2018 IL App (2d) 170661-U
No. 2-17-0661
Order filed May 22, 2018

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

JOHN SZEKERES, as Administrator of the Estate of Maria Szekeres, deceased, Plaintiff-Appellant, v. MARY T. RIGGS, D.O. and MERCY HEALTH SYSTEM CORPORATION d/b/a MERCY McHENRY MEDICAL CENTER IN ILLINOIS, Defendants-Appellees.	)	Appeal from the Circuit Court of McHenry County. No. 08-LA-275 Honorable Thomas A. Meyer, Judge, Presiding.

JUSTICE ZENOFF delivered the judgment of the court.
Justices McLaren and Birkett concurred in the judgment.

ORDER

¶ 1 *Held:* The trial court's judgment in favor of the defendants was affirmed where the court's evidentiary rulings were not an abuse of discretion; the appellate court also held that the plaintiff's posttrial petition for substitution of judge for cause was properly denied.

¶ 2 Plaintiff, John Szekeres, appeals an order of the circuit court of McHenry County granting judgment in favor of defendants, Dr. Mary T. Riggs and Mercy Health System Corporation d/b/a Mercy McHenry Medical Center in Illinois (Mercy), following a jury trial.

Plaintiff also appeals an order denying his posttrial petition for substitution of judge for cause. We affirm.

¶ 3 I. BACKGROUND

¶ 4 We set forth those facts necessary to understand the issues raised in the appeal. We will augment those facts in our Analysis section of this Order as necessary. In July 2006, plaintiff's decedent, Maria Szekeres, was a 69-year-old woman suffering from hypertension, diabetes, and high cholesterol. Maria had a history of peripheral vascular disease that had previously required a bilateral endarterectomy to remove placque from the arteries in her neck. Maria also had a history of smoking a pack of cigarettes per day. On June 2, 2006, when Maria presented to her primary physician, Dr. Mackie Snebold, with a prolapsed uterus, Dr. Snebold recommended that she see Dr. Riggs, a gynecologic surgeon employed by Mercy.

¶ 5 Maria saw Dr. Riggs on July 18, 2006. After the consultation, Maria decided to proceed with surgery to repair the uterine prolapse. On July 24, 2006, when Maria was seen at the hospital for a preoperative workup, her blood pressure was 148/86, within normal limits. However, on the morning of surgery, July 25, 2006, her blood pressure was 204/94, and her blood sugar was also high. Dr. Riggs proceeded with the surgery.

¶ 6 Maria suffered a stroke either during surgery or on the following day. As a result, she had brain damage, with weakness and paralysis on her left side. In May 2007, she fell and broke her shoulder and her hip. Maria thereafter lived in a nursing home, in deteriorating condition, until her death at age 77. Plaintiff relates Maria's stroke, fall, declining condition, and death to Dr. Riggs's failure to obtain medical clearance by a cardiologist prior to performing surgery.

¶ 7 On July 15, 2008, plaintiff filed a three-count complaint against the instant defendants and others. Eventually, plaintiff filed a fourth amended complaint alleging wrongful death and

survival actions against only the instant defendants. At trial, plaintiff presented expert testimony that the standard of care required Dr. Riggs to obtain medical clearance for Maria's surgery due to Maria's elevated blood pressure, elevated blood sugar, and medical history. According to plaintiff's expert, a medical clearance would have required a referral to a cardiologist, who would have prescribed the administration of a calcium channel blocker to prevent a stroke. Defendants presented expert testimony that the surgery was not related to Maria's stroke. Defendants' experts also testified that Dr. Riggs was not required to obtain a medical clearance, as Maria's blood pressure was under control the day before the surgery and the anesthesiologist controlled it during the surgery.

¶ 8 Several evidentiary issues arose during the trial. One was whether Dr. Snebold would be allowed to testify to her personal practice of obtaining a medical clearance from a cardiologist. Prior to trial, the court granted defendants' motion *in limine* No. 45, barring Dr. Snebold's personal-practice testimony. The court denied plaintiff's motion to reconsider, and it also declined reconsideration of its ruling during the trial.

