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IN THE  
APPELLATE COURT OF ILLINOIS  
SECOND DISTRICT

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THE PEOPLE OF THE STATE	)	Appeal from the Circuit Court
OF ILLINOIS,	)	of Kane County.
	)	
Plaintiff-Appellee,	)	
	)	
v.	)	No. 09-CF-3077
	)	
RICKY MITCHELL, JR.,	)	Honorable
	)	Timothy Q. Sheldon,
Defendant-Appellant.	)	Judge, Presiding.

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JUSTICE BURKE delivered the judgment of the court.  
Presiding Justice Jorgensen and Justice Schostok concurred in the judgment.

**ORDER**

¶ 1 *Held:* (1) Defendant did not defeat the presumption that the trial court applied the Montgomery test in assessing whether to admit prior convictions; (2) although the trial court erred in admitting a witness's unlawful-possession conviction, the error was harmless, as the conviction could not have weakened the witness's testimony more than the inherent implausibilities of that testimony already had.

¶ 2 After a jury trial, defendant, Ricky Mitchell, Jr., was convicted of aggravated battery (720 ILCS 5/12-4(b)(18) (West 2008)) and sentenced to six years' imprisonment. On appeal, he contends that the trial court erred in allowing the State to impeach a defense witness with his criminal record. We affirm.

¶ 3 The State charged defendant with (1) aggravated battery, in that, on October 28, 2009, he punched Christopher McWilliams in the head, knowing that McWilliams was a law enforcement officer performing his authorized duties; (2) felony resisting a peace officer (720 ILCS 5/31-1(a-7) (West 2008)), in that, on October 28, 2009, he resisted William Rowley's attempt to arrest him, knowing that Rowley was a peace officer engaged in an authorized act; and (3) being a pedestrian under the influence of alcohol (625 ILCS 5/11-1010 (West 2008)), in that, on October 28, 2009, he walked on a highway while under the influence of alcohol to a degree that rendered him a hazard. Before trial, the State moved *in limine* to admit, for impeachment, defendant's prior convictions. Defendant moved *in limine* to bar the State from impeaching Fred Hampton, a probable defense witness, with his convictions. Defendant's motion mentioned five offenses, which did not include resisting a peace officer in connection with the events of October 29, 2008, in this case. The motion argued that the convictions (domestic battery, unlawful possession of a weapon, and three convictions of unlawful possession of a controlled substance) did not relate to Hampton's credibility, so that their probative value was outweighed by their unfairly prejudicial effect.

¶ 4 At a brief hearing, the parties first argued both motions. In ruling on the admissibility of defendant's prior convictions, the judge stated that he had "considered the Montgomery \*\*\* balancing test in regards to this," and he allowed in evidence of defendant's conviction of unlawful possession of a controlled substance but not his convictions of murder and aggravated battery. Shortly afterward, in arguing defendant's motion, defendant's attorney referred to Hampton's five offenses, as listed in the written motion, but she did not mention Hampton's recent conviction of resisting a peace officer. The prosecutor argued that defendant lacked standing to move to exclude Hampton's convictions and that Hampton's convictions were relevant to his credibility. Defendant

responded that he had standing and that the use of Hampton's convictions would cause defendant unfair prejudice.

¶ 5 In denying defendant's motion, the trial judge stated:

"I think the witness is certainly different than the defendant's rights [*sic*] and I don't think the defense has a right to ask for this.

You have standing to go for it, but I think the whole idea of prior convictions goes to credibility, the limiting instruction does cover that and if he's acquired five; he's acquired five, and I think the jury needs to know that if it's determining credibility, and we will give the appropriate instruction regarding the use of any prior convictions, but I, again, absent authority, I don't see why the State should be limited and it is not a matter if Mr. Hampton chooses to testify, you have the right to have him here, and none of these issues of my knowledge are Fifth Amendment issues, so if he wants, if he's going to testify, know going in that there is a credibility issue."

