

No. 1-11-1511

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IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellee,)	Cook County.
)	
v.)	No. 10 CR 3663-01
)	
ELVIN STEVENSON,)	The Honorable
)	Michele M. Simmons,
Defendant-Appellant.)	Judge Presiding.

PRESIDING JUSTICE LAVIN delivered the judgment of the court.
Justices Fitzgerald Smith and Epstein concurred in the judgement.

ORDER

¶ 1 *Held:* The record was insufficient to address defendant's arguments attacking the videotape published before the jury because defendant did not include it in the record on appeal; we presumed it was properly admitted. Defendant was not denied a fair trial when codefendant accidentally and momentarily appeared in the back of the courtroom accompanied by law enforcement because it was not inherently prejudicial and defendant failed to establish actual prejudice. Finally, the evidence was sufficient to find defendant guilty beyond a reasonable doubt of attempted murder and the other counts based on the competent eyewitness testimony demonstrating defendant shot the victim. This court affirmed the judgment of the circuit court.

¶ 2 Following a jury trial, defendant Elvin Stevenson was found guilty of attempt first degree murder, being an armed habitual criminal, and aggravated battery with a firearm, then sentenced

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to a total concurrent term of 30 years' imprisonment. On appeal, defendant contends the trial court erred in admitting into evidence a surveillance videotape taken at the scene of the offense with an allegedly improper foundation and insufficient chain of custody proof. Defendant next contends the court erred in denying his motion for a mistrial, which was based upon codefendant's momentary court appearance with the jury seated, while handcuffed and accompanied by uniformed law enforcement personnel. Lastly, defendant contends the State failed to prove him guilty beyond a reasonable doubt of attempt murder. We affirm.

¶ 3

BACKGROUND

¶ 4 Defendant was arrested and then charged after the victim, Kenyatta Bridges, and his friend, Arnellis Hudson, identified defendant as the person who shot Bridges in the stomach at a gas station on October 23, 2008.

¶ 5 *Testimony*

¶ 6 The combined testimony of Bridges and Hudson and the relevant facts adduced at trial revealed that, following their shift as cemetery groundsmen, Bridges and Hudson drove to Altgeld Gardens, a Chicago Housing Authority residential community. Hudson, the driver, waited in the minivan while Bridges went to buy marijuana. At that time, Hudson noticed a white Cadillac Eldorado pass his vehicle two times and then stop about 15 feet away. Bridges left the housing complex, then saw codefendant Ramon Parker exit the driver's side of the Eldorado while defendant apparently remained inside. Bridges, who knew Parker because they both had grown up in Altgeld Gardens, testified that Parker pointed at him and was "screaming and hollering" because he and Parker's nephew had gotten into a fight. Bridges testified that Parker had his hand in his pocket, which he took to mean that he had a gun, not that Bridges actually saw one at that time.

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¶ 7 As Bridges was returning to the minivan, Hudson heard Parker say, "Yatta," which was Bridge's nickname, "you better not touch him again, stop messing with him." Hudson could not distinguish the argument, but saw Parker gesturing and "moving his body like he wanted to hurt" Bridges.

¶ 8 With the coincidental passage of a marked squad car, the argument abated, and everybody returned to their respective vehicles. Bridges and Hudson drove to HP gas station, but before Hudson even had a chance to get out of his vehicle, the Eldorado pulled up and stopped. Parker and defendant approached them on foot. In court, Hudson identified defendant as the person he saw exiting the front passenger side of the Eldorado. Bridges also made an in-court identification of defendant. Hudson testified that Bridges "was telling me we have to leave," but as Hudson tried to back up, his minivan was blocked by a truck. Hudson testified that defendant came to the passenger-side door where Bridges was sitting and started pulling on the handle, but Bridges held it closed. Defendant eventually opened the door, trying to yank Bridges out of the car while demanding Bridge's brown fur coat, leading to the two men "tussling right there in front of the door." Bridges testified that defendant tried to "snatch" him out of the van, but Bridges was "fighting and kicking" back. Bridges testified that in spite of the struggle, he remained inside the car, while Hudson testified that a struggle ensued briefly outside the car. Bridges also added that Parker joined in the tussle, while Hudson omitted that detail. As Parker approached the tussling pair, he told defendant to "shoot" or "pop" Bridges. Bridges slammed the front passenger door closed, and both Bridges and Hudson then saw defendant produce a large silver semiautomatic handgun, point it at Bridges from about four feet away, and fire at him through the closed-door car window. Bridges testified that he then felt a burning sensation in his stomach. Hudson heard a loud gunshot as the window shattered and he drove away. Hudson saw blood,

