2010, and, in March 2011, defendant was indicted for the theft of funds totaling over $60,000. In August 2012, the matter advanced to a jury trial.

¶ 5 John Teichman testified that, at the relevant times, he was the president of the Club, and that he and defendant previously served together as board members. Teichman testified that, from March 2009 to September 2010, defendant served as treasurer. In December 2010, Teichman learned that defendant had written approximately $64,000 of checks to himself using the Club's funds. Teichman testified that, after placing repeated unanswered calls to defendant, defendant finally returned his call. Defendant stated that he was "aware of the situation," and hung up. Teichman testified that, after the phone conversation with defendant, he went to the police to file a complaint. Additionally, defendant was removed from the Club's board. Teichman testified that, after defendant's removal, the Club investigated its financial status and discovered that, between September and November 2009, defendant repaid a total of $4,255 to the Club.[1]

[1]Defendant's partial repayment totaling $4,255 comprised three checks dated September 4, 2009 ($4,055), September 16, 2009 ($100), and November 6, 2009 ($100).

¶ 6 Dan Nikolich testified that he was the Club's treasurer before and after defendant's tenure in that position. Nikolich testified that the treasurer handled the weekly payroll, made deposits, and paid the Club's bills. Nikolich testified that the treasurer of the Club was generally not authorized to loan anyone money.

¶ 7 Defendant testified on his own behalf. Defendant admitted that he wrote 49 of the Club's checks payable to himself by signing his own name on the front of the check as the drawer, and again signing his name on the back as the endorser. Defendant wrote "STL" on the checks, standing for "short term loan." Defendant explained that he "never intended to take the money," and that he "intended to pay it back from the very first check." Defendant testified that he never asked for anyone's permission to write the checks to himself, and that he needed the money because of his personal financial struggles. Defendant testified that he was an alcoholic, and that he dug himself into a "financial hole," so much so, that, in January 2010, he asked his mother for assistance by having her attempt to obtain a loan on her own house, with the intent of using the loan to pay back the Club in full. His mother's loan never came through, and defendant was unable to amass much money to repay the Club. Defendant testified that, as of the start of the trial, he had repaid $4,255 to the Club.

¶ 8 Following closing arguments, defendant was found guilty and was sentenced to serve 30 days in county jail, followed by an 18-month term of periodic imprisonment, with certain exceptions to seek work or attend Alcoholics Anonymous meetings. The sentence also included a 36-month term of probation and required defendant to perform 200 hours of public service. Defendant timely appeals.

¶ 9 II. ANALYSIS

¶ 10 Defendant argues on appeal that the State failed to prove him guilty of theft beyond a reasonable doubt because the evidence failed to show that he intended to permanently deprive the Club of the funds he took, that prosecutorial misconduct in the State's opening statement and closing argument influenced the jury's verdict, that the jury should have been given Illinois Pattern Jury Instructions, Criminal No. 13.33B (4th ed. 2000) (hereinafter, IPI Criminal 4th No. 13.33B), and finally, that the definition of "permanently deprive" from section 15-3(d) of the Criminal Code of 1961 (Code) (720 ILCS 5/15-3(d) (West 2010)) should not apply in cases involving theft of money. We address defendant's contentions in turn.

¶ 11 When presented with a challenge to the sufficiency of the evidence, this court 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. *People v. Beauchamp*, 241 Ill. 2d 1, 8 (2011). The determination of the credibility of each witness, the weight to be given to his or her testimony, and the resolution of any conflicts in the evidence is within the province of the trier of fact, and a reviewing court will not substitute its judgment for that of the trier of fact on these matters. *People v. Brooks*, 187 Ill. 2d 91, 132 (1999). Reversal is justified only "where the evidence is so unreasonable, improbable, or unsatisfactory as to justify a reasonable doubt of [the] defendant's guilt." *People v. Smith*, 185 Ill. 2d 532, 542 (1999).

