

Illinois Official Reports

Appellate Court

Holt v. City of Chicago, 2022 IL App (1st) 220400

Appellate Court
Caption

TONY HOLT, Plaintiff-Appellant, v. THE CITY OF CHICAGO, a
Municipal Corporation; PATRICIA CHRISTIAN, in Her Individual
Capacity; and JUNE JENKINS ROBB, Defendants-Appellees.

District & No.

First District, Third Division
No. 1-22-0400

Filed

June 30, 2022

Decision Under
Review

Appeal from the Circuit Court of Cook County, No. 2017-L-008666;
the Hon. John P. Callahan Jr., Judge, presiding.

Judgment

Affirmed.

Counsel on
Appeal

Danielle A. Pinkston, of Pinkston Law Group, P.C., of Joliet, for
appellant.

Celia Meza, Corporation Counsel, of Chicago (Benna Ruth Solomon,
Myriam Zreczny Kasper, Justin A. Houppert, and Julian N. Henriques
Jr., Assistant Corporation Counsel, of counsel), and Ruth F. Masters,
of MastersLaw, of Oak Park, for appellees.

Panel

JUSTICE McBRIDE delivered the judgment of the court, with opinion.

Justices Ellis and Burke concurred in the judgment and opinion.

OPINION

¶ 1

Plaintiff-appellant, Tony Holt, was charged with battering and sexually assaulting June Jenkins Robb in 2014. After he was found not guilty, he filed this civil action against Robb and Chicago Police Department Detective Patricia Christian for malicious prosecution and he sought indemnification from the detective's employer, the City of Chicago. (The City of Chicago and Detective Christian will be collectively referred to as the City of Chicago defendants.) Robb has not participated in the civil suit. Holt's lawsuit was persuasive to a jury, but the \$6.4 million jury award was not entered because the circuit court granted a motion for a directed verdict that the detective and municipality made and renewed during the trial and that they renewed in an oral motion for judgment notwithstanding the verdict (JNOV) after the jury was discharged. Holt initially argues that section 2-1202(a) of the Code of Civil Procedure (Code) (735 ILCS 5/2-1202(a) (West 2020)) required the trial judge to enter judgment on the jury's verdict instead of granting the reserved directed verdict motion. Section 2-1202(a) states:

"If at the close of the evidence, and before the case is submitted to the jury, any party moves for a directed verdict the court may (1) grant the motion or (2) deny the motion or reserve its ruling thereon and submit the case to the jury. If the court denies the motion or reserves its ruling thereon, the motion is waived unless the request is renewed in the post-trial motion." 735 ILCS 5/2-1202(a) (West 2020).

Holt also claims that the defendants waived any right to a JNOV by not filing a written postjudgment motion. Finally, he argues that the manifest weight of evidence supported the verdict. He seeks judgment in his favor and the attorney fees and costs that he incurred through this appeal.

¶ 2

Before addressing Holt's arguments, we note a gap in his opening brief. In the initial pages, he states that section 2-1202 was not the only procedural rule that entitled him to judgment on the jury's verdict. He contends there were Illinois Supreme Court rules in his favor. On page one, he states that the issues presented for our review include, "1) Whether the *Ill. S. Ct. R.* and Civ. Pro. allow a trial judge to refuse to enter judgment on the jury verdict" and "2) Whether the *Ill. S. Ct. R.* and Civ. Pro. require the filing of a post-trial motion in civil jury cases, for the court to grant a JNOV." (Emphases added.) On page two of his brief, Holt states, "This appeal involves whether the *Ill. S. Ct. R.* and Civ. Pro. allow a verdict to be directed in favor of a losing party after the jury returned a verdict against them or whether the rules require a filing of a posttrial motion in civil jury cases, prior to the reserved directed verdict and[/]or a JNOV being entered." (Emphasis added.) On page three, Holt is more specific and states, "The statutes involved in this appeal are 735 ILCS 5/2-1201, 735 ILCS 5/2-1202, [and] *S. Ct. [Rs.] 301, and 303.*" (Emphasis added.) The subsequent pages of his brief, however, do not contain any argument about Rule 301 or Rule 303. Rule 301 provides that "[e]very final judgment of a circuit court in a civil case is appealable as of right" (*Ill. S. Ct. R. 301* (eff. Feb. 1, 1994)), and Rule 303 describes how to initiate an appeal, such as the proper timing of a notice of appeal (*Ill. S. Ct. R. 303* (eff. July 1, 2017))). We also point out that in the above-

quoted sentence from page three, Holt indicated that “735 ILCS 5/2-1201” is a second statute involved in this appeal. However, Holt’s only other mention of section 2-1201 is on page 25, the first paragraph of the argument section of his brief, where he states: “The trial court erred and refused to enter judgment on the jury verdict, contrary to 735 ILCS 5/2-1201.”

¶ 3 Holt’s brief mention of two of the Illinois Supreme Court rules and section 2-1201 do not warrant a substantive analysis. The rule that specifies the content of appellate briefs, Illinois Supreme Court Rule 341 (eff. Oct. 1, 2020), requires appellants to include cohesive argument and citation to relevant authority to support each of their claims of error. Furthermore, an appellant’s failure to provide an argument and citation to facts and authority, in violation of Rule 341, results in forfeiture of our consideration. *First National Bank of LaGrange v. Lowrey*, 375 Ill. App. 3d 181, 208 (2007). We find that Holt forfeited Rule 301, Rule 303, and section 2-1201 as support for his appeal, due to his noncompliance with Rule 341, and that we will confine our analysis to his argument about section 2-1202(a).

¶ 4 A circuit court’s interpretation of a statute is a question of law that is reviewed *de novo*. *Solon v. Midwest Medical Records Ass’n*, 236 Ill. 2d 433, 439 (2010). When a court interprets a statute, its primary objective is to ascertain and give effect to the intent of the legislature. *Solon*, 236 Ill. 2d at 440; *In re Application of the County Collector*, 356 Ill. App. 3d 668, 670 (2005). The most reliable indication of the General Assembly’s intent can be found in its language, and we are to read those words with their plain and ordinary meaning. *Solon*, 236 Ill. 2d at 440; *County Collector*, 356 Ill. App. 3d at 670. Statutory language should be construed in context, rather than in isolation (*County Collector*, 356 Ill. App. 3d at 670), and we will avoid rendering any part of the statute meaningless or superfluous (*Solon*, 236 Ill. 2d at 440-41; *County Collector*, 356 Ill. App. 3d at 670). We will not depart from plain statutory language by reading in exceptions, limitations, or conditions that the legislature did not express. *Solon*, 236 Ill. 2d at 441; *County Collector*, 356 Ill. App. 3d at 670.

¶ 5 Holt does not dispute that the City of Chicago defendants moved orally and in writing for a directed verdict when he rested and that they reiterated their request at the close of their own trial evidence. Holt also acknowledges that the circuit court properly reserved ruling on the defendants’ motion.

¶ 6 Holt argues, however, that section 2-1202(a) indicates that as soon as the case was submitted to the jury, the circuit court “lacked authority” to grant the motion that it had reserved. In the quote below, we have italicized the language that he considers controlling, and for context, we have included all five subsequent paragraphs of the statute. See *County Collector*, 356 Ill. App. 3d at 670 (statutory language should be construed in context).

“§ 2-1202. Reserved ruling on motion for directed verdict—Post-trial motions in jury cases. (a) If at the close of the evidence, and *before the case is submitted to the jury*, any party moves for a directed verdict the court may (1) grant the motion or (2) deny the motion or reserve its ruling thereon and submit the case to the jury. *If the court denies the motion or reserves its ruling thereon, the motion is waived unless the request is renewed in the post-trial motion.*

(b) Relief desired after trial in jury cases, heretofore sought by reserved motions for directed verdict or motions for judgment notwithstanding the verdict, in arrest of judgment or for new trial, must be sought in a single post-trial motion. Relief after trial may include the entry of judgment if under the evidence in the case it would have been the duty of the court to direct a verdict without submitting the case to the jury, even

though no motion for directed verdict was made or if made was denied or ruling thereon reserved. The post-trial motion must contain the points relied upon, particularly specifying the grounds in support thereof, and must state the relief desired, as for example, the entry of a judgment, the granting of a new trial or other appropriate relief. Relief sought in post-trial motions may be in the alternative or may be conditioned upon the denial of other relief asked in preference thereto, as for example, a new trial may be requested in the event a request for judgment is denied.

(c) Post-trial motions must be filed within 30 days after the entry of judgment or the discharge of the jury, if no verdict is reached, or within any further time the court may allow within the 30 days or any extensions thereof. A party against whom judgment is entered pursuant to post-trial motion shall have like time after the entry of the judgment within which to file a post-trial motion.

(d) A post-trial motion filed in apt time stays enforcement of the judgment.

(e) Any party who fails to seek a new trial in his or her post-trial motion, either conditionally or unconditionally, as herein provided, waives the right to apply for a new trial, except in cases in which the jury has failed to reach a verdict.

(f) The court must rule upon all relief sought in all post-trial motions. Although the ruling on a portion of the relief sought renders unnecessary a ruling on other relief sought for purposes of further proceedings in the trial court, the court must nevertheless rule conditionally on the other relief sought by determining whether it should be granted if the unconditional rulings are thereafter reversed, set aside or vacated. The conditional rulings become effective in the event the unconditional rulings are reversed, set aside or vacated.” (Emphases added.) 735 ILCS 5/2-1202 (West 2020).