¶ 6 At trial, Rowley testified for the State as follows. On October 28, 2009, he was on patrol, in full uniform and driving a marked squad car. At about 4:30 p.m., as Rowley was driving east on Galena Boulevard approaching the intersection with Lincoln Avenue, defendant walked from the north curb across the path of Rowley's squad car, only a few feet ahead. Rowley stopped, as did the motorists behind him. Defendant was holding what looked like a vodka bottle. He pointed and "stutter[ed] something" to Rowley. Defendant was stumbling, waving his arms around, and sweating profusely. As defendant approached the south curb, Rowley activated his car's overhead lights and parked close to the curb. Defendant was still in the roadway. Rowley exited his car; defendant yelled, "Fuck you, man" at him. Defendant had blood on his hands and face and was still clutching

the bottle. Rowley concluded that defendant was under the influence of alcohol. He told defendant several times to get out of the roadway. Defendant instead began to walk in between the two lanes of traffic on Galena, heading back toward Lincoln and occasionally turning his head and yelling at Rowley. He shook the bottle several times, then threw it at Rowley, missing him. Rowley kept ordering defendant to get out of the road.

¶ 7 Rowley testified that defendant walked onto the sidewalk at the southeast corner of Galena and Lincoln as Rowley followed. From about 6 to 10 feet away, Rowley called the police dispatcher and stopped walking. Defendant took his shirt off and threw it to the ground. Rowley ordered defendant to the ground. Defendant turned and ran west.

¶ 8 Rowley testified that, as defendant ran off, McWilliams, Cottrell Webster, and Jeff Parrish, all plainclothes narcotics agents, ran toward defendant, yelling, “Stop, police.” Soon, all four officers, forming a half-circle, caught up to defendant. He punched McWilliams in the back of the head, sending him to the ground. The other three officers tried to subdue defendant, but he thrashed around, knocking Rowley onto the pavement and skinning his hand and knee. After Rowley and McWilliams got back up, the four officers, with help from uniformed officers now on the scene, secured defendant, who was then handcuffed and driven away. Rowley saw that McWilliams had blood on his shirt and on the back of his head; apparently, the blood was defendant’s.

¶ 9 McWilliams testified as follows. On October 28, 2009, at about 4:20 p.m., he, Webster, and Parrish were riding in an unmarked vehicle east on Galena Boulevard. McWilliams saw Rowley standing outside a marked squad car in the roadway and speaking to defendant, who was in front of Rowley’s car. Defendant was holding a large bottle and shouting at Rowley. The agents turned their car around and saw defendant take off running, with Rowley pursuing him and ordering him to stop.

The agents exited their car. McWilliams started pursuing defendant. Defendant stopped a few times to turn back and yell something. Soon, he took off his shirt and started running again, still holding the bottle. McWilliams eventually caught up to Rowley and defendant. Defendant turned toward McWilliams. McWilliams turned and ducked, but defendant's fist struck him and he fell to the ground. As McWilliams got up, defendant again ran off. McWilliams ran and caught up to defendant, who no longer had the bottle. McWilliams got someone else's blood on him. The officers subdued defendant, who was shouting obscenities and sweating.

¶ 10 Aurora police officer Ryan Feeney testified as follows. On October 28, 2009, he was driving a prisoner transportation van as part of his normal duties. At about 4:45 p.m., he was dispatched to Galena and Lincoln. He saw Rowley and the other officers there; defendant was handcuffed in the street. Feeney and the other officers walked defendant to the van.

¶ 11 The State rested. Defendant called Spencer Wheeler, who testified as follows. On October 28, 2009, at about 4:20 or 4:30 p.m., he was standing near a gas station on the corner of Galena and Lincoln. Defendant was crossing Lincoln about 10 or 15 feet away. A van drove up and several police officers jumped out and ran after defendant, yelling, "Stop, police." Wheeler watched the officers, then saw that defendant was on the ground. Wheeler saw five or six officers around defendant. Defendant did not hit any of the officers, try to get up, or thrash around, although Wheeler conceded that it was difficult to see what defendant was doing with all the officers around him. Wheeler heard defendant say, "He kicked me in the mouth" or something similar.