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while Bridges stated he'd been shot, and they drove to the hospital.

¶ 9 Both men spoke with police at the hospital. Hudson, who was unfamiliar with the Altgeld Gardens area and did not previously know defendant or Parker, provided a detailed description of the offenders to police. Bridges knew both from the neighborhood and stated that "Ramone Parker" was involved and that "Elvin Smith" had shot him.

¶ 10 The next day, Bridges was transferred to a different hospital, where he underwent emergency stomach surgery. Afterwards, he again spoke to police and, from a photo array, identified Parker as the person with whom he argued and the companion to the shooter. Police showed him another photo array they compiled based on the name "Elvin Smith," but Bridges did not identify anyone. Bridges, who knew only defendant's first name and defendant's brother from primary school, testified that he then conferred with someone from his neighborhood and was able to provide police with defendant's real last name, which was Stevenson. On October 25, police returned to the hospital and presented Bridges with another photo array, from which Bridges identified defendant as the shooter.

¶ 11 Two days after the shooting, on October 25, 2008, Hudson went to the police station where he viewed a photo array of six individuals and identified defendant as the shooter. Months later, on March 24, 2009, Bridges and Hudson separately viewed a police station lineup and identified defendant as the shooter. On January 26, 2010, Bridges viewed another police station lineup and identified Parker as the person with defendant when defendant shot Bridges.

¶ 12 On cross-examination, Hudson stated he told officers on October 23 that he only heard the shooting, but on January 26, 2010, told them he actually saw defendant shoot Bridges. On cross-examination, Bridges acknowledged that in his written statement, memorialized by an Assistant State's Attorney in January 2010, he reported that defendant had a black gun. Bridges

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stated that around the time of the shooting, he reported the gun was silver and black.

¶ 13 Riverdale Police Officer John Giroux testified that he was the responding officer on the evening in question. Although neither victim nor offender was at the gas station by the time he arrived, he observed shattered glass and a single bullet casing in the parking lot. Officer Giroux testified that Hudson provided a description of the offenders at the hospital on October 23, and Officer Giroux observed the shattered front passenger-side window in Hudson's car. Officer Giroux further testified that he showed photo arrays and physical lineups to both Bridges and Hudson, and they identified defendant in both instances.

¶ 14 *Surveillance Video*

¶ 15 During Hudson's direct examination, after recounting Bridge's hospitalization and his own identification of defendant as the shooter, the parties requested a sidebar to discuss whether the gas station surveillance video should be admitted. The State sought to introduce the video, which depicted some aspects of this incident but not the shooting itself, through Hudson's testimony. Defendant objected to the chain of custody and foundation for the video, essentially arguing that the gas station employee, Sam Sweiss, needed to introduce the video, as he gave it to police on the day in question. The State argued it was sufficient for Hudson to lay a foundation for the video's admission because he was present in the footage and could therefore testify to the accuracy of the video's contents. To facilitate its decision, the court requested that the State present Hudson's testimony regarding the videotape foundation outside the jury's presence. Hudson testified that he had viewed the videotape depicting the two different vantage points of the scene on October 23, 2008, at the HP gas station and the segments truly and accurately depicted the events. He then identified the video in question as the one he had previously viewed and, further, testified to its contents. The court ruled that this foundation would suffice, because

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Hudson was in the video and he indicated it truly and accurately depicted the event. The court noted Hudson would be subject to cross-examination, and trial resumed.