¶ 7 Holt has misread section 2-1202(a) as a limitation on the circuit court’s power. See 735 ILCS 5/2-1202(a) (West 2020). The first sentence of section 2-1202(a) is a plain and unambiguous statement that confirms, rather than limits, a circuit court’s authority to make any one of three rulings about a motion for a directed verdict that is submitted before a jury begins deliberating. The sentence states that the court may grant, deny, or reserve ruling on the directed verdict motion. No conditions are imposed. No limitation on the court’s authority can be read into the legislature’s factual statement that, “[i]f at the close of the evidence, and before the case is submitted to the jury, any party moves for a directed verdict the court may (1) grant the motion or (2) deny the motion or reserve its ruling thereon and submit the case to the jury.” 735 ILCS 5/2-1202(a) (West 2020).

¶ 8 There is also no apparent restriction on the court’s authority in the subsequent sentence of section 2-1202(a), which is a sentence specific to instances when the court “denies the motion or reserves its ruling thereon.” 735 ILCS 5/2-1202(a) (West 2020). The remaining clause of that sentence—“the motion is waived unless the request is renewed in the post-trial motion” (735 ILCS 5/2-1202(a) (West 2020))—is not about the circuit court’s powers, or even about proceedings in the circuit court, but about the party who files a directed verdict motion and that party’s inability to obtain appellate review of any arguments that it omits from its posttrial motion. (The subsequent paragraph of section 2-1202, paragraph (b), specifies that a party can file but “a single post-trial motion.” 735 ILCS 5/2-1202(b) (West 2020).)

¶ 9 One indication that the waiver language is about a party and not the court is that there is simply no precedent that we are aware of indicating that a court can “waive” its powers. In contrast, in our legal system in which the parties’ role is zealous advocacy for their respective

positions before an impartial arbiter of their dispute, there are many instances of a party “waiving” a right by failing to assert it. See, e.g., *People ex rel. Sherman v. Cryns*, 203 Ill. 2d 264, 283 (2003) (“the rule of waiver is a limitation on the parties and not on the court”). In this appeal, for instance, Holt waived our consideration of some of his theories by failing to adequately assert those theories. Furthermore, a circuit court could not possibly “waive” its authority to address a reserved motion for directed verdict by not ruling on it before the jury begins deliberating. In actuality, until a lawsuit has concluded with the circuit court’s entry of a final, appealable order and 30 days have lapsed since the entry, a circuit court has the inherent ability to address unresolved motions, reconsider its orders, and even *sua sponte* raise new concerns. See *Welch v. Ro-Mark, Inc.*, 79 Ill. App. 3d 652, 656 (1979) (a trial court has “inherent authority” and “jurisdiction for a period of 30 days after the entry of a final order or judgment to modify or vacate the final order or judgment not only on the timely motion of a party but also *sua sponte*”); *Hamilton v. Williams*, 237 Ill. App. 3d 765, 773 (1992) (a court has the power to revisit its prior decisions). Holt’s reading of section 2-1202(a) makes no sense because it would mean that a court could reserve a ruling and submit a case to a jury but then never actually make the ruling that it had reserved. Reserving and denying a directed verdict motion would be essentially the same ruling. Holt’s argument negates the two statements in section 2-1202(a) that are about reserved rulings, which violates the principle that no part of a statute should be rendered meaningless or superfluous. *Solon*, 236 Ill. 2d at 440-41; *County Collector*, 356 Ill. App. 3d at 670. The circuit court’s inherent ability to direct a jury verdict that is against the evidence and replace it with correct verdict is in “recognition that the role of a trial judge is not that of a presiding officer or an umpire, and that [the judge] is responsible for the justice of the judgment that [the judge] enters.” *Freeman v. Chicago Transit Authority*, 33 Ill. 2d 103, 106 (1965). Accepting Holt’s argument that the circuit court is deprived of that authority and limited to ruling on arguments that appear in a postjudgment motion “would take away that responsibility and tend to reduce [the judicial] role to that of an automaton.” *Freeman*, 33 Ill. 2d at 106. A circuit court has authority to dismiss frivolous claims even if a party has demanded a jury trial. And when a jury is mistaken or misguided, the circuit court has a responsibility to administer justice and enter a judgment that is consistent with the facts and established legal principles. Here, the circuit court allowed the jury to perform its function, which, had its verdict been in the municipality’s favor, would have mooted the reserved motion. The circuit court had authority and responsibility to enter the judgment warranted by the law and trial evidence.

¶ 10

In addition, when we read section 2-1202(a) in the context of sections 2-1202(b), (c), (d), (e), and (f), it is apparent that the entire statute is about posttrial motions. In context, section 2-1202(a) is not a rule that impairs the circuit court’s “authority” to address reserved directed verdict motions as Holt argues. Instead, section 2-1202(a), along with 2-1202(b), is about the contents of posttrial motions and indicate that a party must include all of his or her posttrial arguments in a single posttrial motion in order to preserve those arguments for appeal. This interpretation is confirmed by *Malott v. Hart*, 167 Ill. App. 3d 209, 211 (1988), in which the appellate court read the opening sentence of paragraph (b) along with Illinois Supreme Court Rule 366(b)(2)(iii) (eff. July 1, 1982), which is a rule about appeals from jury trials and provides, “A party may not urge as error on review of the ruling on his post-trial motion any point, ground, or relief not specified in the motion.” The court held: “The plaintiffs’ failure to file a post-trial motion amounted to failure to preserve any matters for review.” *Malott*, 167

Ill. App. 3d at 211. The subsequent paragraphs of section 2-1202, paragraphs (c) through (f), address other aspects of posttrial motions.

¶ 11 Holt contends that we can reject his appeal only by disregarding cases that indicate a party must file a written posttrial motion to preserve the ability to seek a ruling on a reserved directed verdict motion. However, the decisions he cites are not about trial court authority or procedures. The precedent indicates only that a posttrial motion is necessary to preserve issues *for appeal*. See *Keen v. Davis*, 38 Ill. 2d 280, 281 (1967) (“In this case we are called upon to resolve the differences between the several appellate courts as to whether a post-trial motion must be filed following a directed verdict as a prerequisite to appeal.”); *Crim v. Dietrich*, 2020 IL 124318, ¶ 30 (“when a case proceeds to a jury’s verdict, a litigant must file a post-trial motion pursuant to section 2-1202 in order to challenge the jury’s verdict on appeal”); *Mazurek v. Crossley Construction Co.*, 220 Ill. App. 3d 416, 422 (1991) (addressing whether the appellant “waived his right to the review of this issue by failing to raise it in his post-trial motion”); *American National Bank & Trust Co. of Chicago v. J&G Restaurant, Inc.*, 94 Ill. App. 3d 318, 319 (1981) (“The decisive issue is whether defendant failed to preserve for review the matters set forth in its notice of appeal by failing to file a post-trial motion.”). Holt has not cited a case indicating that a party must file a posttrial motion seeking to renew a reserved directed verdict motion before the circuit court may decide the motion. We also note that these cases requiring a posttrial motion to preserve an issue for purposes of appeal are not applicable to the City of Chicago defendants as the appellees. Section 2-1202(a) confirms that a circuit court may grant, deny, or reserve a motion for directed verdict and that a reserved motion is not in addition to the one posttrial motion that a party has the right to file.

¶ 12 Given the language of the statute, the inherent authority of a circuit court, and precedent regarding posttrial motions and appellate rights, we are not persuaded by Holt’s first argument. It was not procedurally improper for the circuit court to reserve its ruling, allow the jury to perform its function, grant the City of Chicago defendants’ motion for a directed verdict, and enter the resulting judgment.

¶ 13 Holt next argues that the directed verdict was in error because crucial facts were “hotly disputed” and the court interfered with the jury’s role of resolving conflicts. Accordingly, we will summarize the witness testimony. The jury heard from Holt, Robb, Robb’s husband, two of Holt’s family members, and various individuals who became involved in the investigation of Robb’s allegations of battery and sexual assault and Holt’s malicious prosecution lawsuit.

¶ 14 As it was Holt’s burden to prove his claim, we begin with his testimony. Holt testified that he and Robb were truck drivers who met at work in 2013. She told him that she “had gotten a divorce or something like that.” They began having sex a week after they met. On January 24, 2014, she came to Holt’s apartment after work, took a nap, and eventually got up. After he went to the store and brought home “some alcohol and some beer,” he and Robb played Monopoly. Around 10 p.m., his brother called to invite them out with his girlfriend, and he and Robb met them at a lounge. They listened to music, danced, and then went to IHOP for breakfast. Holt became “uncomfortable” at the restaurant and wanted to leave, but Robb would neither leave nor give him car keys so that he could sit in the vehicle. He stood by the door while everyone in the group finished eating. Robb’s refusal left Holt “a little upset.” After leaving IHOP, she drove to a gas station and told him to put gas in her car. He refused. She told him that was why she did not date Black men and that she would “ ‘drain [his] bank

account dry and [his] d*** dry.’ ” After sitting at the gas station for a minute, she drove to Holt’s apartment. By then it was 5:40 or 6 o’clock in the morning.

¶ 15

Holt told Robb to wait downstairs while he brought down her things, but she pushed passed him and went up to the unit. There, she started kissing his neck, which led them to having sex on the couch. She left hickeys on his neck that were later photographed by the police. Holt denied pushing or throwing Robb onto the couch, dragging her to the bedroom, pushing or throwing her onto the bed, covering her mouth, or strangling her. She “started talking crazy,” saying that by spending time with him, she was missing out on work and was “losing money.” He “lost interest” in her and said to her, “Get your stuff. Go.” Then he went to the kitchen to make something to eat. He ate his meal while watching television and then fell asleep while she was “moving all of the stuff around” and putting it into her car. When she came back and stood over Holt, he asked her, “ ‘Why don’t you lay your drunk ass down or something?’ ” She replied that she had already put her purse in the car. Holt went downstairs to check his front door and found that Robb had left it open. She gave him her car keys so that he could move her car in front of his. He did that and then returned her purse and car keys. Holt denied telling Robb that she could not leave the apartment. Holt also denied telling Detective Christian that he withheld Robb’s car keys because he did not want her to drive drunk. He denied pointing a gun at her head while threatening to kill her and her family. He denied even having a gun. They sat on the couch together, talking, then she laid back down. Holt denied that he laid on top of Robb and then fell asleep. He testified that they had sex for a second time and that they both fell asleep. In total, they had sex “[l]ike, two or three times, something like that.” She woke him up so that he could let her out of the apartment, and at about 10 a.m., she left. Holt denied asking her if he “had anything to be worried about” and denied asking Robb not to call the police. At no point when they were having sex did Robb indicate that she wanted him to stop. She did not scream, cry out for help, say “[l]eave me alone,” or say “[l]et me go home,” and Holt did not hear her stomp on the ground. Holt told the same story to Detective Christian at the police station. He repeated the same story to the assistant state’s attorney (ASA).

