2015 IL App (2d) 130638-U
No. 2-13-0638
Order filed February 10, 2015

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. 10-CF-3020
RONALD CLARK,	)	Honorable Gary v. Pumilia,
Defendant-Appellant.	)	Judge, Presiding.

JUSTICE HUTCHINSON delivered the judgment of the court.
Justices McLaren and Zenoff concurred in the judgment.

ORDER

¶ 1 *Held*: The trial court properly admitted defendant's inculpatory statements and other-crimes evidence of defendant's sexual relationship with A.G. The trial court did not err by failing to suppress J.C.'s identification of defendant at trial that resulted from suggestive questioning, or err in admitting jury instructions regarding other-crimes evidence and the extended statute-of-limitations period. Finally, defendant lacked standing to challenge the constitutionality of the criminal sexual assault statute and that statute is not void for vagueness. Thus, we affirmed defendant's convictions for criminal sexual assault.

¶ 2 Following a trial, a jury convicted defendant, Ronald Clark, of two counts of criminal sexual assault pursuant to section 12-13(a)(3) of the Criminal Code of 1961 (the Criminal Code) (720 ILCS 5/12-13(a)(3) (West 2010)). The convictions stemmed from defendant's sexual

relationship with J.C. (the victim), who was a second cousin to defendant's wife, T.C., and lived in the same household as defendant. The trial court sentenced defendant to a term of 10 years' and 5 years' imprisonment, respectively, for each count to run consecutively.

¶ 3 Defendant now appeals, contending that (1) section 12-13(a)(3) of the Criminal Code, which has since been renumbered to section 11-1.20(a)(3) (720 ILCS 5/11-1.10 (West 2012)) (we will reference the renumbered version of the statute), is unconstitutionally broad, and violates due process and equal protection because it defines "family member" as someone living in the same household as the victim but does not contain an age requirement for the accused; (2) section 12-13(a)(3) is void for vagueness because it does not define "household"; (3) the trial court erred by admitting the substance of defendant's statements and allowing him to be cross-examined on those statements during a hearing on his motion to suppress; (4) the trial court erred by admitting as other-crimes evidence defendant's sexual interactions with the victim's sister, A.G., when some of those sexual acts occurred after A.G. was over 18 years of age; (5) the trial court erred by instructing the jury that it could consider the other-crimes evidence as bearing on "intent" and "lack of mistake," which were not at issue; (6) the trial court erred by instructing the jury on the affirmative defense of the extended statute-of-limitations period; and (7) J.C.'s in-court identification of defendant was "impermissibly suggestive" and should have been suppressed. We affirm.

¶ 4 I. BACKGROUND

¶ 5 The record reflects that defendant and T.C. were married in 2002 and divorced in 2011. They did not have any children, but T.C. had children that she "considered to be [hers]," which included J.C. and A.G., who were her biological second cousins. J.C. and A.G. began living with T.C. full time in 2001. At the time, defendant and T.C. were living together, but not yet

married. J.C. and A.G. returned to live with their biological mother in 2004, but returned to live with defendant and T.C. a few months later. After returning, they continuously lived with defendant and T.C. through October 2010. A.G. began attending school at Northern Illinois University in August 2010, but she would return home on weekends.

¶ 6 On October 2, 2010, T.C. was at work when she received a call from defendant. Defendant told T.C. that he thought that J.C. was pregnant. Defendant advised that he was going to get a pregnancy test for J.C., which later came back positive. Thereafter, defendant and J.C. went to the hospital.

¶ 7 Defendant called T.C. from the hospital and told her that J.C. was pregnant. After her shift ended, T.C. picked up A.G. and they went to meet defendant and J.C. At the hospital, Kelly Lovejoy, a physician's assistant, advised that the results of an ultrasound reflected that J.C. was over 17 weeks pregnant. After T.C. repeatedly asked J.C. who the father was, J.C. pointed at defendant and subsequent DNA testing revealed a 99.99% probability that defendant was the father. Defendant acknowledged to T.C. that he was the father and she started "hitting him *** and kicking him." At that point, a nurse called security and they placed T.C. in a separate room.

¶ 8 Officer Keehnen Davis, a police officer with the City of Rockford, arrived at the hospital shortly after 11 p.m. Davis met with defendant in the emergency room lobby and advised him that he was being detained. Davis did not read defendant his *Miranda* rights and did not ask defendant any questions. Defendant told Davis:

> "I've been trying to have a baby with my wife for so long but she [*sic*] hasn't gotten pregnant. I wanted a baby bad. This was not supposed to happen like this. Man, I messed up."