¶ 16 Hudson testified to the same foundation before the jury, and the court granted the State's request to publish the videotape. Hudson specifically testified that the person exiting the passenger-side of the Eldorado was defendant, the same person who shot Bridges. Hudson also identified his own vehicle in the video and testified the video showed his minivan pulling away from the scene. Hudson further identified Parker as the person in the blue jacket, the driver of the Eldorado, and the person he'd seen earlier arguing with Bridges at Altgeld Gardens.

¶ 17 The State showed Hudson a different vantage point from the gas station. He identified his minivan pulling up to the pump and the truck that cut him off. Hudson then attempted to back out, and defendant in a brown coat walked up on the side. Hudson testified that the video showed his minivan "peeling out of the gas station," and that the video truly and accurately depicted how the scene looked to him at the time of the shooting.

¶ 18 *Motion for Mistrial*

¶ 19 During Bridges' direct examination, just after Bridges testified about his exit from the Altgeld Gardens housing complex, the State tendered Exhibit Number 15 for identification purposes, and Bridges identified the photograph as "Ramone Parker." At that point, the court interrupted proceedings, noting "[t]here's someone coming into the courtroom." Remarkably enough, the record reveals the "someone" to be codefendant Parker, striding into the courtroom apparently in normal clothing, but with his hands cuffed behind his back and escorted by several law enforcement personnel. Parker stood there a couple of seconds before the Assistant State's Attorney saw him and signaled to the Sheriff's personnel to remove Parker. Defense counsel then requested a sidebar outside the jury's presence.

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¶ 20 Defense counsel moved for a mistrial because the jury had been informed that "Ramone Parker" was a codefendant. Counsel noted the jury had seen a video featuring Parker; Bridges had identified Parker's photograph; and the witnesses had generally discussed Parker's involvement in the case as the person who told defendant to shoot Bridges. Defense counsel argued defendant was "unbelievably prejudiced" by the "mere sight of the codefendant in cuffs with a team of officers around him, while the witness is identifying him***." Counsel argued "there is no way that I can get that sight out of the jury's mind and overcome that" and "[t]his is lightning in a bottle." Counsel added that he had wished for Parker to testify on defendant's behalf. The State responded that the incident did not rise to the level of mistrial since the appearance of codefendant was just a "foot" into the courtroom, only lasting a matter of "seconds", with the jury's attention on the witness Bridges and argued that it was questionable whether the jurors would be able to identify Parker. The State added that it was surprised by Parker's appearance with law enforcement as well, and called defense counsel's assertion that he intended to call Parker as a witness disingenuous at best, where defense counsel previously stated he had "zero witnesses to call." The State further noted that Parker, who was not in custody, had been arrested because he was harassing the State's witness, Hudson, and "hiding behind *** Hudson's car."

¶ 21 The court noted for the record that Parker entered the courtroom briefly and that the jury at that time was facing Bridges, who was testifying, and the judge. The court noted that the jury only looked towards the doorway when the court made its comment, but no names were mentioned. Following this, the court recessed for the day.

¶ 22 The next day, Parker's attorney corroborated that Parker was on bond for the charged offenses in this case and was in fact arrested in front of the courthouse for intimidating a State

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witness. Counsel then stated that he could not definitively state whether Parker would waive his fifth amendment right and testify on defendant's behalf. At this point, the court denied defendant's motion for a mistrial, finding that defendant was not prejudiced by Parker's brief appearance in the courtroom. The court added that it was questionable regarding whether Parker would testify on defendant's behalf.