¶ 16

The police took photos of him at the police station with “the hickeys and stuff like that.” Holt denied that a police photo of his finger documented a bite mark and testified that the dark area was a “bruise or something like that” that occurred when he was at work, hooking a trailer to a truck. After the detective and ASA questioned him, he was unable to pay a bond for his release and was detained for 33 months. Holt described the “nasty” condition of the facility and food.

¶ 17

Officer Hufnagel of the Sauk Village Police Department testified that he was working a patrol beat on January 25, 2014, at approximately 10 a.m. when he was dispatched to the station to respond to Robb’s rape report. When he arrived in the station lobby, he could see that she was upset. Robb said that Holt, her coworker, had “snuffed, choked, and then physically raped her at gun point.” Officer Hufnagel said that by “snuffed,” he meant “an open hand to the face.” Robb also said that she had been held against her will. Robb told Officer Hufnagel that she was “scared to make the report due to threats to her family.” Officer Hufnagel wrote an incident report documenting everything Robb told him. He called an ambulance to take her to the hospital. Officer Hufnagel did not know if Robb’s allegations were true, but he believed her. He had prior experience with sexual assault victims, and Robb acted consistently with them. He telephoned the Chicago Police Department to advise them of Robb’s allegations.

¶ 18 Paramedic Kevin Coffey testified that he and his partner were called to the Sauk Village Police Department to assist Robb. They interviewed her in the lobby of the police station and in the ambulance, in order to determine her medical history and physical complaints and other symptoms. She was visibly upset and crying and stated that she was “fearful of possible harm to her family by the assailant,” whom she said she knew. Robb reported a headache and cramping, due to being “choked, assaulted sexually, held against her will, and threatened with a gun” in the assailant’s residence. One or both of the paramedics were with Robb for about 30 minutes. Coffey had no further involvement with the police after transporting Robb to the hospital. Coffey had experience with sexual assault victims and observed that Robb’s demeanor was consistent with them. She was “emotionally distraught.” He had no reason to believe that she was lying. He did not see any injuries or bruises but testified that he did not believe that meant Robb was untruthful because victims of sexual assault do not always have visible injuries and bruises do not “appear immediately after the trauma happens.” He acknowledged that his written report did not specify that she had been struck in the face or side or that Robb had been asked about her last menstrual cycle.

¶ 19 Detective Christian testified that she worked for the Chicago Police Department for 22 years, as a police officer, a detective, and then a sergeant before retiring in April 2018 at the age of 62 years. In January 2014, she was assigned to the department’s Area South. She handled only sex crimes.

¶ 20 Detective Christian was assigned to Robb’s case as the lead investigator. She spoke with Robb for 90 minutes in the hospital emergency room. Throughout the interview, Robb was crying and fearful. Robb said that she and Holt had been dating and having sex since November. They had been at Holt’s apartment before going out to a lounge and then to a restaurant. They argued in the restaurant, and their disagreement continued when they stopped at a gas station before returning to Holt’s place. Robb intended to retrieve her belongings and leave. Holt, however, threw her down, took off her clothes, and sexually assaulted her. During the assault, he put his hand on her throat and strangled her, then he covered her mouth with his hand and forced her to the bedroom. Robb stomped on the floor, in an attempt to get the attention of Holt’s aunt, who resided downstairs. After the assault, Robb dressed and attempted to leave. Holt again refused to let her go, and for a second time, he removed her clothing and sexually assaulted her. He also pointed a gun at her head and stated that he would kill her and her family. When she tried to leave for the third time that day, he sexually assaulted her again. Later that morning, she convinced him that she would not call the police, and she left the apartment. She drove to a gas station, where she called her husband and told him that she had been attacked and raped, and then she drove to the Sauk Village Police Department.

¶ 21 Detective Christian believed Robb because she displayed the characteristics of a criminal sexual assault (CSA) victim in that she was distraught and crying and was at the hospital submitting to the invasive procedure of a CSA kit. During the interview, Robb cried so much that at times she could not be understood and had to pause to compose herself. In addition, the account that Robb told that day was what she repeated “over and over” as the investigation progressed.

¶ 22 Robb was in a hospital gown because her clothing had been collected and sealed for transport to the crime lab as part of the CSA kit. Hospital staff had also taken samples from Robb’s vagina, mouth, and hair. Detective Christian did not attempt to look at Robb’s clothing in the CSA kit because officers “do not open evidence once it’s bagged and tagged.” Robb had

blankets “pulled up to her neck,” and the detective did not ask to look for bruising because Robb “was visibly upset, and [the detective] did not want to upset her more.” Asking “personal questions” could cause a sexual assault victim to “shut down.”

¶ 23 Before leaving the hospital, Detective Christian said to Robb that she would go to the station and try to find a photo of Holt and that she would need Robb to give her additional information about him, including his exact address. After being released from the hospital, Robb called Detective Christian to provide Holt’s address and then she came to the police station, where she identified Holt in a photo array, which she signed.

¶ 24 Doctors do not discuss a patient’s trauma with the police. Instead, detectives later review medical records with the patient’s consent. Detective Christian noted in her reports that a doctor recorded finding fluid (meaning semen) and no trauma. The detective had investigated other sexual assault cases where the victim showed no sign of trauma and she knew that the absence of trauma did not mean that the person had not been sexually assaulted.

¶ 25 As part of her investigation, Detective Christian spoke by phone with the Sauk Village Police Department officer who had taken Robb’s initial report and she read his report. Robb’s demeanor and the report that she made in Sauk Village corroborated her allegations of sexual assault.

¶ 26 The next day, Detective Christian and Detective Germaine Dubose went to Holt’s building to look for any surveillance cameras and speak with his aunt, Barbara Honeycutt (Honeycutt), who lived downstairs. Honeycutt’s daughter, Chavonda Honeycutt (Chavonda), came to the door and when asked whether she had heard anything the previous night, Chavonda said she was not home. Detective Christian asked to hear from Honeycutt and left a business card. Honeycutt called Detective Christian that evening. Detective Christian’s investigation report included notes about her conversation with Honeycutt, indicating that Honeycutt said that she was home, heard Holt and Robb leave and return to the apartment, heard loud noises and stomping, and heard Holt say to Robb, “Be quiet. I hate it when you get sloppy drunk. You’re going to wake my [auntie].” Honeycutt also stated that Robb was “screaming and hollering” and said, “I’m going to take you down and take you for everything you got.” Later that morning, Honeycutt heard footsteps and when she looked out the window, Robb’s car was gone.

¶ 27 Detective Christian spoke with Robb’s husband, Thomas, by phone. Thomas said his wife called him early that morning, “crying and upset” and said that she “had been raped and held.” He told her that she should go to the police. Detective Christian further testified that Thomas was an “outcry witness” because he was the first person that Robb reported the assault to. She added that it is important to interview an outcry witness “[b]ecause normally the outcry witness tells you the demeanor of the victim at the time of the crime.”

¶ 28 The next day, Detective Christian learned from her supervisor that Holt had been arrested. She called Robb at around 8 p.m. to inform her of the arrest and that Robb would need to come talk with an ASA. At the time, Robb was in Pontiac, Michigan, but she agreed to come to Chicago, and she arrived with her husband at around 1 a.m.

¶ 29 Detectives Christian and Dubose spoke with Holt while waiting for Robb to arrive. Holt said that he and Robb had been in a relationship since December. He said they had sex twice before going out to a lounge around 1 a.m. and then to a restaurant. He became uncomfortable with some people at the restaurant, asked for Robb’s car keys, and was angered when she refused to give them to him. After they left the restaurant, they went to a gas station where he

refused to buy her gas, and then they returned to Holt's residence around 5 a.m. or 6 a.m. Once they were inside, Robb "was talking crazy, kissing on [him]," and "stomping on the floor." They had consensual sex three times, once in the bedroom, once on the couch, and then again in the bedroom. Then, while he slept, she went in and out of the apartment to take things to her car and she left. Detective Christian testified that it was not unusual for a person accused of CSA to deny it and that Holt did not ask Detective Christian to speak with any witnesses about Robb's allegations.

¶ 30 Holt's aunt called the detective after Holt was arrested. Detective Christian asked her to come to the police station because an ASA would want to interview her. Honeycutt arrived with other family members.

¶ 31 Robb was the next to arrive at the station, at which point Detective Christian called the felony review unit of the state's attorney office, in accordance with the police department's procedure when a person in custody might be charged with a felony.

¶ 32 The felony review process usually involves a detective providing his or her reports to an ASA and the ASA conducting interviews and then deciding whether to approve felony charges. In other words, an ASA will conduct their own investigation, ask questions, take notes, and make a decision.