¶ 12 Section 16-1(a)(1)(A) of the Code (720 ILCS 5/16-1(a)(1)(A) (West 2010)), provides, pertinently, "a person commits a theft when he knowingly obtains or exerts unauthorized control over the property of the owner, and intends to deprive the owner permanently of the use or benefit of the property." "The crime of theft *** is complete when the defendant obtains or

exerts unauthorized control over the property of the owner." *People v. Haissig*, 2012 IL App (2d) 110726, ¶46.

¶ 13 A defendant's contention that he did not intend to permanently deprive the victim of his or her property "is not decisive on the issue of his intent." *People v. Curoe*, 97 Ill. App. 3d 258, 274 (1981). "A guilty intent is necessarily inferred from the voluntary commission of *** an act, the inevitable effect of which is to deprive the true owner of [the] property and appropriate it to the defendant's own use." *People v. Lopez*, 129 Ill. App. 3d 488, 496 (1984); *Curoe*, 97 Ill. App. 3d at 273-74 (citing *Spalding v. People*, 172 Ill. 40, 59-60 (1898)). In determining the absence or presence of intent, an offer of restitution does not prove that the defendant did not have the requisite intent, but rather, it is another fact to be taken into consideration, along with all of the other facts. *People v. Campbell*, 28 Ill. App. 3d 480, 490 (1975).

¶ 14 As the State correctly notes, there is a long-held principle in Illinois that a defendant's contention that he did not intend to permanently deprive the owner of their property is insufficient to establish that defendant lacked the requisite intent to accomplish the charged theft. See *People v. Day*, 2011 IL App (2d) 091358, ¶¶ 43-44 (the evidence was sufficient to prove the defendant guilty of theft beyond a reasonable doubt where the defendant-law partner stole $137,000 from her law partner due to financial struggles and her husband's health problems and in spite of the defendant's claim that there was no proof that she never intended to reimburse her law partner following a full accounting of the firm); *Lopez*, 129 Ill. App. 3d at 493-96 (the evidence was sufficient to prove the defendant guilty of theft beyond a reasonable doubt despite the defendant's argument that, although he converted $115,000 of the foundation's money to his personal use, he never intended to permanently deprive the beneficiaries or the foundation of the funds, and that the transactions were loans which were evidenced by his promissory notes and

his partial repayments); *Curoe*, 97 Ill. App. 3d at 273-74 (although the defendant repaid two of nine promissory notes that were allegedly executed at the same time that the defendant took $325,000 from his deceased client's estate, the "[d]efendant's testimony that he had no intention to permanently deprive the heirs of their property is not decisive on the issue of his intent"). With these principles in mind, we turn to whether the evidence of defendant's intent was sufficient to establish beyond a reasonable doubt that element of the offense of theft.

¶ 15 Viewing the evidence in the light most favorable to the State, as we must, we conclude that it overwhelmingly establishes that defendant intended to permanently deprive the Club of the funds defendant admittedly had taken. See 720 ILCS 5/16-1(a)(1)(A) (West 2010). Nikolich, a former treasurer himself, testified the Club's treasurer was generally not allowed to make loans with the Club's funds. Likewise, defendant admitted that he was not authorized to use the Club's funds to make checks payable to himself, yet he nevertheless wrote 49 checks payable to himself. While defendant testified that he planned to pay the money back to the Club, the jury was not compelled to accept this testimony at face value, rather the jury could judge the plan by defendant's circumstances, which included strong evidence of defendant's bereft financial circumstances, his lack of prospects of amassing sufficient funds to repay the money, his sole reliance on his mother obtaining a loan against her house that never materialized, and defendant's own knowledge that he was neither authorized nor granted permission to make out any of the 49 checks to himself, even as a loan. In addition, notwithstanding defendant's testimony about a largely inchoate repayment plan, he nevertheless continued to take more of the Club's money even after he made his partial repayment. Based on his unreasonable hopes of repaying the moneys he took, his conduct throughout his tenure as treasurer of continuing to take money from the Club, and his admitted awareness that he was neither allowed nor had

permission to take the funds, any rational finder of fact could have found, beyond a reasonable doubt, that defendant intended to permanently deprive the Club of the funds he had taken. Accordingly, we hold that the evidence was sufficient to establish, beyond a reasonable doubt, the element of intent.

