

jail. Defendant contends that, when the jail staff delivered his meal tray, it included items he refused to eat as a vegetarian. He asked for a replacement tray. One of the correctional officers said he could not get a replacement tray, so defendant asked to speak with a sergeant. Sergeant Kevin Maskel spoke with defendant over the intercom, again denying his request. Defendant admitted he got angry and cursed Maskel. Defendant returned his tray to the hatch and some of the food fell to the floor. Subsequently, Maskel and other officers entered the day room (where defendant and others were playing cards) and tried to wrestle defendant to the ground. Defendant claimed Maskel punched defendant, without provocation, in the face twice. Maskel admitted to punching defendant, but claimed he did so in response to defendant biting Maskel on the finger. Defendant denied biting Maskel, and said Maskel's fist made contact with his teeth during the punches, causing Maskel's hand injury. The officers eventually got defendant on the ground. Maskel did a "knee drop" on defendant's head, breaking defendant's jaw and teeth.

¶ 5 The State's version of the events was reported as follows. Defendant was upset about the food tray he had been given and asked to speak with a command officer. Maskel spoke with defendant over the intercom about defendant's complaint. Maskel advised defendant he had not received permission from the nurse to receive a special tray. Defendant became very agitated, started cussing, and walked away from the intercom. Maskel and four other correctional officers intended to speak with defendant in person to calm the situation. As they approached the room where defendant was located, they noticed a food tray on the floor with food scattered. Approximately 15 other inmates were in the room either playing cards, lying in their bunks, or watching television. Maskel asked defendant to come to the door to speak with him, but defendant refused. The officers entered the room and approached defendant, who was seated at a table. Maskel tugged at defendant's

uniform and said "let's go," pointing toward the door. Defendant refused. Maskel told the other inmates to back away from the table in case there "was going to be an issue."

¶ 6 According to the State's witnesses, defendant said: " 'Don't ever fucking walk up on me.' " Defendant stood up in an abrupt and threatening manner with clenched fists. Maskel instructed the officers to secure defendant in handcuffs. In their attempt, a struggle ensued. Maskel tried to hold defendant's head down on the table while the other officers tried to handcuff him. Defendant bit Maskel's right index finger, which began bleeding. To get defendant to stop biting, Maskel hit defendant twice in the face, which had no effect on defendant. He continued to struggle with the officers. They eventually got defendant on the floor. Maskel attempted a knee strike to defendant's chest, but because defendant was "squirming around the whole time," he accidentally came down on defendant's jaw, causing an injury. The incident was recorded on video surveillance, but the camera was at a distance and in a position where a viewer could not clearly depict defendant biting Maskel.

¶ 7 As a result of this incident, in June 2007, the State charged defendant with one count of aggravated battery (720 ILCS 5/12-4(b)(18) (West 2006)) for causing bodily harm to Maskel, knowing he was an employee of the State of Illinois engaged in the performance of his authorized duties. In April 2008, while the charge was pending, defendant filed a federal lawsuit against the sheriff, Maskel, and the other correctional officers involved in the altercation.

¶ 8 On November 2, 2009, on the day of defendant's trial, prior to jury selection, the prosecutor presented and argued the State's motion *in limine*. During these pretrial discussions, the trial court determined that whichever party introduced the video recording of the altercation into evidence must play the entire video, rather than tailoring it to show only limited content. The entire

video would arguably depict defendant assaulting Maskel, as well as the correctional officers subduing defendant. The following exchange occurred:

"MR. MOCKBEE [(Assistant State's Attorney)]: My motion goes beyond the video, though. I understand the video doesn't show clearly what happens, but there's going to be testimony of—that's basically, as I see it, two incidents there, them standing up and then the incidents on the ground; and, as the court has seen, there's a civil suit as a result of what [defendant] alleges. I don't believe that's relevant. I don't believe his injuries are relevant. I don't believe—

THE COURT: Well, the existence of the civil suit is clearly not relevant."

Defendant did not argue or object. The jury trial proceeded with the presentation of evidence and thereafter, the jury found defendant guilty. Defendant filed a motion for a new trial, asserting several contentions of error, but not any issue related to the trial court's decision on the State's motion *in limine*. The court denied defendant's motion and sentenced him to four years in prison. This appeal followed.