Davis transported defendant to a public safety building and left him with detectives.

¶ 9 Detective John Eissens of the Rockford Police Department met with defendant at the public safety building at approximately 1:40 a.m. on the morning of October 3, 2010. Eissens issued defendant his *Miranda* warnings and defendant signed a form acknowledging that he had been advised of those rights. Thereafter, defendant gave Eissens an oral statement and Eissens prepared a written statement. Defendant read the written statement out loud and initialed each paragraph. The statement reflected that defendant had "taken care" of J.C. and A.G. for the past eight years. Defendant first had sex with A.G. when she was 14 or 15 years of age. They would have sex as frequently as two or three times per week and defendant specified that he "put [his] penis in her vagina *** ." Defendant last had sex with A.G. on October 1, 2010, when she was home from college.

¶ 10 The statement further reflected that defendant first had sex with J.C. when she was 14 or 15 years of age. Defendant and J.C. would have sex 2 or 3 times every other week and they had sex over 100 times. The last time defendant had sex with J.C. "was around the middle of July 2010."

¶ 11 On October 27, 2010, the State charged defendant with six counts of criminal sexual assault, with three counts alleging that J.C. was the victim and three counts alleging that A.G. was the victim. Thereafter, the trial court granted defendant's motion to sever the counts with respect to J.C. and A.G. Prior to trial, defendant filed a motion to suppress the statements that he made prior to his arrest, arguing that law enforcement officers did not give him *Miranda* warnings and that the statements were not made voluntarily. At a hearing on defendant's motion, Davis testified that he did not advise defendant of his *Miranda* warnings and did not ask him any questions, but rather, defendant began speaking to him. Eissens testified that he issued defendant his *Miranda* warnings, and that defendant placed his initials next to each line before

signing a form acknowledging that he had received his *Miranda* warnings. Defendant testified that the officers who met him at the hospital told him that he could not leave and that he could not make a phone call. Defendant denied making the statement to Davis or that he "messed up." Defendant acknowledged that he signed the document advising him of his *Miranda* rights, but claimed that he did not read the document, no one else read it to him, and that he did not place his initials on the document. The trial court denied defendant's motion.

¶ 12 At trial, J.C. testified that she has a vision problem resulting from a tumor on the nerve that connects her eyes. J.C. testified that she has to be within 20 feet of someone to recognize her or his face. In response to a question from the State, J.C. could recognize the attorney's face only when she was within six to eight feet of the attorney's face. The trial court instructed J.C. to leave the witness stand, walk around the courtroom, and "get a good look at their face[s]." Thereafter, J.C. left the witness stand and, upon instruction from the State, stood in front of a table. J.C. identified defendant, noting that he was wearing a blue shirt.

¶ 13 During jury instructions, the State tendered Illinois Pattern Instruction, Criminal No. 3.14, which read:

> "Evidence has been received that *** defendant has been involved in conduct other than that charged in the indictment.
>
> This evidence has been received on the issues of *** defendant's intent and lack of mistake[,] and may be considered by you only for those limited purposes.
>
> It is for you to determine whether *** defendant was involved in that conduct and, if so, what weight should be given to this evidence on the issues of intent and lack of mistake."

The State tendered Illinois Pattern Instruction, Criminal No. 11.56 with 24-25.23A, which read:

"To sustain the charge of [c]riminal [s]exual [a]ssault, the State must prove the following propositions:

First Proposition: That *** defendant committed an act of sexual penetration upon J.C.; and

Second Proposition: That J.C. was under 18 years of age when the act was committed; and

Third Proposition: That *** defendant was a family member; and

Fourth Proposition: That an exception permitting this prosecution is present in this case.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find *** defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find *** defendant not guilty." (Italics in original.)

The State also submitted Illinois Pattern Instruction, Criminal No. 24-25.23, which read:

"A prosecution for [c]riminal [s]exual [a]ssault must be commenced within 3 years after the alleged commission of that offense unless the following exception is present: the victim is under 18 years of age at the time of the offense, a prosecution for [c]riminal [s]exual [a]ssault may be commenced within 20 years after the child victim attains 18 years of age.

The State has the burden of proving beyond a reasonable doubt that the above exception is present in this case."