¶ 9 A second evidentiary issue involved the scope of defendants' direct examination of their expert neurologist, Dr. Dane Chetkovich. Dr. Chetkovich testified on direct examination that Maria's high blood pressure and high glucose on the morning of surgery did not cause her stroke and that the administration of a calcium channel blocker would not have reduced her risk of stroke. On cross-examination, plaintiff attempted to elicit that Maria had not been medically cleared for surgery. The court sustained defendants' objection to that line of questioning as beyond the scope of the direct examination.

¶ 10 A third evidentiary issue arose during the testimony of plaintiff's expert cardiologist, Dr. Joel Kahn. According to plaintiff's disclosure pursuant to Illinois Supreme Court Rule 213 (eff.

Jan. 1, 2007), Dr. Kahn would offer opinions on the standard of care for a cardiologist conducting a preoperative evaluation of Maria. Specifically, the disclosure related that a reasonably careful cardiologist would have recommended cancelling the surgery to better control Maria's blood pressure through the administration of a calcium channel blocker. At trial, plaintiff's attorney asked Dr. Kahn about the standard of care for a "physician" conducting a preoperative evaluation. Defendants objected that the Rule 213 disclosure limited Dr. Kahn's opinion to the standard of care for a cardiologist in conducting such an evaluation, and the court sustained the objection.

¶ 11 The jury returned a verdict in defendants' favor. In his posttrial motion, plaintiff petitioned for a substitution of judge for cause (see 735 ILCS 5/2-1001 (West 2016)) based upon certain language the judge used and certain evidentiary rulings the court made that plaintiff construes as evincing a personal bias against his counsel. The substitution petition was referred to the chief judge for hearing. After arguments by counsel, the chief judge denied the petition. The trial judge then denied the remainder of the posttrial motion, and plaintiff filed a timely appeal.

¶ 12 II. ANALYSIS

¶ 13 Preliminarily, we address the state of the record. There are gaps in the report of proceedings, which we explain below. We note that the appellant has the burden to present a sufficiently complete record of the trial proceedings to support his or her claim of error, and in the absence of such a record, the reviewing court will presume that the trial court's judgment was in conformity with the law and had a sufficient factual basis. *Foutch v. O'Bryant*, 99 Ill. 2d 389, 392 (1984); *Alpha School Bus Co., Inc. v. Wagner*, 391 Ill. App. 3d 722, 734 (2009).

¶ 14 Testimony inside the courtroom was captured by an electronic recording system. Pursuant to local rule, the official record is produced by court reporting services employees of the circuit court from the digital computer recordings of testimony. 22nd Judicial Cir. Ct. R. 1.08(b)(1-4) (June 1, 2007). Those transcripts "shall be the official record." 22nd Judicial Cir. Ct. R. 1.08(b)(6) (June 1, 2007). The report of proceedings in our record consists of those official transcripts. However, during sidebar conferences, rather than send the jury out of the courtroom so that the recording system could continue to capture the colloquies and the court's rulings, the court and counsel stepped into the hallway where the recording system did not function. As a result, the report of proceedings is replete with gaps.

¶ 15 By agreement of counsel and the court, unofficial court reporters both reported and transcribed the sidebar proceedings. Upon plaintiff's motion, and without objection, the trial judge incorporated the transcripts of the sidebar proceedings into the official record. However, the record is incomplete due to the splintered procedure used to create it.

¶ 16 The sidebar transcripts are bound in the common law record. On the cover sheets, the transcripts contain the dates and times of the sidebar proceedings, and a few also list the names of witnesses who were on the stand when the sidebars occurred. The majority of the transcripts do not, and those that do still do not identify which sidebar conference pertains to which witness. Neither the parties nor the court introduced the sidebars with a statement of what witness was on the stand when the sidebar occurred, what question was objected to and by whom, or to what subject matter the sidebar pertained. Ordinarily, such prefaces are not necessary, but here they were because the parties and the court were creating a parallel record to the official record. Reading the sidebar transcripts is like eavesdropping on the middle of someone's conversation. The context is missing. To make sense of the record, we had to comb through nine days of

testimony to try to figure out where to insert any particular sidebar into the report of proceedings. We admonish the appellant that it is not the reviewing court's responsibility to try to piece this unorthodox record together.

¶ 17 We now turn to the merits. Plaintiff first contends that the court erred in granting defendants' motion *in limine* No. 45. A motion *in limine* is addressed to the court's inherent power to admit or exclude evidence, and this court will not reverse a trial court's grant or denial of such a motion absent a clear abuse of discretion. *People v. Williams*, 188 Ill. 2d 365, 369 (1999).