¶ 16 Moreover, as the State needed to prove the assertion of unauthorized control over property along with the intent to permanently deprive the owner of the use or benefit of the property (see 720 ILCS 5/16-1(a)(1)(A) (West 2010)), we hold that, based on defendant's testimony that he was aware that he lacked permission to make short-term loans to himself and Teichman's testimony that defendant lacked permission to take any of the funds, any rational finder of fact could have found, beyond a reasonable doubt, that defendant had asserted unauthorized control over the Club's funds that he took by drawing checks payable to himself. Consequently, we hold that the evidence was sufficient to prove defendant guilty beyond a reasonable doubt of the offense of theft. See *Beauchamp*, 241 Ill. 2d at 8 (evidence is sufficient if any rational trier of fact could have found that the essential elements of the offense were proved beyond a reasonable doubt).

¶ 17 Turning to defendant's specific contentions regarding the element of intent, defendant argues generally that the evidence established that the checks he wrote to himself were, in fact, loans. Defendant asserts that, because he made no effort to conceal his withdrawals and conversion of the Club funds to his personal use, and because he documented his use of the Club funds with the initials "STL" (short term loan), the evidence established that he was in fact taking loans against the Club's funds rather than committing theft. Defendant also notes that he made partial repayments of the funds taken totaling $4,255, demonstrating his present intent to

use the money as a loan and to repay the money taken. Defendant concludes that this evidence negated the proof of his intent to permanently deprive the Club of its funds. We disagree.

¶ 18 " 'A defendant's intent to permanently deprive the owner of property may be deduced by the trier of fact from the facts and circumstances surrounding the alleged criminal act.' " *Haissig*, 2012 IL App (2d) 110726, ¶ 31 (quoting *People v. Veasey*, 251 Ill. App. 3d 589, 591 (1993)). Here, there was ample evidence from which the jury could discern defendant's intent to permanently deprive the Club of its funds: the 49 checks that defendant wrote on the Club's account coupled with his admitted financial struggles and the further admission that he took the money to help ease his own financial problems. Additionally, even though defendant made small repayments to the Club, these repayments ended in November 2009, yet defendant wrote checks to himself throughout the rest of his tenure as treasurer, between November 2009 and September 2010. Thus, defendant's conduct belies his claim that he intended to repay the funds. Finally, defendant's plans to effect repayment consisted only of a January 2010 request to have his mother obtain a loan against her house, which fell through and from which we can reasonably infer to have been at least somewhat of a long shot. Thus, the evidence shows that defendant really had no viable plans to actually make repayments: his income was too small, his resources were dubious, and he continued to take the money over a period of 10 months after his initial attempts at repayment. Based on this evidence, the jury could conclude beyond a reasonable doubt that defendant intended to permanently deprive the Club of the funds.

¶ 19 Defendant argues more specifically that he intended to repay the Club's money, and therefore, that he did not possess the requisite intent to permanently deprive the Club of its money. A defendant's contention that he did not intend to permanently deprive the owner of its property is not decisive on the issue of the defendant's intent. *Curoe*, 97 Ill. App. 3d at 274.

Moreover, while defendant made a partial repayment, any exculpatory force to the partial repayment was outweighed by the facts that the repayment, even at the time it was tendered, was less than a quarter of the amount taken at the time and, thereafter, defendant took another $40,000 in funds over the next 10 months. Further, a review of the record reveals that, of the 49 checks that defendant made payable to himself, 35 of them were written after his partial repayment. Although defendant repaid $4,255, this amount is minimal in light of the fact that defendant then took without permission approximately $40,000 more after the partial repayment. Notably, defendant wrote checks payable to himself from December 2009 to September 2010, without making another repayment. Defendant was plainly unable to repay the funds and, equally plainly, did not have a viable plan to obtain funds with which to repay the Club. In spite of these circumstances, he continued to take more money notwithstanding the partial repayment late in 2009. Viewing the evidence in the light most favorable to the State, it is clear that, even if the initial few checks were intended as loans, defendant quickly dropped the pretense of repayment as he continued to write checks from the Club and payable to himself even as he had no reasonable prospects of obtaining funds with which to repay the Club. We reject defendant's contention that he was simply taking a loan from the Club's funds.