¶ 14 The jury found defendant guilty of two counts of criminal sexual assault and the trial court sentenced defendant to terms of 10 years' imprisonment and 5 years' imprisonment, respectively, to run concurrently. Defendant timely appealed.

¶ 15 II. ANALYSIS

¶ 16 A. Motion to Suppress

¶ 17 We first address defendant's contention that the trial court erred in denying his motion to suppress the statement he made at the hospital and his subsequent confession. Defendant argues that he did not make those statements and that the trial court admitted the statements on the sole basis that defendant denied making them. Further, defendant argues that the trial court erred when it allowed the substance of his statements to be admitted during the suppression hearing.

¶ 18 In reviewing a motion to suppress involuntary statements, we may consider all evidence adduced both at trial and at the suppression hearing. *People v. Slater*, 228 Ill. 2d 137, 149 (2008). We will afford great deference to the trial court's factual findings, but the ultimate question of whether the confession was voluntary is reviewed *de novo*. *People v. Valle*, 405 Ill. App. 3d 46, 56-57 (2010) (citing *In re. G.O.*, 191 Ill. 2d 37, 46-50 (2000)). The State bears the burden of proving by a preponderance of the evidence that a defendant's confession was voluntary. *People v. Braggs*, 209 Ill. 2d 492, 505 (2003).

¶ 19 In this case, defendant's arguments (1) that the trial court denied his suppression motion on the basis that he testified that he never made the confession and (2) that the trial court allowed the substance of his statements to be admitted during the hearing on the motion are belied by the record. First, while defendant correctly cites *People v. Norfleet*, 29 Ill. 2d 287, 290 (1963) and *People v. Wilson*, 66 Ill. App. 3d 330 (1978) for the proposition that a trial court may not deny a motion to suppress based solely on the defendant's testimony that he did not make certain

statements, those cases have no application here. On the contrary, the record reflects that the trial court heard testimony regarding the circumstances of defendant's statements. At the hearing, Davis testified that he did not give defendant his *Miranda* warnings while they were at the hospital, but defendant "began" speaking to him. In admitting the statements defendant made at the hospital, the trial court noted that there was "no evidence from either party of interrogation of [defendant] at the hospital." Regarding the statement at the public safety building, the trial court noted that defendant testified that he was not threatened, violence was not used against him, and law enforcement officers did not make any promises. The trial court had the opportunity to observe the witnesses' testimony and demeanor at the hearing. As a reviewing court, we will not substitute our judgment on credibility determinations unless we find that the trial court's findings were manifestly erroneous (*People v. Frazier*, 248 Ill. App. 3d 6, 12 (1993)), and defendant advances no argument for why the trial court's credibility determinations were wrong. Thus, we reject defendant's argument that the trial court denied his suppression on the sole basis that he denied making the statements, as opposed to the trial court denying the motion after carefully weighing the evidence.

¶ 20 Second, contrary to defendant's argument, the trial court did not err in allowing the substance of defendant's statements to be admitted during the suppression hearing. As the State notes, the trial court, when issuing its ruling to admit the statements, specifically noted that it was "not at the stage of the proceedings where it's necessary for the finder of fact to determine the truthfulness of the statements, just that there were statements made to the police." The record is devoid any indication that the substance of defendant's statement influenced the trial court's decision and, as a result, defendant did not suffer prejudice. See *People v. Torres*, 200 Ill. App. 3d 253, 264 (1990) (rejecting argument that the trial court erred in allowing substance of the

defendant's statement during motion-to-suppress hearing because the defendant was not prejudiced).

¶ 21 B. Other-Crimes Evidence

¶ 22 We next address defendant's contention that the trial court erred in allowing the State to introduce as other-crimes evidence that he had sexual intercourse with A.G. when she was over 18 years of age. Defendant notes that, prior to trial, counts 4, 5, and 6 in the indictment, which related to A.G., were severed and he moved to bar "any evidence concerning alleged acts of criminal or civil misconduct by *** defendant either prior to or subsequent to his arrest in this case." Thereafter, the trial court granted the State's motion to admit evidence of sexual assault to A.G. as other-crimes evidence pursuant to section 115-7.3 of the Criminal Code (720 ILCS 5/115-7.3 (West 2010)). At trial, A.G. testified that, after she was 18 years of age, she and defendant had oral and vaginal sex. Defendant argues that the admission of this testimony constituted reversible error because it did not meet the requirements provided in section 115-7.3 and "could only suggest to the jury that [he] was a bad person."