¶ 18 Plaintiff contends that Dr. Snebold's proposed standard-of-care testimony was relevant to causation, it impeached Dr. Riggs's credibility, and defendants opened the door to such testimony. According to plaintiff's offer of proof, Dr. Snebold (based on her deposition testimony) would have testified that (1) she frequently refers patients with multiple comorbidities for a cardiovascular evaluation, (2) there is a likelihood that she would have referred Maria for a cardiovascular evaluation, and (3) her personal standard of care is usually to get cardiovascular clearance. Plaintiff maintains that this testimony was relevant to causation because, if Maria had been referred for a cardiovascular evaluation, the cardiologist would have prescribed a calcium channel blocker, and Maria would not have had a stroke. Plaintiff relies on *Holton v. Memorial Hospital*, 176 Ill. 2d 95 (1997), and *Vanderhoof v. Berk*, 2015 IL App (1st) 132927.

¶ 19 Defendants argue that Dr. Snebold's proposed testimony was inadmissible personal-practice testimony. Personal-practice testimony is testimony by a medical expert regarding how she or he typically performs the treatment at issue. *Swift v. Schleicher*, 2017 IL App (2d) 170218, ¶ 81. Personal-practice testimony is admissible only if it is relevant to the credibility of an expert testifying to the standard of care, or, in limited circumstances, if it affirmatively elucidates the

expert's opinion of the standard of care. *Swift*, 2017 IL App (2d) 170218, ¶ 81. In other words, when an expert testifies that the standard of care is X, but his personal practice is to do Y, which is less than X, personal-practice testimony is admissible. *Swift*, 2017 IL App (2d) 170218, ¶¶ 86-94.

¶ 20 The cases plaintiff cites are inapposite. The issue in *Holton* was the application of the "loss of chance" doctrine to the proof of proximate cause. *Holton*, 176 Ill. 2d at 98. In *Holton*, the plaintiff's "loss of chance" occurred when the hospital staff negligently failed to inform the treating doctors that the plaintiff's paralysis came on gradually instead of suddenly, causing the doctors to make the wrong diagnosis. *Holton*, 176 Ill. 2d at 102-03. To prove loss of chance, the plaintiff's treating physicians testified to what they would have done differently to treat her if the hospital's staff had notified them of her true condition. *Holton*, 176 Ill. 2d at 102-03. In *Vanderhoof*, the plaintiff's surgeon, Dr. Berk, cut the plaintiff's common bile duct instead of the cystic duct, resulting in severe injuries and eventual death. *Vanderhoof*, 2015 IL App (1st) 132927, ¶ 1. At trial, Dr. Berk's former partner, Dr. Baker, testified that he had been called in to complete the surgery. *Vanderhoof*, 2015 IL App (1st) 132927, ¶ 38. Without objection, Dr. Baker testified to what he did and what he would have done during the surgery had he been called in prior to the injury. *Vanderhoof*, 2015 IL App (1st) 132927, ¶ 38. Thus, Dr. Baker, as an occurrence witness, was not giving personal-practice testimony.

¶ 21 Here, plaintiff intended to elicit personal-practice testimony from Dr. Snebold. Plaintiff represented that Dr. Snebold would testify that her own standard of care was to obtain a cardiovascular evaluation. The obvious purpose of that proposed testimony was to contrast Dr. Snebold's personal practice with Dr. Riggs's failure to order the evaluation. That is not a proper

purpose of personal-practice testimony. See *Swift*, 2017 IL App (2d) 170218, ¶¶ 83-94. Now, plaintiff disingenuously attempts to recast standard-of-care testimony as causation testimony.

¶ 22 We also reject plaintiff's contention that Dr. Snebold's proposed testimony would impeach Dr. Riggs's credibility. At trial, Dr. Riggs testified that she phoned Dr. Snebold prior to Maria's surgery as a courtesy to let her know that her patient was having surgery. Dr. Riggs also testified that Dr. Snebold did not suggest that Maria be cleared by a specialist before the surgery. At her deposition, Dr. Snebold did not recall such a conversation. Plaintiff argues that Dr. Snebold's proposed "custom and habit" testimony of referring patients for a cardiovascular evaluation is admissible as impeachment, because, had the phone call happened, Dr. Snebold would have referred Maria for an evaluation. The fact that no evaluation took place, plaintiff reasons, proves that Dr. Riggs lied about the phone call.