¶ 12 Lendie Jackson testified as follows. She was currently in prison and had two convictions of aggravated battery. Jackson had known defendant since about 1991; he was her former boyfriend. On direct examination, she testified that, on October 28, 2009, at about 4:20 p.m., she exited the

grocery store at the intersection of Galena and Lincoln and saw defendant talking to two plainclothes police officers. Jackson was “[n]ot even five minutes [*sic*] apart, away.” Jackson testified that she saw nothing unusual happen; did not see defendant or the officers “do anything”; and did not see defendant walk away. However, asked, “Did you see anything happen that evening?,” Jackson answered, “No. Oh yes, yes.” Asked to explain, she then testified, “They said he was resisting arrest, and he wasn’t; that he was drunk at the time, and he wasn’t.” She added that the officers handcuffed defendant while he was on the ground and then beat him. On cross-examination, Jackson testified that only two officers had been talking to defendant. She could not remember when defendant took his shirt off or whether, after doing so, he ran from the officers.

¶ 13 Defendant next called Hampton, who testified on direct examination as follows. He was currently in prison on a conviction unrelated to this case. On October 28, 2009, at about 4:20 p.m., he and defendant were conversing on Galena between Lincoln and Fourth Street when two men wearing street clothes and carrying guns walked up to them. Hampton did not see where they had come from and did not then know who they were. Fearing for his safety, he backed off and ran up the street, and defendant ran across the street. The two strangers started chasing defendant. At some point, Hampton watched and started recording the scene on his phone. Hampton temporarily lost sight of the two pursuers. Soon, as he stopped near the gas station and a crowd formed to watch the scene, the police “came from everywhere.” There were “about 40, 50 police cars or cops.” A van “just shot up towards the gas station.” Uniformed officers started to chase defendant.

¶ 14 Hampton testified that next he heard defendant yell, “I don’t even know you” and saw defendant try to recross the street. At some point, Hampton saw that the police had caught up to defendant. Defendant was on the ground and officers were “smash[ing] his face into the curb.”

Jackson was shouting, “Don’t let them kill him.” The officers stood on defendant and handcuffed him. Hampton, who was nearby, told the officers that they did not need to “do this” to defendant. The police told Hampton and Jackson to move away or they would be arrested. Hampton never saw defendant hit anyone or resist the officers.

¶ 15 Hampton testified on cross-examination as follows. When the two men approached him and defendant, no police cars or uniformed officers were in the area. After Hampton started recording the incident on his phone, the officers told him to walk away. As a result of the encounter, Hampton was arrested by the two men in plainclothes.

¶ 16 With no objection from defendant, the prosecutor asked Hampton whether, as a result of his actions on October 28, 2009, he was later convicted of resisting a peace officer. Hampton answered, “No, disorderly.” With no objection, the prosecutor asked Hampton whether, in 2010, he was convicted of aggravated domestic battery and whether, in 2000, he was convicted of unlawful possession of a controlled substance. Hampton acknowledged these convictions.

¶ 17 On redirect examination, Hampton testified that the officers took his cell phone and erased all the videos. On recross-examination, he testified that defendant had not held a bottle or anything else in his hand. Hampton explained that, when he was conversing with defendant, defendant and Jackson had just exited the grocery store; Jackson gave Hampton a bag of chicken to hold and went to talk to someone who had come with Hampton.

¶ 18 Defendant testified on direct examination as follows. On October 28, 2009, at about 4:20 p.m., he and Jackson walked to the grocery store on Galena near Lincoln to get chicken. Defendant had seen Hampton “on the way going over there.” Jackson entered the store, but defendant stayed outside. When Jackson exited the store, she and defendant got into an argument about money.

Defendant crossed the street. No police car stopped in front of him as he did so. At trial, he could not remember whether he had had a drink in his hand at the time. After defendant was across the street, a police officer came up to him and said something, but defendant just walked away and kept walking. As he neared the gas station, three men in plain clothes jumped out of an unmarked van and came toward him. Defendant ran as the men chased him. By then, he had already taken off his shirt because he had gotten hot after his 15-minute walk to the store.