¶ 33 When ASA Lesley Gool arrived at the station at 2 a.m., Detective Christian gave ASA Gool her notes and reports and the photo array in which Robb had identified Holt, and the detective answered all of the ASA's questions. Detective Christian did not tell the ASA what her opinions were about the case. Detective Christian did not withhold any documents or information from ASA Gool, and there were no other witnesses that the detective could have brought to the station for the ASA to interview. ASA Gool then interviewed Robb while Detective Christian was present, and Robb verbally related the same information that she had already related to the detective. Robb agreed to give a "handwritten" statement to the ASA, so those two sat down at a computer to write it. ASA Gool printed the completed statement and read the first page aloud to Robb, Robb read the other pages herself and made corrections as needed, and then Robb, ASA Gool, and Detective Christian signed each page of the statement. Robb's written statement was consistent with what she told the detective and ASA.

¶ 34 After the interview, ASA Gool informed Detective Christian that she saw bruises on Robb, and she asked the detective to have the bruises photographed. Robb stated that Holt caused the bruising.

¶ 35 ASA Gool next interviewed Holt, Honeycutt, and Thomas. Detective Christian was present for the majority of the interview with Holt. She did not take any notes or jot down the duration of ASA Gool's interviews because they were not the detective's interviews. ASA Gool prepared a written statement for Holt, which he did not sign. No one who accompanied Honeycutt to the station asked to speak with the detective or the ASA, and Detective Christian was not aware of any other witnesses.

¶ 36 ASA Gool asked Detective Christian to order Robb's medical reports and inventory them. Detective Christian did not have the records yet because it usually takes a day or two for the hospital to put them into its system. However, the detective faxed a consent form to the hospital and received the records by return fax that same day. She looked at the medical records only long enough to see Robb's name and that they were hospital records. She turned the records over to state's attorney's office and does not know whether ASA Gool read them. After January 28, 2014, Detective Christian had no substantive conversations with Robb.

¶ 37 ASA Gool approved charging Holt with one count of CSA and one count of aggravated battery against Robb. When testifying before the grand jury, the detective stated, “in essence, what [Robb] related to [the detective] about [the] sexual assault.” Detective Christian did not testify about what Holt told her because the detective was answering only the questions that were asked. Before appearing before the grand jury, the detective spoke with someone at the state’s attorney’s office to prepare. Detective Christian was unaware that after she testified for the grand jury, the state’s attorney’s office added more charges against Holt, a total of 22 felony counts, as this was after the detective’s investigation was complete. The state’s attorney’s office asked Detective Christian to testify at the criminal trial, which she did, and her testimony there lasted only about five minutes and was limited to the statement that Honeycutt had given her.

¶ 38 Throughout her involvement in the case, Detective Christian believed Robb because she “displayed all of the characteristics of a criminal assault victim.” In addition, Robb consistently gave the same account, including when she called her husband and when she reported the incident to the Sauk Village police officer. Holt’s account was essentially the same as Robb’s, except for his assertion of consent. Robb’s account was also corroborated by Honeycutt and Holt when they indicated she had stomped on the floor. Detective Christian never uncovered any evidence that contradicted Robb’s statements. Furthermore, Robb cooperated throughout the investigation.

“[Robb cooperated throughout the investigation, which was important] because if a victim is serious about the allegations [they make], they, you know, keep in contact with you. They answer your questions. They show up when you call them. Some rape victims we get, once they make their report[,] we don’t hear from them again. You can’t proceed, you know, with a case if you don’t have a victim.”

There was also the fact that Robb had signed a criminal complaint under oath, which subjected her to criminal prosecution if she was making a false allegation against Holt. The detective did not tell Robb in any way that she was required to sign the complaint. Robb said she wanted to sign it. Detective Christian explained that detectives are “not trained to decipher credibility” but rather “are trained to look at the facts and the statements that [they are] given.” Detectives do not need to determine whether someone is telling the truth, and they do not make determinations of innocence or guilt. Those determinations are functions of the judicial process, and detectives “let [a case] proceed the way it should.” Detective Christian “had no reason not to believe [Robb]” and “didn’t have any information or any knowledge of anything that would say that she was not sexually assaulted.”

¶ 39 The state’s attorney’s office—not Detective Christian—made the decision to file criminal charges against Holt. The state’s attorney’s office—not Detective Christian—made the decision to continue prosecuting Holt. The detective did not pressure any individual at the state’s attorney’s office to file charges or continue charges against Holt. Aside from the times that she testified in court, Detective Christian had no substantive conversations with the state’s attorney’s office about Holt’s case. She never lied to anyone at that office about Holt. Before her investigation began, Detective Christian had never seen Holt and did not know him and did not know and had never met his aunt, the aunt’s daughter, Robb, or Robb’s husband.

¶ 40 Detective Dubose testified about her role assisting her partner, Detective Christian. Detective Dubose “was impressed” by Robb’s driving back to Chicago whenever requested, despite living outside of Illinois. Detective Dubose explained, “we have a lot of victims that

live right here in the city, and they don't come and show up." Robb, however, "drove back from out of state each time we asked her to regarding the case."

¶ 41 ASA Gool testified that she had been an ASA since 2007 and was assigned to the felony review unit when the office was contacted in January 2014 about Robb's accusation against Holt. When a law enforcement officer is ready to request approval of felony charges against an individual, the officer will contact the felony review unit to request that an ASA review the case. In other words, a suspect has not been charged, and no criminal court proceedings have begun.

¶ 42 After being assigned to a felony review matter, an ASA will go the police station, meet with the detective, ask about evidence that has been collected, and speak with willing witnesses, the victim, and the suspect. By speaking with these individuals, the ASA independently observes their demeanor and gathers information. An ASA can take make one of three decisions about a case. The ASA can approve or reject a case or can request a continued investigation. "An approval means that the investigation by law enforcement has provided enough probable cause information that [the case] should go and continue on into the criminal justice system." A police officer or detective cannot bring felony charges without contacting the felony review unit, and the ASAs have discretion over whether the charges are made. An ASA will not typically approve charges of domestic battery and CSA without the victim's statement. A victim's statement is "a very key, crucial part of [the] evidence [that the ASA considers,] especially if there was only those two people that were there during the incident." The victim's signature on the felony complaint is what commences the criminal proceeding.

¶ 43 Prior to being assigned to Robb's sexual assault case, ASA Gool had no prior relationship with Robb, Holt, Detective Christian, or Detective Dubose. ASA Gool spoke with Detective Christian over the phone, met with the detective at the police station, reviewed the available reports, and interviewed Robb. Robb was "visibly shaking" and "crying" while she described to ASA Gool what had happened. Robb agreed to provide a written statement, which ASA Gool typed while Robb sat next to her, again describing the encounter. After the statement was typed up, Robb, ASA Gool, and Detective Christian signed every printed page. ASA Gool's testimony about the incident between Holt and Robb was consistent with Detective Christian's testimony.

¶ 44 After speaking with Robb, ASA Gool interviewed Honeycutt with Detective Christian in the room. Honeycutt said she heard stomping, but she was not aware that anything was wrong. ASA Gool did not ask Honeycutt to make a written statement. ASA Gool asks for a written statement when there is "a lot of information that *** the witness *** will forget by the time this may be helpful." ASA Gool did not recall Honeycutt saying anything else and did not write anything else in her notes.

¶ 45 ASA Gool's next interview was with Robb's husband. She considered Thomas to be an important person to interview because he was the first person Robb contacted when the events were "very fresh in her mind." He said that after Robb told him what had happened, he told her to go immediately to the police, and that is what Robb did.

¶ 46 ASA Gool then interviewed Holt. Holt said the sex was consensual; denied brandishing a gun or other weapon; said that after Robb stomped, he told her to be quiet because his aunt was downstairs; and said he did not want her to leave the apartment only because he did not want her to drive drunk.

¶ 47 After this interview, ASA Gool asked Detective Christian to request Robb's medical records. In many rape cases, no trauma is evident. Robb told ASA Gool that Holt strangled her. ASA Gool observed injuries on Robb's neck and torso, and Robb said that Holt caused all of them. Photographs were taken of her injuries.

¶ 48 ASA Gool approved felony charges of aggravated battery and CSA. Detective Christian did not pressure ASA Gool, direct her actions, or interfere with her decision making.

¶ 49 While in the felony review unit, ASA Gool approved approximately 40% of the hundreds of cases that she reviewed. She never "serve[d] as a rubber stamp, blindly approving charges."

¶ 50 ASA Krista Peterson testified that she was the lead attorney in prosecuting Holt's criminal case. When she testified in the civil action in 2020, ASA Peterson had 18 years' experience as an ASA and 7 years' experience in the sexual assault and domestic violence division. It was her duty to review everything that had occurred prior to the case being assigned to her, including the detective's investigation. Like ASA Gool, ASA Peterson explained that in the felony review process, an ASA will meet with a detective, usually in person, and oftentimes interview witnesses before determining if and what charges should be filed and that the ASA could approve or reject felony charges or request a continued investigation.

¶ 51 ASA Peterson also explained that a criminal case can be initiated by a complaint, preliminary hearing, or indictment. In this instance, Robb's signature on a complaint was the first step in Holt's prosecution. The state's attorney's office then presented Holt's case to a grand jury, which indicted him on 22 counts. In Cook County, a grand jury consists of 16 citizens who serve for a month. An ASA will present a grand jury with facts through witness testimony and seek an indictment. Detective Christian was the only witness called to testify before the grand jury. A grand jury indictment supersedes the original complaint. The grand jury's role is to determine whether there is probable cause. There is no judge, no defendant, and no defense attorney. It was not unusual for a detective to testify at a grand jury proceeding. They commonly testify because they can give a broad overview of the case. At that stage, evidence that had to be processed by the Illinois State Police Crime Lab was not yet available. Detective Christian had no affiliation with that lab. A detective cannot seek an indictment. Prosecutors have discretion over which charges to bring, whom to charge, the number of charges, and whether to later dismiss any charges. Detective Christian did not instruct ASA Peterson or any of her colleagues about what charges to bring. Detective Christian did not interfere with the discretion of the state's attorney's office in charging Holt.