¶ 23 We need not decide whether the trial court erred in allowing this evidence because, even if we were to accept defendant's contention that the admission of other-crimes evidence was improper, any error was harmless. See *People v. Martin*, 2012 IL App (1st) 093506, ¶ 43 (holding that, even if the admission of other-crimes evidence was improper, the admission amounted to harmless error). Our supreme court "repeatedly has held that the improper introduction of other-crimes evidence is harmless error when a defendant is neither prejudiced nor denied a fair trial upon its admission." *People v. Nieves*, 193 Ill. 2d 513, 530 (2000).

¶ 24 Here, the evidence of defendant's guilt, even without A.G's testimony that she had vaginal and oral sex with defendant after she was 18 years of age, was overwhelming. That J.C.

had lived in the same household with defendant continuously from 2004 through October 2010, and that she was under 18 years of age, is undisputed. On October 3, 2010, defendant signed a confession that he had taken care of J.C. "for the past 8 years" and that he first started having sexual intercourse with her when she was 14 or 15 years of age. The signed confession reflected that defendant had sex with J.C. 2 or 3 times every other week and that he had sex with her "more than 100 times." Defendant specified that he "had sex with [J.C.] by penis in vagina" and that the last time he had sex with J.C. was in July 2010. Finally, a paternity test revealed a 99.99% probability that defendant was the father of J.C.'s conceived child. Based on this evidence, any error in admitting the other-crimes evidence would have been harmless beyond a reasonable doubt and defendant was not denied a fair trial. See *id.* (holding that the admission of improper other-crimes evidence was "overshadowed by the substantial evidence of [the] defendant's guilt," including his own statement, and that any error was harmless).

¶ 25 C. In-Court Identification

¶ 26 We next address defendant's contention that J.C.'s in-court identification of him was "impermissibly suggestive and should have been suppressed." Defendant recognizes our supreme court's decision in *People v. Lego*, 116 Ill. 2d 323 (1987), but urges us to reconsider that holding. In *Lego*, our supreme court, quoting *People v. King*, 54 Ill. 2d 291, 299 (1973), concluded that the trial court properly admitted a witness' identification of the defendant that resulted from suggestive questioning because:

> " '[t]he entire process, suggestive questions and all, took place in the presence of the jurors, who were in a position to determine the weight to be given to the fact that the defendant was wearing glasses in the courtroom, the difficulty of the witness with the

English language, and all other attendant circumstances.' " *Lego*, 116 Ill. 2d at 340-41 (quoting *King*, 54 Ill. 2d at 299).

¶ 27 We are without authority to reconsider *Lego*. *See People v. Artis*, 232 Ill. 2d 156, 164 (2009) ("The appellate court lacks authority to overrule decisions of [the supreme court], which are binding on all lower courts"). Here, as in *Lego*, the entire process of J.C.'s identification of defendant occurred in the jury's presence. The jurors were free to determine what weight should be given to J.C.'s vision, and all other attendant circumstances, when weighing the credibility of her testimony. Pursuant to *Lego*, the trial court did not error by not suppressing J.C's identification. See *Lego*, 116 Ill. 2d at 341.

¶ 28 D. Jury Instructions

¶ 29 We next address defendant's contention that the trial court erred in allowing certain jury instructions to be given to the jury. First, defendant contends that the trial court erred by instructing the jury that it could consider the other-crimes evidence for the limited purpose of defendant's "intent and lack of mistake." Defendant notes that he did not try to establish lack of intent or that he "acted out of some sort of mistake," and therefore, "[t]here was no reason to instruct the jury that the extensive other-crimes evidence *** was relevant to non-existent issues *** " Second, defendant contends that the trial court erred by instructing the jury that the State was required to prove that the extended statute-of-limitations period applied. Defendant argues that the Criminal Code does not require the State to prove an extended limitations period.

¶ 30 "Instructions convey the legal rules applicable to the evidence presented at trial and thus guide the jury's deliberations toward a proper verdict." *People v. Mohr*, 228 Ill. 2d 53, 65 (2008). The question on review is whether the instructions, considered as a whole, fully and fairly announce the law that is applicable to the parties' theories. *People v. Atherton*, 406 Ill.