¶ 23 Defense counsel objected, arguing defendant's presumption of innocence was eroded since the jurors witnessed his codefendant in handcuffs with "armed guards." Defense counsel, as a result, requested that each juror be *voir dire*d about what he or she saw and whether it would affect their ability to hold defendant innocent unless proven guilty. Defense counsel specifically requested that the court inquire: "Did the fact that the co-defendant, Ramone Parker, was brought into the back of the courtroom, in handcuffs, with police personnel, influence you in your deliberations of the guilt or innocence of Mr. Stevenson[?]" Defense counsel thus requested that the jurors be made aware that the individual who entered the courtroom was codefendant Parker. The State objected to the *voir dire* and also to counsel's manner of questioning, requesting that the jurors be asked more generally whether they could remain fair and impartial. The court granted the defense request to conduct the questioning in chambers with attorneys present. The court indicated it would first ask the jurors whether they saw a man walk into the courtroom, then inform the jurors the man who was handcuffed and accompanied by police was in fact codefendant. She would then ask whether the codefendant's court appearance in handcuffs would influence their decisionmaking in this case and whether the juror could remain fair and impartial. Finally, the judge said she would admonish each juror to disregard what had occurred and instruct each to decide the case only on the law and evidence. The court, nevertheless, made the express finding that there was no prejudice to defendant even if the jurors

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were aware that the person who entered the courtroom was in fact codefendant Parker. Parker's attorney subsequently advised the court that Parker would not testify on defendant's behalf.

¶ 24 The court largely followed the stated method of inquiry when privately and individually questioning the 14 jurors, including 2 alternates, in chambers. Of the 14 questioned, 13 jurors stated: the knowledge that codefendant briefly entered the courtroom handcuffed and accompanied by law enforcement would not affect their decision-making with regard to defendant. When asked, they stated they would remain impartial. The 13 jurors also stated that they would disregard the incident and decide the case on the law and evidence alone. Only one juror, Andre Evboma, openly stated that knowing the individual in question was the codefendant would affect his decisionmaking in defendant's case "to a certain degree," stating that "[j]ust the fact that he came in with handcuffs on, it seems like he might have been the one that did it, that committed the crime." Accordingly, the court removed that juror and replaced him with an alternate. Defense counsel perversely objected to the court removing this juror, claiming the juror's statements were merely nonresponsive. The court rejected this argument and defense counsel renewed his motion for a mistrial, which was denied. The State resumed its direct examination of Bridges, which revealed the evidence stated above.

¶ 25 Following witness testimony, the parties stipulated that defendant had been convicted of a qualifying offense for the purposes of the armed habitual statute based on his criminal background, and the State requested that its exhibits be admitted, then rested. Defendant renewed his objection to the admission of the videotape, which the court overruled.

¶ 26 Defendant moved for a directed verdict, which was denied. In the defense case, the parties first stipulated that the day of the shooting and day after, Bridges told police that defendant had a black semiautomatic handgun and Parker had a silver handgun and that he

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thought both offenders had shot at the minivan as it left the station parking lot. The defense then rested.

¶ 27 Following closing arguments, the jury found defendant guilty of attempt first degree murder, being an armed habitual criminal, and aggravated battery with a firearm, and that defendant personally discharged the firearm. Defendant filed a motion for a new trial, which was denied, and the court sentenced defendant to concurrent prison terms of 30 years for attempted first degree murder, 10 years for being an armed habitual criminal, and 10 years for aggravated battery with a firearm. This appeal followed.

¶ 28 ANALYSIS

¶ 29 Defendant first argues that the State failed to lay a foundation for admission of the videotape through Hudson's testimony because he did not possess the requisite personal knowledge. Defendant also argues that Hudson was unable to testify regarding certain frames of videotape because his vehicle had already departed the scene. The State responds that Hudson, who was present at the time the video recorded, had personal knowledge of the events depicted therein and, as such, his testimony was proper.