¶ 19 Defendant testified that the three men never identified themselves as police officers. He never swung his fist and hit any of them. After he had run about half a block, he saw a number of squad cars coming at him, so he got down onto the ground. Police officers arrived, handcuffed him, “stomped” him, and beat him. Defendant had no idea why the police had been chasing him. He did not resist arrest. Afterward, he saw blood and had to go to the hospital.

¶ 20 On cross-examination, defendant testified that, after he left the store, he saw Hampton again and crossed to the south side of Galena to talk with him. When the three men came running toward him, defendant was near the gas station, but Hampton was not with him. The three men had jumped out of a van, but defendant did not see any guns drawn.

¶ 21 Asked where they had been when the three men started chasing him, defendant testified that he had been on the sidewalk and the men had been near the gas station, about 50 or 75 feet away. Asked whether he had been drinking while he was “walking down the street,” defendant responded, “No, not that I remember, but I might have been. I don’t know.” From what he could remember, he had not had a bottle in his hand. Before the incident, between either noon or 1 p.m. and about 2 p.m., he had drunk some beer and possibly some vodka.

¶ 22 Defendant rested. In rebuttal, Feeney testified that, as he escorted defendant to the transport van and drove to the police station, defendant never complained of any injuries and never asked to be taken to the hospital. Feeney never specifically examined defendant for injuries and was never instructed by other officers about whether defendant needed treatment.

¶ 23 Parrish testified as follows. On October 28, 2009, he, McWilliams, and Webster were riding in an unmarked minivan, which they exited in the area of Galena and Lincoln. Defendant had started running, and Rowley was shouting at him to stop. Parrish, McWilliams, and Webster started running west toward Rowley and defendant. Parrish's gun was in its holster and he shouted "Stop, police" several times. When Parrish was about 10 feet behind McWilliams, he saw defendant strike McWilliams. Parrish, Rowley, and Webster caught up to defendant, took him to the ground, on his stomach, and tried to handcuff him. They were in the middle of Galena. Defendant was yelling and refused to put his hands behind his back. He was sweating profusely and had blood on his hands. Parrish did not kick defendant and never saw any officer hit defendant.

¶ 24 Parrish testified that, after helping to arrest defendant, he saw Hampton standing on the southeast corner of Galena and Lincoln. Hampton and several other people were yelling at the police, and Hampton was taking photos of Parrish, McWilliams, and Webster. Because the three officers routinely worked undercover, as Hampton knew, they told him to stop taking pictures. Parrish denied taking Hampton's phone or erasing the photographs. Hampton was arrested that day.

¶ 25 Webster testified as follows. When he, McWilliams, and Parrish drove to the area of Galena and Lincoln, they saw Rowley struggling with defendant, so they turned around to park the van, then got out to assist Rowley. Webster shouted, "Stop, police." As Webster ran, he saw defendant running from Rowley and turning his head a few times. When the four officers caught up to

defendant, Webster saw defendant punch McWilliams. Webster caught up to defendant and helped to put defendant onto the street. He did not kick defendant and did not see defendant's head come into contact with the curb. While assisting with the arrest, Webster did not see what the other officers were doing. After defendant was secured, Webster saw Hampton standing near the gas station at the southeast corner of Galena and Lincoln. Hampton appeared to be taking pictures with his camera phone. Another officer spoke to Hampton, and Webster helped to arrest Hampton.

¶ 26 McWilliams testified that, as he, Parrish, and Webster ran toward defendant, they did not have their guns drawn. When Rowley, Parrish, and Webster subdued defendant, McWilliams did not see any of them kick or hit defendant, and he did not see defendant's head strike the curb.

¶ 27 The State "read into the record" both Hampton's certified conviction of resisting a peace officer and defendant's 2004 conviction of unlawful possession of a controlled substance. Defendant's attorney stated, "[T]he defense renews our motion [*sic*] based on our motion in limine regarding prior convictions." The court denied the "motion," based on its pretrial ruling.