App. 2d 598, 619 (2010). Our standard of review is whether the trial court abused its discretion when issuing an instruction, which occurs " 'if the instructions are not clear enough to avoid misleading the jury *** .' " *Mohr*, 228 Ill. 2d at 66 (quoting *In re Timothy H.*, 301 Ill. App. 3d 1008, 1015 (1998)). Further, it is well settled that a claim of improper jury instructions is subject to harmless-error analysis. *People v. Amaya*, 321 Ill. App. 3d 923, 929 (2001). An erroneous jury instruction is harmless if the result of trial would not have been different had the jury been properly instructed. *People v. Pomykala*, 2013 Ill. 2d 198, 210 (2003).

¶ 31 In this case, there was ample evidence to support defendant's convictions. As discussed above, it is uncontroverted that defendant lived in the same household with J.C. continuously for more than six months and while she was under 18 years of age. Defendant signed a confession that he began having vaginal intercourse with J.C. when she was approximately 14 years of age and that he had sex with her over 100 times. A paternity test revealed that defendant was the father of J.C.'s conceived child. Therefore, even if the trial court erred by instructing the jury that it could consider the other-crimes evidence for the limited purposes of intent and lack of mistake, or erred with respect to instructing the jury on the extended statute of limitations period, those errors were harmless and a new trial is not required. See *Amaya*, 321 Ill. App. 3d 923, 929-30 (2001) (declining to address whether a trial court gave an improper jury instruction regarding accountability because "even if there was not enough evidence to warrant instructing the jury on the principles of accountability, the error was harmless and a new trial is not required").

¶ 32 E. Equal Protection and Due Process

¶ 33 We next consider defendant's contention that section 11-1.20(a)(3) of the Criminal Code violates the due process and equal protection clauses of the United States and Illinois

constitutions. In support of this contention, defendant argues that the "key fact" is "because the continuous residence in the household definition of 'family member' lacks an age requirement for the accused, [the statute] potentially criminalizes an act of consensual penetration committed by the accused who is the same age or younger than the [victim]." To highlight this point, defendant offers the hypothetical situation of an 18-year-old female violating the statute by having consensual sex with her live-in and unrelated 17-year-old male boyfriend. Thus, the crux of defendant's argument is that, "[b]y failing to specify an age minimum for the defendant and by raising the age of consent to 18, the legislature has created a situation where otherwise innocent and constitutionally protected relationships between 17 and 18 year olds living in the same household are criminalized."

¶ 34 Defendant does not have standing to raise this constitutional challenge. "Generally, a person to whom a statute may constitutionally be applied will not be permitted to challenge the statute on the ground that it could in another context be applied unconstitutionally to another party." *People v. Holder*, 96 Ill. 2d 444, 449 (1983). Here, defendant acknowledged in his signed statement that he first had sexual intercourse with J.C. when she was 14 or 15 years of age. Thus, because the statute was constitutionally applied to defendant, he cannot challenge the statute on the ground that it could be unconstitutionally applied to another party. See *People v. Wisslead*, 108 Ill. 2d 389, 397 (1985) ("[I]n the absence of facts demonstrating an unconstitutional application of the statute in this case[,] the defendant may not challenge the statute on the ground that it might conceivably be applied unconstitutionally in some hypothetical case).

¶ 35 We find support for our determination in *People v. Smith*, 347 Ill. App. 3d 446 (2004). In *Smith*, the defendant attempted to challenge the constitutionality of section 11-6 of the Criminal

Code, which criminalized indecent solicitation of a child. In doing so, the defendant argued that section 11-6 violated a fundamental right "to ask for acts of sexual penetration or conduct from spouses" because the statute could conceivably be employed to prosecute a 17-year-old spouse where he or she solicits the other spouse to engage in sexual activity when that spouse is 16 years of age. *Id.* at 451. The reviewing court concluded that the defendant did not have standing because "a person lacks standing to challenge the constitutionality of a statute unless he is directly affected by the alleged unconstitutionality *** ." *Id.* The rationale in *Smith* applies here, and defendant does not have standing to challenge the constitutionality of section 11-1.20(a)(3) because he was not affected by the alleged unconstitutionality.