¶ 30 We initially observe that defendant has failed to include the videotape in the record on appeal even though this court, during briefing, granted defendant's motion to supplement the record with that very videotape. In his reply brief, defendant ascribes this shortcoming to the State, asserting that the State failed to impound or place the videotape in the court's custody for access following trial. Although that might have been true at the time defendant filed his reply brief with this court, it has come to this court's attention that the videotape is currently impounded and therefore accessible. An appellant defendant bears the burden of providing a sufficiently complete record on appeal and any doubts arising from an incomplete record will be

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construed against the defendant. *People v. Smith*, 406 Ill. App. 3d 879, 886 (2010). Because defendant filed the motion to supplement the record and could have secured the videotape, but has not done so, we will construe the incomplete record against him. In spite of the incomplete record, defendant asks that we reach the issue of whether the State established a foundation for admitting the videotape. We proceed in our review only as far as the record permits.

¶ 31 The admission of a videotape into evidence is within the sound discretion of the circuit court and will not be disturbed absent an abuse of discretion. *People v. Taylor*, 2011 IL 110067,

¶ 27. In this case, the State sought to admit the videotape as demonstrative evidence.

Demonstrative evidence has no probative value in itself, but serves as a visual aid to the jury in comprehending the verbal testimony of a witness. *People v. Flores*, 406 Ill. App. 3d 566, 573 (2010). In such a case, a sufficient foundation is laid for admission of a videotape when a witness with personal knowledge of the filmed object testifies that the film is an accurate portrayal of what it purports to show. *People v. Smith*, 321 Ill. App. 3d 669, 675 (2001).

¶ 32 Here, Hudson testified that he had viewed a videotape depicting two different vantage points of the gas station on October 23, 2008, the day of the shooting, and stated they truly and accurately depicted the events which he personally observed. He then identified both the cars and individuals, including defendant, apparently depicted in the videotape.

¶ 33 Given this record, and construing the absence of the videotape against defendant, we must presume the court did not abuse its discretion in admitting the videotape over defendant's objection. We thus reject defendant's argument that, because the video was shot from a different vantage point, Hudson could not have had personal knowledge of the events depicted therein. Without the videotape in the record, we simply cannot assess such a claim. We reach the same conclusion regarding defendant's argument that Hudson could not testify about certain video

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frames because he was not present, in so far as his vehicle had left the scene. Finally, we note that to the extent defendant argues the State was required to introduce testimony regarding "the reliability of the process that produced the recording," we disagree. Testimony regarding the process of a videotape recording and chain of custody is only necessary if the State is unable to present testimony of a witness with knowledge of what the tape portrays and wishes to establish a foundation through the "silent witness" theory. See, e.g., *People v. Vaden*, 336 Ill. App. 3d 893, 898 (2003). That clearly was not the case here.

¶ 34 Defendant next contends the court erred in denying his motion for mistrial, which was based upon codefendant's handcuffed court appearance before the jury while accompanied by uniformed law enforcement. Defendant argues that codefendant's appearance was inherently prejudicial and violated his due process rights. The State responds that the court properly denied defendant's motion for a mistrial because defendant could not establish prejudice.

¶ 35 We review the denial of a motion for mistrial for an abuse of discretion. *People v. McDonald*, 322 Ill. App. 3d 244, 250 (2001). A mistrial should be declared only if there is some occurrence at trial of such a character and magnitude that the party seeking a mistrial is deprived of a fair trial. *People v. Foster*, 394 Ill. App. 3d 163, 166 (2009).

¶ 36 Defendant, in support of his contention that reversible error occurred here, cites cases in which the testifying defendant or witnesses were shackled before a jury. In *People v. Boose*, 66 Ill. 2d 261 (1977), for example, where the defendant accused of murdering a guard was shackled before a jury during a competency hearing, the supreme court reversed and remanded the lower court judgment because the trial court failed to state on the record its reasons, beyond the pending charges, for allowing the defendant to remain shackled. In *People v. Sullivan*, 48 Ill.App. 3d 787 (1977), the appellate court found cause for reversal where the prosecutor's

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opening statement contained improper references to the accomplices' confessions and guilty pleas and where the later presentation of those witnesses before the jury in shackles, as well as the testimony of an accomplice, compounded the error. See *People v. Sullivan*, 72 Ill. 2d 36 (1978) (affirmed solely on basis of prosecutor's error in repeatedly emphasizing accomplices' guilty pleas).