¶ 23 First, plaintiff cannot demonstrate the relevance of Dr. Snebold's proposed testimony to the phone call. Dr. Riggs did not testify that she requested Dr. Snebold to provide a medical clearance. Second, Dr. Snebold's proposed testimony does not rise to "custom and habit" testimony because of its equivocal nature. Evidence of custom and practice is proper to assist the jury in determining the standard of care in a medical malpractice case. *Nassar v. County of Cook*, 333 Ill. App. 3d 289, 300 (2002). The party seeking to admit such testimony must show conduct that is " 'semiautomatic, invariably regular and not merely a tendency to act in a given manner.'" *Alvarado v. Goepp*, 278 Ill. App. 3d 494, 497 (1996) (quoting *Hajian v. Holy Family Hospital*, 273 Ill. App. 3d 932, 943 (1995)). Dr. Snebold testified that she could not speak to what she would have done concerning Maria at the time, had she known about the surgery and its risk, but she "might" and "probably would have" referred Maria for a cardiovascular evaluation, because her standard of care was "usually" to get cardiovascular clearance.

¶ 24 Plaintiff further argues that defendants opened the door to Dr. Snebold's proposed testimony when they were allowed to elicit from their family-practice expert, Dr. Eisenstein, that the standard of care did not require a cardiac consultation. Plaintiff argues that he should have been allowed to cross-examine Dr. Eisenstein with Dr. Snebold's deposition testimony. We disagree. Plaintiff fails to cite authority supporting that Dr. Eisenstein could be impeached on cross-examination with Dr. Snebold's personal-practice testimony. Accordingly, we hold that the court did not abuse its discretion in granting defendants' motion *in limine* No. 45.

¶ 25 Plaintiff next contends that the court abused its discretion when it prohibited him from cross-examining Dr. Chetkovich on medical clearance. Generally, cross-examination is limited to the scope of direct examination. *Beard v. Barron*, 379 Ill. App. 3d 1, 17 (2008). An abuse-of-discretion standard applies to this court's review of a trial court's evidentiary rulings. *Chapman v. Hubbard Woods Motors, Inc.*, 351 Ill. App. 3d 99, 105 (2004). Dr. Chetkovich, defendants' expert neurologist, testified on direct examination that Maria's high blood pressure and high glucose did not cause her stroke and that a calcium channel blocker would not have reduced her risk of stroke. Plaintiff argues that he should have been allowed to cross-examine Dr. Chetkovich on Dr. Riggs's failure to get medical clearance, because "Dr. Chetkovich opined on whether medical clearance would have made a difference." Contrary to plaintiff's representation, Dr. Chetkovich did not testify to medical clearance on direct examination. The scope of cross-examination is limited to the subject matter of the direct examination. *Beard*, 379 Ill. App. 3d at 17-18. Cross-examining Dr. Chetkovich on medical clearance was simply an improper attempt to put plaintiff's theory that Dr. Riggs was negligent for failing to obtain medical clearance before the jury. See *Suich v. H&B Printing Machinery, Inc.*, 185 Ill. App. 3d 863, 876-77 (1989) (cross-

examination which is beyond the scope of the direct examination of a witness, in an attempt to put the party's theory of the case before the jury, is improper).

¶ 26 Plaintiff's reliance on *Leonardi v. Loyola University of Chicago*, 168 Ill. 2d 83 (1995), is misplaced. In *Leonardi*, our supreme court held that the defendants were properly allowed to cross-examine the plaintiff's standard-of-care witness on whether the violation of the standard of care proximately caused the plaintiff's injuries. *Leonardi*, 168 Ill. 2d at 106. *Leonardi* is distinguishable. Although our supreme court's analysis contains few facts, the appellate court opinion reveals that the expert opined on the same subject matter that he was to be cross-examined upon, namely, deviations from the standard of care. *Leonardi v. Loyola University of Chicago*, 262 Ill. App. 3d 411, 418 (1994). Consequently, we cannot say that the trial court in the instant case abused its discretion in limiting the cross-examination.