¶ 20 Defendant cites to *People v. Kostatinovich*, 98 Ill. App. 3d 611 (1981), apparently for the proposition that potentially innocent conduct cannot support a finding beyond a reasonable doubt of the requisite intent to permanently deprive. Defendant's reliance on *Kostatinovich* is misplaced.

¶ 21 In *Kostatinovich*, the State alleged that the defendant was involved in a scheme with Roma women to distract a store owner so that her accomplices could steal money from the store desk drawer. At trial, it was established that the victim discovered that money was missing from

the store's desk drawer after the group of Roma women left. The only evidence presented was that the defendant was one of the Roma women present that afternoon, and that the defendant asked the storeowner questions about baby formula for several minutes while other Roma women entered the store. However, none of the Roma women, including the defendant, were seen upstairs or near the living quarters, where it was later discovered that money was missing from the store's desk drawer. Further, the witnesses testified that there were other people in the store at the same time as the Roma women, and that at least one non-Roma woman was also in the rear of the store. *Id.* at 612-13. The court held that the evidence against the defendant " 'must not only be consistent with the [defendant's] guilt but must also be inconsistent with any reasonable hypothesis of innocence.' " *Id.* at 614 (quoting *People v. Grice*, 87 Ill. App. 3d 718, 725 (1980)).[2] The court further held that the evidence was insufficient to sustain a theft conviction because the State failed to prove beyond a reasonable doubt that the defendant aided and abetted whoever actually took the store's property. *Id.* In reversing the defendant's conviction, the court stated that the "evidence raises little more than a suspicion that defendant was involved in the theft and leaves a grave and serious doubt of guilt." *Id.*

¶ 22 Defendant's attempt to analogize *Kostatinovich* breaks down because the conduct of each defendant is fundamentally different. In *Kostatinovich*, the defendant's conduct, entering a store

[2]We note that the court's formulation of the evidentiary standard facing the jury was, at that time, for cases that were entirely circumstantial in nature. This standard was eliminated in *People v. Bryant*, 113 Ill. 2d 497 (1986) (recognizing that the reasonable-hypothesis-of-innocence standard was an improper and confusing attempt to define reasonable doubt for the jury).

and inquiring about a product the store carries, is inherently innocent. It requires the further circumstance that other persons, possibly related to the defendant, entered the store and took money while the store personnel were distracted, to make the inherently innocent conduct potentially wrongful. Of course, in *Kostatinovich*, the State did not prove the nexus between the defendant's actions and the theft, in part due to the evidentiary standard and in part due to the failure to link either the defendant or the group of women to the theft itself. Here, by contrast, defendant's conduct of taking money that did not belong to him without permission is not inherently innocent conduct. It may not be a criminal offense without further context, but it is of a fundamentally different nature than that of the *Kostatinovich* defendant. The difference in the nature of the conduct is, by itself, sufficient to distinguish *Kostatinovich*. In addition, the differing standards by which the cases are reviewed, namely, the reasonable-hypothesis-of-innocence standard in *Kostatinovich*, versus the any-rational-trier-of-fact standard here, also serve to render any lessons from *Kostatinovich* inapposite because of the more stringent standard of review in that case. Accordingly, defendant's reliance on *Kostatinovich* is misplaced.