¶ 37 This case is distinguishable. Codefendant Parker was not "shackled." That is, he did not have handcuffs threaded through shackles attached to a restraining belt, like the defendant in *Boose*; rather, Parker had his hands handcuffed behind him. As the record makes clear, and according to defendant's own concession during oral argument, Parker's seconds-long appearance with law enforcement at the entryway of the courtroom during defendant's trial was entirely inadvertent. Codefendant Parker was not there to testify before the jury. He was there because he was free on bond and had been harassing the State's witness, Hudson. Contrary to defendant's characterization that officers were clad in "riot/battle gear," the record reveals that they were simply uniformed and likely had weapons. In short, the cases defendant cites do not encompass the situation before us.

¶ 38 We acknowledge that, central to the right to a fair trial is the principle that one accused of a crime is entitled to have his guilt or innocence determined solely on the basis of the evidence introduced at trial, and not on grounds of official suspicion, indictment, continued custody, or other circumstances not adduced as proof at trial. *Holbrook v. Flynn*, 475 U.S. 560, 567 (1986). This does not mean, however, that every practice tending to single out the accused from everyone else in the courtroom must be struck down. *Id.* It has been said that the brief, unaggravated viewing of a defendant in handcuffs is generally not grounds for a mistrial (*People v. Bennett*, 90 Ill. App. 3d 64,71-72 (1980)), and we now extend that principle to the codefendant in this case.

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Here, codefendant's momentary handcuffed appearance in court while accompanied by law enforcement was not so inherently prejudicial as to destroy his presumption of innocence and pose an unacceptable threat to defendant's right to a fair trial. See *People v. Foster*, 80 Ill. App. 3d 990, 995 (1980); *People v. Hyche*, 63 Ill. App. 3d 575, 583 (1978), *aff'd*, 77 Ill. 2d 229, 241 (1979) (finding defendant waived claimed error by failing to object below). Mistrial would be appropriate only upon a showing of actual prejudice, but defendant has failed to establish this. See *People v. Peeples*, 205 Ill. 2d 480, 531 (2002) (where security measures employed during defendant's trial did not create inherent prejudice, defendant required to affirmatively establish actual prejudice); *People v. Greene*, 102 Ill. App. 3d 933, 936 (1981); see also *People v. Romero*, 384 Ill. App. 3d 125, 134 (2008) (relying on *Greene*). Although defendant now argues the "alarming visual" of codefendant, together with the court's "reinforcement during individual questioning of the jurors," was enough to plant the "seed of guilt in the minds of the jurors," we disagree. It was defendant who insisted that the jurors be *voir dired* regarding the incident, and it was defendant who specifically requested that the jurors be informed about the identity of codefendant. An accused cannot request to proceed in one manner and later contend on appeal that the course of action was error. *People v. Carter*, 208 Ill. 2d 309, 319 (2003). Regardless, each of the empaneled jurors stated that the incident would not affect their decision-making with regard to defendant. They also stated they would disregard the incident and decide the case on the law and evidence alone. While juror Stamatakos stated that he was "disappointed" by codefendant's appearance, that he would "have to think about it," juror Stamatakos went on to assure the court that this would not affect his ability to remain impartial in defendant's case. The one juror who stated that – knowing the identity of codefendant would affect his decision-making in defendant's case to a "certain degree" – was removed from the panel. Based on the foregoing,

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defendant has failed to establish the requisite prejudice for a mistrial in this case. See *People v. Harlan*, 75 Ill. App. 3d 168, 171 (1979). The court, accordingly, did not abuse its discretion in denying his motion.

¶ 39 Defendant next challenges the sufficiency of the evidence to sustain his attempt murder conviction. The standard of review when assessing the sufficiency of evidence is, considering all the evidence in the light most favorable to the State, whether any rational trier of fact could have found beyond a reasonable doubt the essential elements of the crime. *People v. Siguenza-Brito*, 235 Ill. 2d 213, 224 (2009). A criminal conviction will not be set aside unless the evidence is so improbable or unsatisfactory as to create a reasonable doubt of the defendant's guilt. *Siguenza-Brito*, 235 Ill. 2d at 225.