¶ 27 Plaintiff next argues that the court erred in barring Dr. Kahn from testifying to the standard of care from the perspective of a reasonably careful "physician." The court barred the testimony under Rule 213 because plaintiff disclosed that Dr. Kahn's opinions were given from the perspective of a cardiologist conducting a medical clearance of Maria. Rule 213(f) requires parties to disclose the identities and opinions of expert witnesses who will testify at trial. Ill. S. Ct. R. 213(f) (eff. Jan.1, 2007). Rule 213(g) limits the testimony that can be given by an expert at trial to those opinions identified in the Rule 213 answer or in a discovery deposition. Ill. S. Ct. R. 213(g) (eff. Jan. 1, 2007). Rule 213 requirements are mandatory and subject to strict compliance. *Sullivan v. Edward Hospital*, 209 Ill. 2d 100, 109 (2004). The admission of evidence pursuant to Rule 213 is within the trial court's sound discretion, and the court's ruling will not be disturbed absent an abuse of discretion. *Sullivan*, 209 Ill. 2d at 109.

¶ 28 Plaintiff argues that because Dr. Kahn and Dr. Riggs are both physicians, although practicing in different specialties, Dr. Kahn was qualified to opine on the standard of care. This argument misses the mark. The objection was not that Dr. Kahn was not qualified to give an opinion, but that his opinion violated plaintiff's Rule 213 disclosure. The disclosure stated: "Dr. Kahn will offer opinions as to what the standard of care would have required had a cardiologist been contacted prior to [Maria's] July 25, 2006, surgery." All of the ensuing disclosed opinions were from the standpoint of a "reasonably careful cardiologist." Nevertheless, plaintiff maintains that his proposed opinion from the perspective of a reasonably careful "physician" was a "logical corollary" to the disclosed opinions, citing *Lawler v. MacDuff*, 335 Ill. App. 3d 144 (2002). In *Lawler*, this court held that it is permissible for a witness to elaborate at trial on a properly disclosed opinion where a reasonable reading of the disclosed opinion shows that it means the same thing as the witness's trial testimony. *Lawler*, 335 Ill. App.3d at 147-48. Here, plaintiff did not disclose that Dr. Kahn would opine on Dr. Riggs's standard of care. Rather, the disclosure stated that Dr. Kahn would opine as to what the standard of care would have required of a cardiologist had one been contacted prior to Maria's surgery.

¶ 29 Alternatively, plaintiff asserts that he was entitled to latitude under Rule 213, because Dr. Riggs's trial testimony took him by surprise. According to plaintiff, Dr. Riggs testified at her deposition that Maria's clearance for surgery was a "concerted effort" among herself, Dr. Snebold, the nurses who did the preoperative workup, and the anesthesiologist, while at trial Dr. Riggs testified that she, "on her own, without the involvement of any other physician," cleared Maria for surgery. When we examine Dr. Riggs's trial testimony, we see that it did not conflict with her deposition testimony. At her deposition, Dr. Riggs testified that she was not required to obtain medical clearance before Maria's surgery, because Dr. Snebold, the anesthesiologist, and

the screening process at the hospital had already cleared Maria for surgery. Additionally, Dr. Riggs testified that she made her own independent evaluation that Maria was ready for surgery. A trial, the question posed was whether Dr. Riggs had ever enlisted a "specialist" for "something like" a preoperative clearance, and Dr. Riggs answered, "Yes." The next question was whether Dr. Riggs "in this case" did that herself, and she replied, "That is correct." The next question was, "And you ultimately made your own independent evaluation that Maria was ready to go to surgery." Dr. Riggs answered, "Yes, I did." Thus, even if plaintiff were correct that strict compliance with Rule 213 is not required where the testimony takes a party by surprise, there was no surprise because Dr. Riggs did not change her testimony. The questions put to her at deposition and at trial were different.

¶ 30 Lastly, plaintiff argues that the chief judge erred in denying his posttrial petition for substitution of the trial judge for cause. Section 2-1001(1)(a)(3) of the Code of Civil Procedure (Code) (735 ILCS 5/2-1001(1)(a)(3) West 2016)) provides that each party is entitled to a substitution of judge for cause and that a hearing to determine whether cause exists shall be heard by a judge other than the judge named in the petition. Here, plaintiff included his petition for substitution in his posttrial motion. The petition for substitution was heard and denied by the chief judge prior to the trial judge's disposition of the remainder of the posttrial motion. Plaintiff urges that cause existed in two respects: the trial judge made comments critical of his counsel and the trial judge's evidentiary rulings were not evenhanded. Where bias or prejudice is invoked as the basis for seeking a substitution of judge for cause, it must ordinarily stem from an extrajudicial source or display such a deep-seated favoritism or antagonism that would make fair judgment impossible. *Danhauer v. Danhauer*, 2013 IL App (1st) 123537, ¶ 23. A trial judge is presumed to be impartial, and the burden of overcoming the presumption rests on the party