¶ 23 Defendant cites *People v. Murray*, 262 Ill. App. 3d 1056 (1994), arguing that it should be followed because of its close factual similarity to this case. In *Murray*, the court held that the testimony of a loss prevention manager, that the store had not been paid for a coat allegedly purchased by defendant with stolen credit card, was insufficient to sustain a theft conviction because the computer-generated record did not contain the indicia of fraud testified to by the manager, the manager conducted no other investigation concerning the fraudulent nature of defendant's transaction, and the manager had no personal knowledge about the transaction, his knowledge was based solely on the exhibit that he was propounding. *Id.* at 1061-62. Defendant

argues that "[t]he evidence here was insufficient to prove an intent to permanently deprive, just like in *Murray*, warranting a similar result." We disagree.

¶ 24 Defendant's reliance on *Murray* is misplaced because *Murray* did not address the issue of the defendant's intent to permanently deprive property. Instead, the court's judgment reversing the defendant's theft conviction was predicated on the State's failure to prove unauthorized control. *Id.* at 1063 (holding that the exhibit in issue "fails to establish that [the store] was deprived of its property nor does that document establish that anyone obtained unauthorized control over [the store's] property"). Thus, the court held that the State failed to prove the element of unauthorized control, and it never addressed the issue of the defendant's intent to permanently deprive. Here, by contrast, defendant admits that he exerted unauthorized control over the Club's funds (the ground on which *Murray* was decided), but his sole challenge to the evidence on appeal contends that it is insufficient to prove the element of intent to permanently deprive the Club of those funds (a ground that was unexplored in *Murray*). Thus, *Murray* is factually distinguishable from the instant case.

¶ 25 Defendant next appears to argue that he was prejudiced by prosecutorial misconduct during the State's opening statement and closing argument. On appeal, defendant identifies statements in each of the opening statement and closing argument that he believes to be prejudicial. During the opening statement, a prosecutor's comments will amount to reversible error only where his or her comments are attributable to deliberate misconduct and result in substantial prejudice to the defendant. *People v. Kliner*, 185 Ill. 2d 81, 127 (1998). Similarly, during closing argument, the prosecutor has wide latitude and may comment on the evidence and fair and reasonable inferences arising from the evidence. *People v. Glasper*, 234 Ill. 2d 173, 204 (2009). The standard of review of alleged prosecutorial misconduct during closing argument,

however, is somewhat unclear. *People v. Wheeler*, 226 Ill. 2d 92, 121 (2007) (claimed improper closing arguments were reviewed *de novo* to determine whether they were so egregious as to warrant a new trial); *People v. Blue*, 189 Ill. 2d 99, 128 (2000) (abuse of discretion standard used to consider whether closing arguments were improper). We need not resolve the discrepant standards because, under either standard, our conclusion is the same. *People v. Johnson*, 2015 IL App (1st) 123249, ¶ 39.

¶ 26 As an initial matter, we note that, in the trial court, no objection was made to any of the remarks of which defendant now complains. Consequently any error is forfeited. *People v. Enoch*, 122 Ill. 2d 176, 186 (1988). Additionally, defendant identifies a portion of the State's opening statement, then concedes that there "was nothing improper in the beginning of the prosecution's opening [statement.]" With this concession, defendant abandons his claim of error concerning the opening statement. Moreover, defendant, while identifying a number of passages from the closing argument, does not actually argue any impropriety arising out of the identified passages. The failure to argue a point on appeal results in its forfeiture. Ill. S. Ct. R. 341(h)(7) (eff. July 1, 2008).

¶ 27 Defendant then turns to a claim that the State presented "unnecessary proof" on issues defendant admitted or conceded. While we recognized that it may be galling for a defendant to have conceded issues proved before a trier of fact, the State is entitled to present its case as it chooses because it must prove every element of the offense and it may present every relevant fact in order to prove the elements of the offense. *People v. Chapman*, 194 Ill. 2d 186, 219-220 (2000). In addition, defendant also fails to cite to any authority to support his "unnecessary-proof" argument, and this also forfeits the issue. Ill. S. Ct. R. 341(h)(7) (eff. July 1, 2008).

¶ 28 In any event, forfeiture notwithstanding, the prosecutor's statements identified by defendant did not unduly prejudice defendant. In fact, our careful review of the record and the State's opening statement and closing argument demonstrates that the highlighted statements did not constitute error. Accordingly, we reject defendant's contention on prosecutorial misconduct.