¶ 40 In this case, the State was required to show that defendant, with intent to commit murder, did any act that constituted a substantial step towards that offense. 720 ILCS 5/8-4, 9-1 (West 2010). Defendant does not now contest the sufficiency of the evidence to prove the elements of attempted murder or the other offenses for which he was convicted and concurrently sentenced. Rather, defendant generally argues the eyewitness accounts of the shooting were so inconsistent as to cast doubt on the veracity of the testimony. Defendant notes, for example, Hudson's testimony that, at Altgeld Gardens, it was Bridges who approached the Eldorado, while Bridges testified it was codefendant Parker who approached him. Defendant further notes Hudson testified that, at the gas station, Bridges and defendant tussled outside the van, while Bridges testified it was inside the van and added that he also tussled at that time with Parker. Finally, defendant points to the discrepant reports regarding the color of the gun and whether Hudson actually saw or only heard the shooting.

¶ 41 We cannot accept this challenge to the sufficiency of the evidence. It remains the firm

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holding of this court that the testimony of a single witness, if positive and credible, is sufficient to convict. See *Siguenza-Brito*, 235 Ill. 2d at 228. Here, the evidence, viewed in a light most favorable to the State, was sufficient to allow a rational trier of fact to find beyond a reasonable doubt that it was defendant who exited the Eldorado at the gas station and approached Bridges while he was still in the passenger-side of the van, tussled with him while demanding his coat, and then from a distance of about four feet shot Bridges in the stomach. Bridges and Hudson had ample opportunity to identify defendant and Parker, as they had just moments before also seen them at Altgeld Gardens. Bridges, who knew of defendant from his Altgeld Gardens days, and Hudson, who prior to the incident, had never before seen defendant, both identified him from a photographic array presented shortly after the shooting. See *People v. Barnes*, 364 Ill. App. 3d 888, 895 (2006) (noting the persuasiveness of identification testimony is strengthened by the witness's prior acquaintance with the accused). Significantly, Bridges was able to identify defendant and provide police with relevant details regarding the incident in spite of undergoing emergency stomach surgery. Months later, both witnesses remained unwavering in their identification of defendant at a police station lineup and, at trial, Hudson identified defendant on videotape. In addition, the physical evidence of the shattered passenger-side window, as well as the bullet shell casing and shattered glass discovered at the scene was consistent with the eyewitness testimony.

¶ 42 Where identification testimony is positive, precise consistency as to collateral matters is not required to establish guilt beyond a reasonable doubt. *People v. Reed*, 80 Ill. App. 3d 771, 780 (1980). Whether Bridges' feet touched the ground while he tussled with defendant is of no moment when they both testified that a tussle by Hudson's van ensued at the gas station just before the shooting. Likewise, whether defendant was carrying a black or silver gun is of no

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moment when both testified that defendant produced a handgun and, at Parker's behest, shot Bridges from a distance of about four feet. We also emphasize that discrepancies, omissions and bias go to the weight of the testimony to be evaluated by the trier of fact (*People v. Rodriguez*, 2012 IL App (1st) 072758-B, ¶ 47). As the trier of fact, the jury is in a superior position to this court to assess witness credibility and may believe as much or as little as it pleases of a witness's testimony. *Id.* at 45; *Siguenza-Brito*, 235 Ill. 2d at 228. The jury here was made aware of the discrepancies and clearly resolved any conflicts in evidence in favor of the State. We will not substitute our judgment for that of the trier of fact. See *Siguenza-Brito*, 235 Ill. 2d at 224-25. Defendant's convictions, accordingly, must be affirmed.

¶ 43

CONCLUSION

¶ 44 Based on the foregoing, we affirm the judgment of the circuit court of Cook County.

¶ 45 Affirmed.