¶ 9

II. ANALYSIS

¶ 10 Defendant argues the trial court erred in granting the State's motion *in limine* precluding any testimony regarding the civil lawsuit defendant had filed against the county employees involved in this altercation. He admittedly failed to properly preserve this issue for appeal by not objecting in the trial court and by not including it in his posttrial motion. Nevertheless, he urges this court to apply the plain-error doctrine, claiming we are justified in doing so because

the evidence was closely balanced.

¶ 11 Plain-error review must begin with an analysis of whether any error occurred at all. *People v. Sims*, 192 Ill. 2d 592, 621 (2000). If an error occurred, then this court must determine whether the error either (1) was clear and obvious and affected the outcome of the trial because the evidence was closely balanced, or (2) was so substantial that it affected defendant's right to a fair trial. *People v. Herron*, 215 Ill. 2d 167, 186-87 (2005). We start with examining defendant's contention of error and determine whether it actually constitutes an error.

¶ 12 Defendant claims he is entitled to a new trial because the trial court improperly precluded him from presenting evidence, through cross-examination, regarding the credibility of the State's witnesses. Specifically, he argues they had a motive to lie because they, or their employer, faced liability in the civil lawsuit.

¶ 13 A defendant has a fundamental right to investigate during cross-examination whether a witness holds any bias, interest, or motive to testify falsely. *People v. Nelson*, 235 Ill. 2d 386, 420-21 (2009). This right to cross-examination, however, is not absolute and the trial court retains broad discretion in determining the extent of the cross-examination at trial. *People v. Price*, 404 Ill. App. 3d 324, 330 (2010). The impeaching evidence must infer that the witness has something to gain or lose by his testimony, as opposed to being remote or uncertain. *Nelson*, 235 Ill. 2d at 421. Accordingly, a court's restriction of cross-examination will not be reversed absent an abuse of discretion. *Price*, 404 Ill. App. 3d at 330. There has been an abuse of discretion when the court's ruling is considered " 'arbitrary, fanciful, or unreasonable or where no reasonable man would take the view adopted by the trial court.' " *People v. Williams*, 2011 IL App (1st) 93350, ¶ 32 (quoting *People v. Santos*, 211 Ill. 2d 395, 401 (2004)).

¶ 14 Presumably, defendant intended to cross-examine Maskel and the other correctional officers in such a way as to demonstrate their potential bias or their motive to testify falsely due to the pecuniary interest at stake for their employer in the pending civil lawsuit. He intended to make the argument that the witnesses were testifying falsely to protect themselves and their employer. The video did not clearly depict defendant biting Maskel's finger which, according to defendant, would raise a question as to Maskel's credibility. Maskel's testimony arguably placed the blame on defendant to establish a defense in defendant's civil action.

¶ 15 We find the trial court did not abuse its discretion in prohibiting questions relating to the existence of a civil lawsuit. The problem with defendant's theory that "the State's witnesses had an interest in the case, a reason to be biased, [and] a reason to stick together" (that being the civil lawsuit), is that Maskel's version of the incident was the same immediately following the event as on the day of trial. He reported the same series of events both before and after the civil lawsuit was filed. The State introduced Maskel's incident report, prepared on the day of the incident in April 2007, as an exhibit at trial. The contents of that report, prepared one year prior to the filing of defendant's lawsuit, was consistent with Maskel's version of the altercation to which he testified at trial. Simply put, the 2008 civil lawsuit could not have influenced Maskel's testimony when he reported the same story on the day of the incident. Therefore, defendant's claim that the jury should have been made aware that the State's witnesses had an ulterior motive for testifying as they did is without merit. The existence of the lawsuit was not relevant and any reference thereto was properly excluded from trial.

¶ 16

III. CONCLUSION

¶ 17 For the foregoing reasons, we affirm the trial court's judgment. As part of our

judgment, we award the State its \$50 statutory assessment against defendant as costs of this appeal.

¶ 18 Affirmed.