¶ 52 ASA Peterson was assigned to Holt's case after Holt was indicted. She subpoenaed Detective Christian's file, police department reports, witness statements, and crime lab documents. Detective Christian did not help ASA Peterson with this part of the investigation. The state's attorney's office has its own team of investigators who perform tasks such as interviewing witnesses, driving witnesses to court, take DNA buccal swabs, taking photographs, and looking for cameras. The state's attorney's office assigned 10 investigators to Holt's case.

¶ 53 Robb was fearful for her life. She requested an order of protection even though Holt was in custody at the time. She intended to relocate even though she did not live in Illinois.

¶ 54 ASA Peterson explained that Robb testified as the "main witness" in Holt's case. After the State rested, the defense moved for a directed finding. The judge denied the motion because the State had "presented enough evidence to meet at least [its] minimum threshold burden." The defense then presented testimony from Honeycutt and Chavonda and rested. The State

called Detective Christian only as a rebuttal witness. The detective's testimony was "short" and "pretty brief," and she "played a minimal role" in the prosecution. The judge found Holt not guilty. A finding of not guilty did not necessarily mean that a person is innocent. A finding of not guilty in a criminal court "essentially means that [the State has] not met our burden of proof beyond a reasonable doubt."

¶ 55 During the time that ASA Peterson worked on Holt's case, she had constantly evaluated the "strengths and weaknesses" of the evidence. If she had determined that the evidence no longer supported the charges, she would have dismissed the case. At no point did Detective Christian exert pressure or influence on ASA Peterson's decision to pursue criminal proceedings against Holt. ASA Peterson "didn't have that much contact with Detective Christian throughout the case actually." Their contact was "pretty minimal," in that they spoke at the onset of the case so that ASA Peterson could get Detective Christian's file and then spoke again prior to the trial, but "[b]eyond that, things [that ASA Peterson] needed accomplished [she] had [her] investigators do." ASA Peterson received "a lot" of information from Detective Christian but also received statements from Robb and other witnesses and subpoenaed documents.

¶ 56 Holt's cousin, Chavonda testified that, in 2014, they were living in the same two-unit building. Holt lived in the upstairs unit, while Chavonda, her daughter, and mother lived in the downstairs unit. A little before 8 a.m. on January 25, 2014, Chavonda returned home after spending the night at a friend's house. Because the building was old and uncarpeted, Chavonda was able to hear someone coming down the stairs and opening the front door at about 8:20 a.m. Chavonda tapped on the front window, smiled, and waved at the woman who was closing the front door. The woman waved back and continued to her car. The woman was walking slowly and was not crying. Chavonda left the window and went to the back of the apartment, where she heard the door open again and someone go up and then come back down. On January 27, 2014, a police officer or detective came to Chavonda's apartment, asking about Holt. Chavonda told the detective that she was not at home on the night in question. She did not tell the detective that she saw a woman leaving the building or heard someone walking on the stairs. The detective came a second time, and there was a third visit from the police when Holt was arrested. Chavonda did not tell any of them that she had seen a woman or heard someone using the stairs. Nor did she tell her mother these things when her mother came home and later prepared to go to the police station because Holt had been arrested.

¶ 57 Holt's aunt, Honeycutt, testified that she met Robb in November 2013 and saw Robb visit Holt frequently, sometimes every day. Honeycutt was in her apartment between 5 a.m. and 10 a.m. on January 25, 2014, and had spent the previous night at home. At no time did Honeycutt hear any stomping or walking across the floor upstairs. She did not hear any "screaming and hollering" upstairs, but she did hear Robb "talking loud." Honeycutt heard Robb say, "'I'm going to take you down for everything, you watch and see.'"

¶ 58 Honeycutt denied speaking by phone with a police officer or detective on January 27, 2014. The first time she spoke with either was when she went to the police station with Holt's brother after Holt was arrested. At the station, Detective Christian told Honeycutt that Holt was accused of raping Robb the previous night. Honeycutt replied to the detective, "Ain't nobody raped in there. I would have heard it, and I would have ran [*sic*] upstairs." The detective did not ask questions and said that Honeycutt would have to speak with the prosecutor. Honeycutt told the prosecutor, "I don't know nothing about no rape because I was home." Honeycutt

denied telling Detective Christian that she heard Holt leaving, Robb “screaming and hollering,” someone in Holt’s apartment “stomping on the [floor],” or someone come down the stairs on the January 25. She did tell Detective Christian that, in the morning, she saw Robb’s car “parked about three houses down” and then “in the front of the house.”

¶ 59 Honeycutt stated that she testified at Holt’s criminal trial that she heard Robb “talking loud” but not stomping or “hollering or screaming” in Holt’s apartment. She acknowledged that she “wanted to do whatever [she] could to help him with his prosecution.” Honeycutt saw Holt every day when they were living in the same building in 2014. After he was jailed, she visited him at least once a week. Once he was released, they resumed speaking by phone multiple times a week and sharing meals.

¶ 60 Honeycutt stated that Holt could not have raped Robb because Honeycutt would have heard it. “That house is an old house, so you can practically hear everything.” Honeycutt could hear when Holt and Robb had sex, but she did not hear them having sex on the morning of January 25. She did not hear either of them in Holt’s apartment the previous night between 6:30 p.m. and 9:15 p.m. because they had gone out.

¶ 61 Robb’s testimony from Holt’s criminal trial was read to the jury. Robb’s trial statements were consistent with the statements she gave to Detective Christian and ASA Gool that Holt battered her, held her against her will, repeatedly sexually assaulted her, and threatened her with a gun.

¶ 62 As discussed above, at the close of Holt’s case, the City of Chicago defendants moved orally and in writing for a directed verdict. The circuit court reserved its ruling and the City of Chicago defendants presented their case. After resting, the City of Chicago defendants renewed the directed verdict motion. The court again reserved ruling.

¶ 63 The jury returned a verdict in favor of Robb but against the City of Chicago defendants, and it awarded Holt \$6.4 million. The City of Chicago defendants added to the pending motion by orally moving for JNOV. The circuit court acknowledged that it had reserved ruling on the directed verdict motion and then gave parties the opportunity to make arguments. The court ruled that the trial evidence established that Holt did not prove three of the five elements of his malicious prosecution claim: Detective Christian did not commence or continue the prosecution, probable cause did exist, and Detective Christian did not act with malice. Based on those conclusions, the court granted the directed verdict. Holt filed a posttrial motion in which he argued in part that the City of Chicago defendants waived their right to a directed verdict by failing to renew their reserved motion in a posttrial motion and that the evidence supported the jury’s verdict. The circuit court denied the posttrial motion and Holt took this appeal.

¶ 64 It is the jury’s function to resolve conflicts in evidence, determine witness credibility, and determine the weight that should be given to witnesses’ testimony. *Maple v. Gustafson*, 151 Ill. 2d 445, 452 (1992). A trial judge cannot reweigh the evidence and set aside a jury’s verdict merely because “the jury could have drawn different inferences or conclusions” or because the judge determines that other results are “more reasonable.” *Maple*, 151 Ill. 2d at 452. Similarly, it is not an appellate court’s role to “usurp the function of the jury and substitute its judgment on questions of fact fairly submitted, tried, and determined from the evidence which did not greatly preponderate either way.” *Maple*, 151 Ill. 2d at 452-53.

¶ 65 Motions for a directed verdict and motions for a JNOV are made at different times during a trial but they pose the same questions and are governed by the same rules of law. *Maple*, 151

Ill. 2d at 453 n.1. Such motions are “properly entered in those limited cases where ‘all of the evidence, when viewed in its aspect most favorable to the opponent, so overwhelmingly favors [the] movant that no contrary verdict based on that evidence could ever stand.’ ” *Maple*, 151 Ill. 2d at 453 (quoting *Pedrick v. Peoria & Eastern R.R. Co.*, 37 Ill. 2d 494, 510 (1967)). These motions present questions of law and questions of fact are addressed *de novo* on appeal. *Lawlor v. North American Corp. of Illinois*, 2012 IL 112530, ¶ 37.

¶ 66

The standard for entering a directed verdict is high and not appropriate if reasonable minds might differ as to inferences or conclusions to be drawn from the facts presented. *Chambliss v. Walker Construction Co.*, 46 Ill. App. 2d 287, 291-92 (1964). In ruling on these motions, a court does not weigh evidence nor consider credibility of witnesses; rather the court only considers the evidence and any inferences therefrom in the light most favorable to the nonmoving party. See *Chambliss*, 46 Ill. App. 2d at 291. In properly directing a verdict, the judge determines as a matter of law that there are no evidentiary facts out of which the jury may construct an ultimate fact that is essential to the plaintiff’s recovery. See *Chambliss*, 46 Ill. App. 2d at 291.

¶ 67

“A malicious prosecution action is a civil tort brought by a plaintiff ‘for recovery of damages which have proximately resulted to person, property or reputation from a previous unsuccessful civil or criminal proceeding, which was prosecuted without probable cause and with malice.’ ” *Beaman v. Freesmeyer*, 2019 IL 122654, ¶ 23 (quoting *Freides v. Sani-Mode Manufacturing Co.*, 33 Ill. 2d 291, 295 (1965)). Public policy encourages the exposure of crime and disfavors malicious prosecution suits. *Turner v. City of Chicago*, 91 Ill. App. 3d 931, 934 (1980). To succeed on a claim of malicious prosecution, the plaintiff must establish “(1) the commencement or continuation of an original criminal or civil judicial proceeding by the defendant; (2) the termination of the proceeding in favor of the plaintiff; (3) the absence of probable cause for such proceeding; (4) malice; and (5) damages.” *Sang Ken Kim v. City of Chicago*, 368 Ill. App. 3d 648, 654 (2006). Holt argues that the directed verdict was erroneous because Detective Christian lacked probable cause, acted with malice, and commenced or continued the criminal proceeding against Holt.