¶ 29 Defendant next contends that the jury was not given IPI Criminal 4th No. 13.33B, which provides alternate definitions for "permanently deprive." However, defendant has forfeited this argument on appeal due to his failure to object at trial. *People v. Huckstead*, 91 Ill. 2d 536, 543 (1982) ("It is well established that the failure to object at trial to an asserted error in jury instructions [forfeits] the question and that no party may raise on appeal the failure to give an instruction unless he tendered it at trial." (Citations omitted.)) This principle "encourages the defendant to raise issues before the trial court, allowing the court to correct its own errors before the instructions are given." *People v. Herron*, 215 Ill. 2d 167, 175 (2005). We note that even if the issue were not waived, the instruction was not mandatory, the instructions actually given accurately stated the law, and, therefore, no error occurred.

¶ 30 Defendant next argues that section 15-3(d) of the Code (720 ILCS 5/15-3(d) (West 2010)), which provides that "permanent deprivation" means to "Sell, give, pledge, or otherwise transfer any interest in the property or subject it to the claim of a person other than the owner," "should not apply to cases involving the unauthorized control over money." Defendant appears to argue that, because money is fungible, any sort of transfer, even with the idea of repaying the funds, necessarily works a permanent deprivation of the moneys transferred, so even a benign transaction, if done purposefully, will work an intentional permanent deprivation, which defendant argues is an absurd result, thereby disqualifying section 15-3(d) from cases involving

the unauthorized control over money. Defendant's argument overlooks the remainder of section 15-3:

> "As used in this Part C, to 'permanently deprive' means to:
>
> (a) Defeat all recovery of the property owner; or
>
> (b) Deprive the owner permanently of the beneficial use of the property; or
>
> (c) Retain the property with intent to restore it to the owner only if the owner purchases or leases it back, or pays a reward or other compensation for its return." 720 ILCS 5/15-3(a)-(c) (West 2010).

Subsections (a) and (b), as well as (d) (quoted above) all offer viable manners in which a defendant could have been deemed to permanently deprive the Club of its funds. Thus, even if we were to agree with defendant that subsection (d) could not be used in cases involving unauthorized control over money, subsections (a) and (b) could still be used. For example, under subsection (a), in order to permanently deprive one of money, one must defeat all recovery of the property of the owner. Here the evidence was that defendant wrote checks to himself on the Club's account and cashed them and spent the money. By spending the money for his own purposes, it is irrevocably gone, and defendant has succeeded in defeating all recovery of the money. We further note that defendant does not argue that only subsection (d) could possibly pertain to a case involving unauthorized control over money, or that the jury improperly was given only the subsection (d) definition of "permanently deprive," so even a wholehearted agreement with defendant's narrow and incomplete argument could not change the result of the trial. In effect, then, defendant is asking us to provide an advisory opinion on the issue of the applicability of subsection (d) to theft cases involving unauthorized control over money. We are

not allowed to provide advisory opinions (*Doe v. Northwestern Memorial Hospital*, 2014 IL App (1st) 140212, ¶ 47), and, in light of the defects of defendant's argument identified, we reject it.

¶ 31 Last, defendant contends that a literal reading of subsection (d) effectively criminalizes the tort of conversion. This contention suffers from the same defects noted in the preceding paragraph. Because no definition in the jury instruction of "permanent deprivation" was requested by the parties or given by the court, defendant cannot now complain of the error. *Huckstead*, 91 Ill. 2d at 543. Additionally, defendant's argument does not fit the actual circumstances of this case, so defendant appears to be again seeking an advisory opinion on the issue which we may not provide. *Doe*, 2014 IL App (1st) 140212, ¶ 47. Accordingly, we reject defendant's contentions.

¶ 32 III. CONCLUSION

¶ 33 For the foregoing reasons, we affirm the judgment of the circuit court.

¶ 34 Affirmed.