¶ 28 In closing argument, the prosecutor emphasized that the State's witnesses had all been closer to the incident than had been the defense witnesses other than defendant himself. The prosecutor noted that Jackson and Hampton were biased witnesses, because they were defendant's friends. Moreover, Hampton had been arrested by the same officers who had chased and arrested defendant. Further, in deciding on the credibility of a witness, the jury could consider that the witness "ha[d] been in DOC or had a conviction," and the judge would instruct the jury "that evidence that a witness has been convicted of an offense may be considered by [the jury] only as it may affect the believability of a witness." The prosecutor noted in particular that Hampton had been convicted of aggravated domestic battery and unlawful possession of a controlled substance. Finally, on the

matter of credibility, the prosecutor argued that the defense witnesses' testimony was inherently implausible. For example, Hampton had testified that two men displaying guns jumped out of a car and ran toward him, causing him to flee—yet he also said that he soon returned to the scene to take pictures. Also, defendant had contradicted Hampton, testifying that the two did not converse until after defendant had crossed Galena.

¶ 29 Defendant's closing argument stressed alleged inconsistencies in the State's evidence and contended that there was insufficient proof that defendant had known that McWilliams was a peace officer. Also, the evidence showed that defendant had been too closely restrained to have resisted arrest and that he was the one who had been bleeding. In rebuttal, the prosecutor returned to the subject of Hampton's credibility, stressing Hampton's testimony that he took photographs of two men who had just pointed guns at him and made him flee in fear. The prosecutor also argued that Hampton's account contradicted not only the officers' testimony but also that of other defense witnesses, showing that Hampton had arrived on the scene only after defendant had confronted the officers. The prosecutor did not mention Hampton's prior convictions.

¶ 30 The jury convicted defendant. The trial court denied his posttrial motion and sentenced him to six years' imprisonment for aggravated battery, the other charges merging. Defendant appealed.

¶ 31 On appeal, defendant argues that the trial court violated Illinois Rule of Evidence 609 (eff. Jan. 1, 2011) by admitting, for impeachment, Hampton's prior convictions of (1) aggravated domestic battery (2010); (2) resisting a peace officer (2009); and unlawful possession of a controlled substance (2000). Before reaching the merits of defendant's argument, however, we hold that defendant has forfeited his challenges to the admission of all three of the convictions and that, as regards Hampton's conviction of resisting a peace officer, we must strictly enforce the forfeiture rule.

¶ 32 To preserve a claim of error, a defendant must both object at trial and raise the claim in his posttrial motion. *People v. Bush*, 214 Ill. 2d 318, 332 (2005). Here, defendant did neither. He did not object when the prosecutor asked Hampton about the convictions, and, in his posttrial motion and the argument on the motion, his attorney referred only generally to the pretrial motion *in limine*.

¶ 33 These failures were especially egregious in relation to Hampton's conviction of resisting a peace officer. Although defendant's motion *in limine* sought to bar Hampton's prior convictions, it mentioned only five of them, including aggravated domestic battery and unlawful possession of a controlled substance, but *not including* resisting a peace officer. At the hearing on the motion, defense counsel limited her argument to the five convictions and did not mention resisting a peace officer. The only point at which defendant arguably challenged the use of the conviction was when, after the State read the conviction into the record, he made a general objection based on the "motion in limine regarding prior convictions." Because the prosecutor had read in both Hampton's conviction and one of defendant's convictions, it is not even clear that defendant's belated objection was directed against Hampton's conviction, as opposed to his own.

¶ 34 By failing to object to the allegedly improper evidence until long after it had been admitted, defendant prevented the State from arguing in favor of admitting the evidence, and he also prevented the trial court from making an informed decision on whether to admit the evidence. To consider defendant's claim of error now would unfairly "sandbag" the State—and the trial court. If a defendant acquiesces in the admission of evidence, even though the evidence is improper, he may not, on appeal, contest the admission of the evidence. *Bush*, 214 Ill. 2d at 332. Thus, we do not consider whether the trial court erred in admitting Hampton's conviction of resisting a peace officer.