¶ 68

In a malicious prosecution action, “probable cause is defined as ‘a state of facts that would lead a person of ordinary care and prudence to believe or to entertain an honest and sound suspicion that the accused committed the offense charged.’ ” *Sang Ken Kim*, 368 Ill. App. 3d at 654 (quoting *Fabiano v. City of Palos Hills*, 336 Ill. App. 3d 635, 642 (2002)); *Freides*, 33 Ill. 2d at 295-96 (“ ‘Probable cause’ has been defined in this usage as ‘such a state of facts *** as would lead a [person] of ordinary caution and prudence to believe, or entertain an honest and strong suspicion that the person arrested is guilty.’ ” (quoting *Harpham v. Whitney*, 77 Ill. 32, 42 (1875))). A person should not be held liable for malicious prosecution merely because the accused was not convicted. *Turner*, 91 Ill. App. 3d at 935. At issue is the state of mind of the person who commences the prosecution and not the actual facts of the case or the guilt or innocence of the accused person. *Sang Ken Kim*, 368 Ill. App. 3d at 654. A reasonable ground for belief of an accused’s guilt may be based on information from other persons as well as on personal knowledge. *Sang Ken Kim*, 368 Ill. App. 3d at 655. “It is not necessary to verify the correctness of each item of information so obtained; it is sufficient to act with reasonable prudence and caution in so proceeding.” *Turner*, 91 Ill. App. 3d at 935. “[P]robable cause is a common-sense inquiry requiring only a probability of criminal activity; it exists whenever an officer or a court has enough information to warrant a prudent person to believe criminal

conduct has occurred.’ ” *Young v. City of Chicago*, 987 F.3d 641, 644 (7th Cir. 2021) (quoting *Whitlock v. Brown*, 596 F.3d 406, 411 (7th Cir. 2010)). When the victim of the crime supplies the police with the information forming probable cause, there is a presumption that the information so provided is inherently reliable. *Sang Ken Kim*, 368 Ill. App. 3d at 655. A mistake that is not grossly negligent will not affect the question of probable cause when there is an honest belief by the complainant that the accused is probably guilty of the offense. *Turner*, 91 Ill. App. 3d at 935. If it appears that there was probable cause to institute the proceedings, the action for malicious prosecution fails. *Turner*, 91 Ill. App. 3d at 935.

¶ 69 Holt’s claim foundered on the element of probable cause for the criminal proceeding and the directed verdict was justified because the record on appeal indisputably shows that Robb reported to Detective Christian that Holt battered Robb, repeatedly sexually assaulted her, threatened her at gunpoint, and repeatedly prevented her from leaving his apartment. Robb’s report alone supported Detective Christian’s reasonable belief to arrest Holt because a purported victim’s report is “inherently reliable” (internal quotation marks omitted) (*Sang Ken Kim*, 368 Ill. App. 3d at 655) and information from a victim or eyewitness to a crime “is entitled to particularly great weight in evaluating its reliability” (*People v. Aguilar*, 286 Ill. App. 3d 493, 496-97 (1997)). Illinois courts have determined that reports from purported victims or witnesses of crimes are sufficient to establish probable cause.

¶ 70 An example is *Sang Ken Kim*, in which the plaintiff was charged with first degree murder and aggravated CSA for beating his pregnant girlfriend and killing the fetus. *Sang Ken Kim*, 368 Ill. App. 3d at 652. He was held in Cook County jail for more than three years awaiting trial until his girlfriend recanted. *Sang Ken Kim*, 368 Ill. App. 3d at 652-53.

¶ 71 He filed a malicious prosecution suit against the municipality and the police detectives who investigated the girlfriend’s allegations. *Sang Ken Kim*, 368 Ill. App. 3d at 653. The girlfriend told police that he had pushed her, kicked her in the abdomen numerous times, and kicked her in the vagina, after which she began discharging fluid vaginally. *Sang Ken Kim*, 368 Ill. App. 3d at 655. Another panel of this court concluded that “ample probable cause [existed] at the time of arrest” where investigators “received information from the victim of a crime.” *Sang Ken Kim*, 368 Ill. App. 3d at 655, 660.

¶ 72 The court also reasoned that “instead of only relying on the presumption that [the purported victim’s] information was reliable—which they could have done,” the investigators “set about gathering more information to corroborate [her report] and establish probable cause.” *Sang Ken Kim*, 368 Ill. App. 3d at 655. The detectives obtained medical evidence and interviewed third parties. The detectives spoke with a physician who treated the girlfriend after the alleged criminal acts. *Sang Ken Kim*, 368 Ill. App. 3d at 655-56. The physician was unable to confirm that abdominal trauma caused the premature rupture of membranes. *Sang Ken Kim*, 368 Ill. App. 3d at 656. They also interviewed a friend who spoke with the girlfriend by phone and took her to the hospital emergency room. *Sang Ken Kim*, 368 Ill. App. 3d at 656. The girlfriend reportedly told the friend a slightly different story and denied being punched in the stomach. *Sang Ken Kim*, 368 Ill. App. 3d at 656. Another third party was the medical examiner who performed the baby’s autopsy and determined that the manner of death was homicide due to “blunt abdominal trauma.” *Sang Ken Kim*, 368 Ill. App. 3d at 656. The court acknowledged there was an inconsistency in the girlfriend’s story but not one “serious enough to deprive defendants of ‘an honest and sound suspicion that the accused committed the offense charged.’ ” *Sang Ken Kim*, 368 Ill. App. 3d at 657 (quoting *Fabiano*, 336 Ill. App. 3d at 642).

The court rejected the boyfriend's additional argument that the allegations were uncorroborated. *Sang Ken Kim*, 368 Ill. App. 3d at 658. The court emphasized that the detectives could have relied on the girlfriend's statement alone: "The existence of probable cause is measured based on the facts known to the officers at the time of the arrest." *Sang Ken Kim*, 368 Ill. App. 3d at 658; see also *Turner*, 91 Ill. App. 3d at 935-36 (witness reports gave a police officer probable cause for felony theft arrest).

¶ 73

Federal decisions evaluating malicious prosecution claims under Illinois law reiterate these conclusions. For example, in *Johnson v. Saville*, 575 F.3d 656, 660-61 (7th Cir. 2009), the court held there was probable cause where an inmate reported that an Illinois State Police officer committed a CSA, investigators interviewed other inmates who provided some corroboration, and records showed the inmate had been outside of her cell on a cleaning detail while the officer was her supervisor. The court explained that a "statement from 'the putative victim...who it seems reasonable to believe' is ordinarily sufficient to establish probable cause." *Johnson*, 575 F.3d at 660 (quoting *Sheik-Abdi v. McClellan*, 37 F.3d 1240, 1247 (7th Cir. 1994)). Another instance is *Woods v. City of Chicago*, 234 F.3d 979, 997 (7th Cir. 2000), in which the court held that probable cause existed based on a victim's report of aggravated assault, even when the police officers had no documentation showing that they investigated the complaint or made any effort to corroborate it. The victim's report "clearly related the occurrence of an assault under Illinois law," and police officers are not obligated "to conduct any further investigation before making an arrest if they have received information from a reasonably credible victim or eyewitness sufficient to supply probable cause." *Woods*, 234 F.3d at 996-97; see also *Sheik-Abdi*, 37 F.3d at 1247 ("While everyone agrees that [the wife] bore no contemporary markings of bodily harm, we believe that, in the circumstances, [the paramedic's] statement [to the police] adequately formed the basis of a reasonable belief that an insulting or provocative contact had occurred."); *Grimm v. Churchill*, 932 F.2d 674, 675 (7th Cir. 1991) (when a police officer "has received his information from some person—normally the putative victim or an eye witness—who it seems reasonable to believe is telling the truth, he has probable cause" (internal quotation marks omitted)).

¶ 74

According to Illinois law, because Detective Christian "received information from the victim of a crime," and "there is a presumption that this information is inherently reliable," "ample probable cause [existed] at the time of arrest." (Internal quotation marks omitted.) *Sang Ken Kim*, 368 Ill. App. 3d at 655, 660.

¶ 75

Moreover, there were undisputed facts that bolstered the reasonableness of Detective Christian's belief that Holt committed the acts that Robb reported. For instance, Detective Christian testified that Robb was crying and distraught during her 90-minute interview at the hospital and that this demeanor was consistent with a sexual assault. In addition, Robb had gone to the emergency room and submitted to the invasive procedures of a CSA examination. Robb had also consistently given the same account multiple times, including to the persons whom she initially spoke, who were her husband and Sauk Village police officer Hufnagel. There was also the fact that Holt's account was essentially the same as Robb's, except for his denial of battering Robb and assertion that she consented to sex. In addition, Robb cooperated throughout the police investigation and voluntarily signed the criminal complaint that subjected her to criminal penalties.

¶ 76

Furthermore, there were other witnesses that believed Robb. Officer Hufnagel believed Robb because her demeanor was consistent with his prior experience with sexual assault

victims. Paramedic Coffey believed Robb for the same reason and also testified that there was no reason to believe that she was untruthful, despite her lack of visible injuries. Detective Dubose was “impressed” that Robb drove for hours to and from Chicago whenever requested during the investigation into her accusations. Detective Dubose remarked that not all purported victims of CSA follow through after their initial report. ASA Gool personally interviewed Robb, Robb’s husband, Holt, and Holt’s aunt, Honeycutt, and concluded there was probable cause based on Robb’s account; the consistency between Robb’s statement to ASA Gool and prior statement to Detective Christian; Robb’s demeanor; the absence of any indication that she was being untruthful; and Holt’s admission that he had sex with Robb multiple times that day. ASA Peterson was another confirmation of Detective Christian’s probable cause, in that ASA Peterson testified that, during her prosecution of Holt, she was constantly evaluating the evidence and would have dismissed the case if she had determined the evidence no longer supported the charges. Holt did not present any evidence that Detective Christian lacked a reasonable belief when Holt was arrested that he had committed crimes.