making the charge of prejudice. *Eyechaner v. Gross*, 202 Ill. 2d 228, 280 (2002). Comments or statements that reflect only the court's frustration with the parties and the proceedings are not grounds for substitution for cause. *Danhauer*, 2013 IL App (1st) 123537, ¶ 27. The court's decision on allegations of actual prejudice will not be reversed unless it is against the manifest weight of the evidence. *In re Marriage of O'Brien*, 393 Ill. App. 3d 364, 373 (2009).

¶ 31 A. The Trial Judge's Comments

¶ 32 The first judicial comment that plaintiff objects to is, "Maybe I'm stupid." The second comment is, "Counsel, please don't treat me like an idiot." Those comments occurred during a sidebar in which the context is not readily apparent, because plaintiff does not identify who was on the witness stand or what the nature of the objection leading to the sidebar was. The comment "Maybe I'm stupid" followed plaintiff's counsel informing the trial judge that "some judges" would disagree with him. The comment "Counsel, please don't treat me like an idiot" was in direct response to plaintiff's counsel's argument: "Isn't that what experts do all of the time? They rely on depositions." The court then responded: "Doctors do not render opinions as to the cause of accidents." Plaintiff's counsel apparently wished to elicit his expert's opinion as to what caused Maria's May 2007 fall based on Maria's family members' opinions as to what caused her unwitnessed fall. From what we can glean, counsel's comments were certainly disdainful of the trial judge. We, therefore, disagree with plaintiff that counsel did "nothing provocative."

¶ 33 The next comments of which plaintiff complains occurred during plaintiff's cross-examination of Dr. Chetkovich. Plaintiff attempted to ask Dr. Chetkovich about medical clearance, and the court ruled that it was beyond the scope of the direct examination. Plaintiff's counsel cited *Leonardi* as precedent for the latitude he was seeking, and the court stated: "This is where [plaintiff's counsel] have spent your credibility with me, you keep quoting cases that don't

say exactly—that don't apply directly to this situation." Counsel then argued that he could cross-examine on any subject that was covered in Dr. Chetkovich's deposition, whether or not it was brought up on direct examination at trial. The court pointed out that Dr. Chetkovich never used the phrase "medical clearance" on direct examination at trial, whereupon counsel stated: "I have to use the phrases he uses, Judge?" The court said: "You act like that with me, you—" Counsel interrupted and said, "Respectfully," whereupon the judge said, "No. You are not being respectful and I've grown tired of this attitude from [both of plaintiff's counsel]."

¶ 34 We note four things: (1) *Leonardi*, as discussed above, is inapposite, (2) the court properly ruled that plaintiff's cross-examination was beyond the scope of direct, (3) counsels' tone, from what we can judge from the cold record, bordered on rudeness, and (4) the majority of the trial was conducted with civility on all sides. Under these circumstances, the judge's few comments reflected only his reasonable frustration with counsel and the proceedings, and they did not evince bias or antagonism that would make a fair judgment impossible.

¶ 35 B. The Court's Evidentiary Rulings

¶ 36 Plaintiff complains of bias in that the court allowed defendants to re-cross-examine Dr. Kahn but denied him the opportunity to re-cross-examine Dr. Eisenstein, one of defendants' experts. A trial court's rulings regarding the scope of cross-examination and re-cross-examination are within the court's sound discretion. *People v. Johnson*, 2013 IL App (1st) 111317, ¶ 37. Such rulings will not be disturbed absent an abuse of discretion resulting in manifest prejudice. *Johnson*, 2013 IL App (1st) 111317, ¶ 37. Here, plaintiff sets forth no context for his argument, nor does he set forth any possible prejudice. Accordingly, we reject the argument.

¶ 37 III. CONCLUSION

¶ 38 For the foregoing reasons, the judgment of the circuit court of McHenry County is affirmed.

¶ 39 Affirmed.