¶ 35 Further, in its weaker form, the forfeiture rule applies to the admission of Hampton's convictions of aggravated domestic battery and unlawful possession of a controlled substance. Although defendant's motion *in limine* did challenge these convictions, he did not object when the prosecutor cross-examined Hampton on them. The motion *in limine* did not preserve the claim of error; contemporaneous objections were also required. See *Johnson v. Johnson*, 386 Ill. App. 3d 522, 545 (2008). However, because defendant did raise the claims in his motion *in limine*, and (by reference) in his posttrial motion, and because the State confesses error (although not prejudice) in the trial court's admission of Hampton's unlawful-possession conviction, we shall consider defendant's claim of error as it relates to the convictions of aggravated domestic battery and unlawful possession of a controlled substance. See *People v. Kliner*, 185 Ill. 2d 81, 127 (1998) (forfeiture rule admonishes the parties but does not limit reviewing court's jurisdiction).

¶ 36 Defendant contends first that, in ruling on the motion *in limine*, the trial court erred by admitting the convictions without deciding whether their probative value was outweighed by their potential for undue prejudice. Defendant asserts that the trial judge failed to exercise his discretion but wrongly assumed that the State was unconditionally entitled to have the convictions admitted. The State responds that defendant has not shown that the judge misunderstood the law. For the reasons that follow, we agree with the State.

¶ 37 As pertinent here, Rule 609 reads:

“(a) **General Rule.** For the purpose of attacking the credibility of a witness, evidence that the witness has been convicted of a crime \*\*\* is admissible but only if the crime, [*sic*] (1) was punishable by death or imprisonment in excess of one year under the law under which the witness was convicted, or (2) involved dishonesty or false statement regardless of

the punishment unless (3), in either case, the court determines that the probative value of the evidence of the crime is substantially outweighed by the danger of unfair prejudice.

(b) **Time Limit.** Evidence of a conviction under this rule is not admissible if a period of more than 10 years has elapsed since the date of conviction or of the release of the witness from confinement, whichever is the later date.” Ill. R. Evid. 609(a), (b) (eff. Jan. 1, 2011).

¶ 38 As defendant notes, Rule 609 codifies the established judicial balancing test for the admission of prior convictions as impeachment. See *People v. Montgomery*, 47 Ill. 2d 510 (1971). Defendant correctly notes further that, in a criminal case, the rule is not limited to the impeachment of the defendant but applies to any witness. Thus, whenever either party seeks to introduce evidence of a witness’s prior conviction, for impeachment, the trial court must do more than decide whether the prior conviction meets the rule’s nondiscretionary requirements; the court must also exercise discretion by deciding whether the conviction’s probative value is substantially outweighed by its potential to cause unfair prejudice (Ill. R. Evid. 609(a)(3) (eff. Jan. 1, 2011)). *People v. Williams*, 173 Ill. 2d 48, 81-83 (1996); *People v. Paul*, 304 Ill. App. 3d 404, 408-09 (1999).

¶ 39 In contending that the trial court erred by failing to balance the probative value of Hampton’s prior convictions against their potential for unfair prejudice, defendant cites the judge’s explanation of his ruling on defendant’s motion *in limine*. According to defendant, the comments, “I don’t think the defendant has the right to ask for this” and “I don’t see why the State should be limited” show that the judge believed that, because the motion centered on Hampton’s convictions, not those of defendant, the discretionary balancing test did not apply. Defendant also contends that the admission of Hampton’s unlawful-possession conviction was legally erroneous because the conviction was more than 10 years old (Ill. S. Ct. R. 609(b) (eff. Jan. 1, 2001)).

¶ 40 The State responds first that the judge’s comments show that he applied the balancing test to Hampton’s convictions. The State responds second that, although the court erred in admitting the unlawful-possession conviction, the error was harmless. As we explain, we agree with the State.