¶ 77 A grand jury also indicted Holt based on Detective Christian’s testimony about Robb’s allegations. Under Illinois law, a grand jury indictment is *prima facie* evidence of probable cause for purposes of a malicious prosecution claim. See *Freides*, 33 Ill. 2d at 296; *Wade v. Collier*, 783 F.3d 1081, 1085 (7th Cir. 2015); *Burrell v. Village of Sauk Village*, 2017 IL App (1st) 163392, ¶ 19 (probable cause existed where the state’s attorney’s office approved charges and a grand jury returned an indictment after hearing all of the evidence).

¶ 78 None of Holt’s contrary arguments are persuasive. Holt erroneously contends that the circuit court erred by “failing to consider only that evidence which was most favorable to Holt.” However, when contemplating a directed verdict, “all the evidence is considered together with all reasonable inferences from its aspect most favorable to plaintiff.” *Mangus v. Cock Robin Ice Cream Co.*, 52 Ill. App. 3d 110, 118 (1977); *Maple*, 151 Ill. 2d at 453. After that consideration, if “there is a total failure to prove any necessary element of plaintiff’s case,” a directed verdict is justified. *Mangus*, 52 Ill. App. 3d at 118. Holt also contends the circuit court considered “irrelevant issues,” such as the grand jury’s indictment. Holt contends that the civil jury did not have to agree with the grand jury. But, as discussed just discussed above, the grand jury’s indictment was *prima facie* evidence of probable cause (see *Freides*, 33 Ill. 2d at 296), and Holt presented no evidence upon which the civil jury should have questioned the indictment.

¶ 79 Holt erroneously argues that Detective Christian “failed to pursue reasonable avenues of investigation” and cites *Buckley v. Fitzsimmons*, 509 U.S. 259, 273 (1993), for the purported rule that a detective is under a duty “to *investigate* or to search for ‘the clues and corroboration that might give him probable cause to recommend that a suspect be arrested.’ ” (Emphasis added.) But *Buckley* imposes no such investigative duty on a police officer or detective. Rather, *Buckley* concerned prosecutors and reasoned that whether a prosecutor is entitled to absolute immunity from malicious prosecution depends on whether the prosecutor was performing “the advocate’s role in evaluating evidence and interviewing witnesses as he prepares for trial” or “the detective’s role in searching for the clues and corroboration that might give him probable cause to recommend that a suspect be arrested.” *Buckley*, 509 U.S. at 273. The court was not imposing a duty rule on individuals such as Detective Christian. As we discussed above, the law is well settled that an officer has probable cause when a purported victim gives a credible allegation of a crime. *Sang Ken Kim*, 368 Ill. App. 3d at 655. At the probable cause stage of an

investigation, the “inquiry is whether an officer has reasonable grounds on which to act, not whether it was reasonable to conduct further investigation.” (Internal quotation marks omitted.) *Spiegel v. Cortese*, 196 F.3d 717, 725 (7th Cir. 1999).

¶ 80 Holt argues, without any supporting authority, “allegations of rape by a stranger and current sexual partner should be investigated differently,” otherwise, “anyone with a scorned lover could go to jail based off false accusations.” This argument, however, misstates the police officer’s role. “The credibility of a putative victim or witness is a question, not for police officers in the discharge of their considerable duties, but for the jury in a criminal trial.” *Spiegel*, 196 F.3d at 725. A police officer is entitled to accept a report as long as it is not so incredible as to make the officer’s “belief that plaintiff committed a crime unreasonable.” *Johnson v. Target Stores, Inc.*, 341 Ill. App. 3d 56, 75 (2003). Police “ ‘are entitled to act on the basis of observable events and let courts resolve conflicts about mental states.’ ” *Spiegel*, 196 F.3d at 725 (quoting *Hebron v. Touhy*, 18 F.3d 421, 423 (7th Cir. 1994)). “[P]robable cause depends on information known to the police at the time [of arrest], not on how things turn out.” *Hebron*, 18 F.3d at 423. Both Holt and Robb said that they had sex multiple times on the date at issue. Holt said the sex was consensual. Robb said she had been raped. Holt points to no evidence indicating her account was so incredible that believing her was unreasonable. Holt did not identify anyone else for Detective Christian to speak with about Robb’s allegations and no amount of police investigation would have altered the fact that Holt and Robb were the only people who knew what happened.

¶ 81 Holt contends that Detective Christian had no “objective” evidence that Holt committed a crime, other than Robb’s demeanor and tears. Holt, however, cites no probable cause standard that required Detective Christian to collect “objective” evidence in addition to a credible victim’s report. It was Holt’s burden to show some objective basis that would have rendered the detective’s reliance on Robb’s statement unreasonable. The holding that Holt proposes would prevent a police officer from making an arrest in instances in which only the alleged victim and perpetrator were present, as there would be no “objective” evidence available.

¶ 82 Holt contends there was evidence in his favor that Detective Christian should have investigated or that the jury could have believed when returning the verdict in Holt’s favor. None of the evidence Holt argues, however, undermined the testimony about what Robb told Detective Christian and ASA Gool, which is the core of probable cause in this instance, nor would it cause any reasonable person to doubt that probable cause existed. For instance, Holt faults Detective Christian for supposedly ignoring material facts, such as his denial of the rape allegations. However, “[m]any putative defendants protest their innocence, and it is not the responsibility of law enforcement officials to test such claims once probable cause has been established.” *Spiegel*, 196 F.3d at 724. If police officers were required to accept denials as fact, then no one could be held or charged with an offense. See *Young*, 987 F.3d at 642 (protesting innocence does not preclude pretrial detention for a crime).

¶ 83 Holt argues that the jury could have believed Chavonda and Honeycutt. Their testimony, however, did not undermine the existence of probable cause. Chavonda testified that Robb had taken the time to groom her hair before leaving Holt’s apartment and that Robb returned Chavonda’s wave with a wave instead of asking Chavonda to call the police. These details do not undercut Detective Christian’s reasonable reliance on Robb’s statement. They are consistent with Robb’s statement that she was finally permitted to leave Holt’s apartment after she assured him she would not be contacting the police. Even accepting Honeycutt’s testimony

(contrary to both Detective Christian and ASA Gool's testimony) that she never heard Robb stomping, that does not mean that Detective Christian had to disbelieve Robb's allegations. This is especially so when one considers that Honeycutt also testified that she could always hear when Holt and Robb had sex, but that she did not hear them in the apartment whatsoever on the night before the reported rape when Holt and Robb said they drank and played Monopoly. In addition, Honeycutt testified that she did not hear them having sex at all the next morning, when Holt and Robb both said that they were in the apartment and had sex times multiple times but disagreed over whether the sex was consensual.

¶ 84

Holt also argues that Detective Christian failed to account for the fact that she did not observe any bruising on Robb. However, Detective Christian explained that when she arrived at the hospital, Robb was in a hospital bed with the covers pulled up tightly around her and had difficulty keeping her composure while describing what had occurred and that the detective would not have asked to see Robb's body out of concern that it might upset her further. Holt points to the notation in Robb's medical record of "no trauma" and faults Detective Christian for not speaking with paramedic Coffey or reviewing Coffey's report that stated Robb presented no visible injuries. Coffey testified that Robb was "emotionally distraught," and although he did not see any injuries or bruising, he did not believe that meant Robb was untruthful because victims of sexual assault do not always have visible injuries and bruises do not appear immediately after trauma. Detective Christian testified that she had investigated other rape cases in which the victim did not have visible trauma and that a lack of apparent trauma did not mean the person had not been raped. Similarly, ASA Gool testified that no trauma is evident in many rape cases. Detective Christian testified that she does not usually interview ambulance drivers as they did not witness the crime she is investigating. In any event, Detective Christian went to the hospital to observe and interview Robb herself.

¶ 85

Holt criticizes Detective Christian for not examining Robb's clothing for damage. Detective Christian testified that when she arrived at the hospital, Robb's clothing had already been bagged and sealed as part of the CSA kit and the detective did not want to risk contaminating any DNA evidence. Along those same lines, Holt criticizes the detective for not examining Holt's apartment or sending someone else to do so. But it is not clear what examining the apartment could have added to the investigation since both Holt and Robb stated that they had sex multiple times that morning in the apartment, and the only question was whether it was with Robb's consent. Regardless, Detective Christian testified that gaining entry into Holt's residence would have required approval of a search warrant, after Holt was arrested the state's attorney's office took over the investigation, and the state's attorney's office would have requested a search warrant if there was belief it was necessary. ASA Gool testified that if she believed additional evidence was necessary, she would have ordered an additional investigation.

¶ 86

Holt asserts that Detective Christian and ASA Gool testified inconsistently as to whether the ASA asked the detective to take photographs of Robb's bruising and whether the ASA reviewed the photographs. However, the detective testified that ASA Gool noticed bruising on Robb and asked that it be photographed, and the ASA likewise testified that she observed bruising and that the bruises were photographed. ASA Gool did not recall whether she directed the detective to obtain the photographs but stated that it was possible. Any purported inconsistency in the testimony about the photographs of Robb's bruising is immaterial. What is material is that the ASA noticed bruising and that it was photographed.