¶ 36 F. Vagueness

¶ 37 Defendant's next contention on appeal is that section 11-1.20(a)(3), as clarified by section 11.01 of the Criminal Code (720 ILCS 5/11-0.1 (West 2012)), is void for vagueness because it does not provide a definition for "household." In support of this contention, defendant argues that the "term 'household' does not have an ordinary and popularly understood meaning which [*sic*] give an ordinary person of reasonable intelligence notice that his or her conduct was prohibited under the statute." Defendant directs us to the Illinois Domestic Violence Act (750 ILCS 60/103 (West 2010)) to note that a "household member" could include individuals in dating or engagement relationships. According to defendant, "[w]ithout further definition, the term 'household' is meaningless."

¶ 38 Defendant may challenge section 11-1.20(a)(3) only as applied to the facts of this case. *People v. Wilson*, 214 Ill. 2d 394, 399 (2005). "Where, as here, the statute does not affect first amendment rights, it will not be declared unconstitutionally vague on its face unless it is incapable of any valid application [citation], that is, unless no set of circumstances exist under

which the [statute] would be valid." *People v. Izzo*, 195 Ill. 2d 109, 112 (2001). Where the statute does not impinge on first amendment rights, due process is satisfied if (1) the statute's prohibitions are sufficiently definite, when measured by common understanding and practices, to give a person of ordinary intelligence fair warning regarding what conduct is prohibited, and (2) the statute provides sufficiently definite standards for law enforcement officers and triers of fact that its application does not depend merely on their private conceptions. *People v. Falbe*, 189 Ill. 2d 635, 640 (2000). Regarding the first factor, a statute does not need to define the proscribed conduct with "mathematical certainty"; rather, a challenge to a statute based on vagueness will not succeed so long as the statute clearly applies to the defendant's conduct in light of the facts of the case. *People v. Velez*, 2012 IL App (1st) 101352, ¶ 43. With respect to the second factor, "the statute will not be declared vague if a mere hypothetical situation involving disputed meanings of some of its terms is presented." *Id.* ¶ 44. All statutes are presumed to be constitutional (*Izzo*, 195 Ill. 2d at 112), and our standard of review is *de novo* (*Velez*, 2012 IL App (1st) 101352, ¶ 42).

¶ 39 Defendant's argument is unavailing. Section 11-1.20(a)(3), the criminal sexual assault in place when the State charged defendant, provided:

> "(a) A person commits criminal sexual assault if that person commits an act of sexual penetration and;
>
> (3) is a family member of the victim, and the victim is under 18 years of age." 720 ILCS 5/12-13 (West 2012).

Section 11-.0.1 further provides:

> " 'Family member' means a parent, grandparent, child, aunt, uncle, great-aunt, or great-uncle, whether by whole blood, half-blood, or adoption, and includes a step-grandparent,

> step-parent, or step-child. 'Family member' also means, if the victim is a child under 18 years of age, an accused who has resided in the household with the child continuously for at least 6 months." 720 ILCS 5/11-0.1 (West 2012).

It is evident from these statutory provisions that committing an act of sexual penetration with another person who is under 18 years of age, and when one has lived in the same household as that person continuously for at least 6 months, is illegal. As a result, defendant had sufficient notice as to precisely when his conduct became criminal. See *Velez*, 2012 IL App (1st) 101352, ¶ 45 ("It is evident from the plain language of the statute that the luring or attempted luring of a child into a vehicle or dwelling place without the consent of a parent or custodian is illegal when the individual committing the luring has any underlying criminal intent or *mens rea*."). Here, there is no dispute that J.C. was under 18 years of age when defendant committed his acts of sexual penetration and that defendant had lived in the same household with J.C. continuously for at least six months. Thus, the first part of the *Falbe* test is satisfied. See *Wilson*, 214 Ill. 2d at 400 (holding that the first part of the *Falbe* test was satisfied because the statute's prohibitions were sufficiently definite).

¶ 40 Regarding the second part of the *Falbe* test, defendant has made no claim that the absence of a more detailed definition of "household" has resulted in arbitrary and discriminatory application by law enforcement officers, judges, or juries. Instead, defendant's vagueness argument is premised solely on the theory that a person of reasonable intelligence would not have notice as to when his or her conduct is illegal. Thus, the second *Falbe* consideration is not at issue. See *Izzo*, 195 Ill. 2d at 113 (holding that the second *Falbe* consideration was not at issue because "[n]o claim [had been] made that the absence of a more detailed definition of

'chief security officer' has resulted in arbitrary and discriminatory enforcement and application by police officers, judges or juries").

¶ 41 III. CONCLUSION

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

¶ 43 Affirmed.