¶ 41 In deciding whether the trial judge mistakenly assumed that Hampton’s convictions were not subject to Rule 609’s balancing test, we must presume that the trial judge knew and properly applied the law, unless the record affirmatively shows otherwise. See *People v. Gaultney*, 174 Ill. 2d 410, 420 (1996). We acknowledge that the trial judge’s explanation of his ruling might be construed as defendant contends. However, the context suggests otherwise. At the hearing, the parties first argued over the admission of defendant’s prior convictions. In granting defendant’s motion in part, the judge stated that he had “considered the Montgomery \*\*\* balancing test in regards to this.” Soon afterward, the parties argued over the admission of Hampton’s prior convictions, defendant again invoking *Montgomery*’s balancing test. The State contended that defendant lacked standing, but not that *Montgomery*’s balancing test did not apply. Thus, the parties set out the applicable law immediately before the judge ruled. The judge’s words—“I don’t think the defense has a right to ask for this” and “I don’t see why the State should be limited”—could be construed as rejecting the *Montgomery* test. However, they may simply have meant that, in this instance, defendant had shown no reason to restrict the State, *i.e.*, he had not demonstrated the potential for undue prejudice from admitting Hampton’s prior convictions. We resolve the ambiguity in favor of the trial court’s ruling.

¶ 42 We now consider whether defendant has shown prejudicial error. Although our analysis necessarily concerns only the improperly admitted unlawful-possession conviction, we stress that our conclusion would be the same even were to assume that the trial court erred with respect to the conviction of aggravated domestic battery. This is partly because the same factors that show that the admission of the unlawful-possession conviction was harmless error would also demonstrate, only

slightly less forcefully, that the admission of both convictions had no effect on the outcome of the trial. It is also partly because defendant can only speculate that the application of the *Montgomery* test to the conviction of aggravated domestic battery would have resulted in the exclusion of that conviction. As defendant acknowledges, “[n]ondefendant witnesses need less protection from impeaching information, because such witnesses have less at stake.” *Paul*, 304 Ill. App. 3d at 410. The danger of admitting a defendant’s prior convictions as impeachment is that the jury might consider them as evidence that he is guilty because he has a propensity to commit crimes. *People v. Williams*, 161 Ill. 2d 1, 39-40 (1994). However, there is little danger that jurors will convict a defendant because they are improperly persuaded that *one of his witnesses* has a propensity to commit crimes. Here, defendant offers little to suggest how the probative value of Hampton’s prior convictions was substantially outweighed by the danger of unfair prejudice.

¶ 43 Notably, in the most prominent appeals involving the impeachment of nondefendant witnesses with prior convictions, the defendants claimed that the trial court erred in *excluding* the prior convictions of a *State* witness, because the probative value of the convictions outweighed the nebulous danger of prejudice to the *State*. See *Paul*, 304 Ill. App. 3d at 410 (impeachment by “mere-fact” method was reversible error); *People v. Walker*, 157 Ill. App. 3d 133, 138 (1987) (key State witness’s prior convictions were highly relevant to his credibility and should not have been excluded). Apparently, it is the rare case in which a trial court reversibly errs by *admitting* the prior convictions of a nondefendant witness, as it is inherently difficult to show that any unfair prejudice from the evidence substantially outweighs its probative value.

¶ 44 In any event, any error in the admission of Hampton’s unlawful-possession conviction was harmless. As the State stressed to the jury, Hampton’s testimony suffered from its own infirmities, which carried far more weight with the jury than did his slightly stale conviction of an unspecified

drug offense. The prosecutor stressed that Hampton's assertion that two men brandished guns at him and forced him to flee in fear sat poorly with his testimony that he returned to the scene in order to record the actions of his pursuers. Further, as the prosecutor also stressed, Hampton's testimony contradicted defendant's in several key respects. Hampton testified that, after defendant exited the grocery store, the two men struck up a conversation before defendant crossed Galena; defendant testified that, although he saw Hampton on the way to the store, they did not have the conversation until after defendant crossed Galena. Hampton testified that, as he spoke with defendant, no police cars or uniformed officers were in the area, but two gun-wielding men in street clothes approached them; defendant did not provide this account but testified instead that, after he crossed the street, a police officer told him something and three men, not displaying guns, pursued him—after Hampton was no longer with him. Thus, Hampton's testimony was not a crucial aspect of defendant's case, except perhaps as a liability. Hampton's prior convictions almost certainly did far less to discredit him than he had done on his own.

¶ 45 For the foregoing reasons, the judgment of the circuit court of Kane County is affirmed.

¶ 46 Affirmed.