¶ 87 Holt also states that the detective and ASA Gool testified inconsistently about whether the detective was able to obtain the medical records for the ASA's review. However, the detective's testimony established that she obtained the medical records by fax, turned them over to the state's attorney's office, and did not know whether ASA Gool read the records after the detective inventoried them as evidence. ASA Gool testified that she never received the records herself but that the case was subsequently assigned to a different ASA who did receive them. Whatever inconsistency Holt perceives in this testimony, there is no doubt that the state's attorney's office received the medical records.

¶ 88 None of the testimony that Holt attempts to make an issue of indicates the detective lacked probable cause. Holt's failure to establish the probable cause element of his malicious prosecution claim is fatal to that claim.

¶ 89 We also address Holt's arguments regarding the element of malice. Malice is defined as the initiation of a prosecution for any reason other than to bring a party to justice. *Mack v. First Security Bank of Chicago*, 158 Ill. App. 3d 497, 501 (1987). "Malice, as an element of malicious prosecution, does not necessarily mean personal ill-will, spite or hatred toward the person prosecuted ***." *Turner*, 91 Ill. App. 3d at 937. Malice is proved by showing that the prosecution was started by improper motive. *Mack*, 158 Ill. App. 3d at 501. "Malice may be inferred from the absence of probable cause when the circumstances are inconsistent with the prosecutor's good faith and where the lack of probable cause has been clearly proved." *Mack*, 158 Ill. App. 3d at 501.

¶ 90 As discussed above, ample probable cause existed, but regardless, the jury could not infer malice because there was no evidence of bad faith. Detective Christian testified that she concluded charges were warranted because she believed Robb. Holt offered no evidence that Detective Christian harbored any motive other than to bring a guilty party to justice. She relied on the report of a credible witness and then turned the case over to prosecutors. Furthermore, Detective Christian did not know Holt before beginning her investigation, and Holt adduced no evidence of any animus against him. See *Denton v. Allstate Insurance Co.*, 152 Ill. App. 3d 578, 587 (1986) (holding that no malice existed where there was no evidence of any prior relationship between the plaintiff and the defendant that might provide a basis for finding malice).

¶ 91 In arguing to the contrary, Holt first cites an unpublished order, that is, an order that has no precedential value and is distributed with the express warning: "NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1)." Ill. S. Ct. R. 23(e)(2) (eff. Jan. 1, 2011). Holt does not come within any of the stated exceptions for citing an unpublished order, and we will not consider it. *Dedic v. Board of North Shore Towers Condominium Ass'n*, 2018 IL App (1st) 171842, ¶ 44. Holt then argues that the jury could have found malice based on a discrepancy between Detective Christian's testimony and Holt's and Honeycutt's. Holt points out that Detective Christian wrote in her report that Honeycutt told her she heard Robb hollering, screaming, and stomping in Holt's apartment, but Honeycutt later testified that she did not make that statement to Detective Christian. This discrepancy is inconsequential and does not even remotely suggest malice. Without any basis, Holt argues this discrepancy indicates that Detective Christian "lied in [her reports] and at trial about [the] statements [made] to her." This baseless contention is unwarranted and unpersuasive. Holt next contends that Detective Christian did not think it was important to stay in the room the entire time that

ASA Gool was interviewing Holt and Robb in order to see if there were any inconsistencies between their two statements. Again, Detective Christian relied on the report of a credible witness and then turned the case over to prosecutors. The fact that the detective did not stay in the room the entire time that ASA Gool was conducting her own interview of Robb and Holt is not indicative of anything in particular and certainly not indicative of malice. The remainder of Holt's argument regarding malice is similarly irrelevant. Holt did not prove the necessary element of malice.

¶ 92 Furthermore, the directed verdict against Holt was also proper because of Holt's failure to prove the first element of a malicious prosecution claim. The undisputed evidence established that Robb and the state's attorney's office commenced and continued Holt's prosecution, not Detective Christian. A determination of whether a defendant commenced or continued a plaintiff's prosecution considers "whether the defendant's actions proximately caused" the prosecution. *Beaman*, 2019 IL 122654, ¶ 41. Liability for commencing or continuing a prosecution " 'extends to all persons who played a significant role in causing the prosecution of the plaintiff, provided all of the elements of the tort are present.' " *Beaman*, 2019 IL 122654, ¶ 43 (quoting *Frye v. O'Neill*, 166 Ill. App. 3d 963, 975 (1988)). It thus turns on

" 'whether the defendant was actively instrumental in causing the prosecution, and the presumption of prosecutorial independence can be overcome by showing that the defendant improperly exerted pressure on the prosecutor, knowingly provided misinformation to him or her, concealed exculpatory evidence, or otherwise engaged in wrongful or bad-faith conduct instrumental in the initiation of the prosecution.' " *Beaman*, 2019 IL 122654, ¶ 44 (quoting 52 Am. Jur. 2d *Malicious Prosecution* § 88 (2018)).

¶ 93 Holt failed to prove that Detective Christian played a significant role in causing his prosecution or did anything that overcame prosecutorial independence. In actuality, the undisputed testimony was that Robb signed the criminal complaint, without any pressure from Detective Christian. ASA Gool spoke with Detective Christian, and subsequently approved felony charges after interviewing Robb, her husband, Holt, and Honeycutt. Detective Christian had only a minor role in the prosecution after testifying before the grand jury. ASA Peterson believed that the evidence supported Holt's prosecution to a conviction. This is not a record indicating that Detective Christian commenced or continued Holt's prosecution.

¶ 94 In addition, ASA Gool testified that a police officer or detective in Cook County cannot bring charges without first contacting the felony review unit of the state's attorney's office. At that point, no suspect has been charged with any crimes and no criminal court proceedings have commenced. Only after the ASA approves charges is a suspect charged, and, as prosecutors, ASAs have discretion to approve or reject charges. ASA Gool had the discretion to continue an investigation if there was not enough evidence to approve charges.

¶ 95 ASA Gool also explained that during felony review, an ASA reviews the evidence gathered by the police and interviews witnesses and victims. This process allows an ASA to independently obtain information from witnesses or victims and observe their demeanor. The ASA will also speak with the suspect, if possible. After this analysis, the ASA decides on the felony charges. ASA Gool also explained that in a CSA case, the victim's statement and cooperation with the investigation and prosecution are crucial because the victim commences the criminal proceeding by signing the felony complaint. If ASA Gool discovered evidence that objectively established a victim was lying, she would not approve charges.

¶ 96 ASA Gool followed this procedure in Holt's case. ASA Gool went to Area South, met with Detective Christian, reviewed the detective's reports, and interviewed Robb. Robb made allegations against Holt. Robb agreed to provide a written statement, which ASA Gool typed while Robb sat with her at the computer and repeated her allegations. ASA Gool observed marks on Robb's neck and torso, and Robb said that Holt caused those injuries. ASA Gool also interviewed Holt's aunt, Robb's husband, and Holt.

¶ 97 ASA Gool testified that she approved felony charges of aggravated battery and CSA. She also said that of the hundreds of cases that she evaluated while in the felony review unit, she approved only 40% for felony charges. She also testified that Detective Christian did not pressure her, direct her actions, or interfere with her decision making.

¶ 98 ASA Peterson gave similar testimony about the felony review process in the Cook County state's attorney's office, including that a police officer cannot file felony charges without first obtaining approval for the charges through that process. In Illinois, a criminal case can be commenced by a complaint, a preliminary hearing, or an indictment, and Robb's signature on a complaint was the first step in commencing Holt's prosecution. After that, the state's attorney's office presented Holt's case to a grand jury. A grand jury's indictment supersedes the original complaint. A detective cannot seek a grand jury indictment. Detective Christian testified before the grand jury and essentially related what Robb had said to her about the sexual assault. Detective Christian answered questions. The grand jury indicted Holt on 22 counts. Detective Christian did not know more counts were added by the state's attorney's office because that occurred after the detective's investigation was complete.

¶ 99 ASA Peterson explained that prosecutors have discretion over charging decisions. She stated that Detective Christian did not instruct her or any prosecutor about what charges to bring against Holt and did not interfere with the discretion of the state's attorney's office to charge Holt. Furthermore, the state's attorney's office has its own investigators to perform tasks such as interviewing witnesses, taking DNA swabs, taking photographs, looking for cameras, and driving witnesses to court. Detective Christian did not assist the state's attorney's office with any of those tasks. Instead, the state's attorney's office assigned its own investigators to Holt's case.

¶ 100 ASA Peterson specified that Detective Christian "played a minimal role" in the prosecution and that her testimony at Holt's criminal trial was "pretty brief." In fact, the prosecution called Detective Christian only as a rebuttal witness and her testimony was limited to Honeycutt's statements to her about having heard Rob stomping, screaming, and hollering.

¶ 101 In all, the testimony established that (1) Robb commenced Holt's prosecution by signing the complaint, (2) the state's attorney's office approved the initial felony charges and initiated the superseding grand jury indictment, (3) Detective Christian played only a minimal role in the prosecution, and (4) Detective Christian did not improperly influence the prosecutors or interfere with their discretion. Holt adduced no evidence to dispute any of this testimony. The directed verdict was, therefore, correct on this additional basis.

¶ 102 "A plaintiff must present at least some evidence on every essential element of the cause of action or the defendant is entitled to judgment in his or her favor as a matter of law." *Sullivan v. Edward Hospital*, 209 Ill. 2d 100, 123 (2004). We conclude that the circuit court properly entered a directed verdict for the City of Chicago defendants because Holt failed to present evidence that Detective Christian commenced or continued a criminal proceeding against Holt, lacked probable cause, and acted with malice. The City of Chicago defendants were entitled to

judgment as a matter of law on Holt's suit, and the order granting their motion for a directed verdict is affirmed.

¶ 103 Affirmed.