



erred by considering Ian Morgan's prior written statement where he implicated the defendant as a participant in the methamphetamine manufacture as substantive evidence of the defendant's guilt rather than for the limited purpose of impeaching Morgan; (3) his trial counsel was ineffective for failing to object to the introduction of Morgan's prior written statement for any purpose, which included impeachment, because it was the result of improper police threats and coercion; (4) the State committed prosecutorial misconduct by arguing that Morgan's written statement was evidence of the defendant's guilt when the statement was only admitted for the limited purpose of impeaching Morgan's testimony; (5) he is entitled to additional credit for 143 days previously served; and (6) he is entitled to \$5-per-day credit toward his fines for 143 days previously served. For the reasons that follow, we reverse.

¶ 3 On April 25, 2009, Stacy Eaton, a detective with the West Frankfort police department, was riding her scooter on the streets of West Frankfort while off duty. When she rode by the residence located at 1305 East Oak Street (the defendant's residence), she smelled a strong odor of anhydrous ammonia, an ingredient commonly used in the manufacture of methamphetamine. She was familiar with this residence because she had information that J.S., a juvenile with an outstanding warrant, might be found there.

¶ 4 Eaton immediately went to the police department and approached officer James Trogolo about her suspicions. Eaton returned to the residence with Trogolo to search for J.S. and to investigate Eaton's suspicions that the occupants were manufacturing methamphetamine. As they approached the residence, she noticed three males standing outside. She identified the three males as the defendant, Carl Bible, and Ian Morgan. Trogolo testified that Steven Burns was also standing outside the house. The defendant acknowledged that he was the owner of the house, and he gave Eaton and Trogolo permission to search the residence for J.S. He told them that J.S. had left the residence with

another female approximately five minutes before their arrival. The officers did not mention their suspicions about the methamphetamine. Once inside, they visually scanned the living room, kitchen, and bedroom, but they did not find anything illegal during the initial search.

¶ 5 Because Eaton smelled anhydrous while inside the residence, she confronted the defendant about it. The defendant responded that he did not smell anything. Eaton requested permission to further search the house for J.S. and anything illegal, and the defendant consented to the officers' continued search. During a search of the bedroom, the officers discovered drug paraphernalia inside a wooden box. Specifically, the box contained a roll of aluminum foil, several pieces of burnt foil, a prescription pill bottle, cannabis seeds, a one-hitter smoking pipe, a glass pipe used for smoking methamphetamine, and a finger scale. None of the items found in the box were sent to the state police crime laboratory for testing.

¶ 6 After finding the drug paraphernalia in the bedroom, the defendant was told that he was going to be placed under arrest. Trogolo grabbed the defendant's wrist, but the defendant pulled away and started running toward the front door. Trogolo apprehended the defendant outside. A search warrant was later obtained to complete the search of the residence.

¶ 7 Further search of the house revealed the presence of other items consistent with the manufacture of methamphetamine and the use of drugs. The following items were found inside the defendant's residence: plastic tubing, burnt foils, corner baggies, cigarette pack cellophane with suspected methamphetamine residue, empty Sudafed boxes, blister packs for Sudafed, coffee filters, salt, a coffee filter with residue, and two unopened boxes of Sudafed in the bedroom dresser drawer. Additionally, during the search, J.S. was discovered sneaking out of the house from a crawl space under the house's foundation and was placed under arrest.

¶ 8 On April 25, 2009, Timothy McDaniel was dispatched to the defendant's residence

because he worked for the Illinois State Police methamphetamine response team. While at the defendant's house, McDaniel took photographs of items found inside the residence and on the property that related to methamphetamine production. He indicated that the following suspicious items were found in the residence: a plastic bag containing three glass jars and a box of sandwich bags found in the living room; a bottle of liquid fire, table salt, and rock salt found in the kitchen; two 20-pound propane tanks found outside the garage which revealed signs of ammonia exposure; a propane tank, a six-foot-long section of hose, a red cooler which held a large, glass jar that contained a multilayered solution found in the garage; coffee filters found in the backyard; and the remnants of lithium batteries with the lithium strips torn out of them found in the trash. The contents of the glass jar tested positive for methamphetamine. A field test performed on the coffee filters indicated that the filters contained methamphetamine.

¶ 9 After the officers documented the evidence with photographs, a hazardous material contractor from the Drug Enforcement Agency collected and destroyed the items. McDaniel testified that it was common practice to destroy items relating to methamphetamine production because long-term storage was too dangerous.

¶ 10 The defendant, Ian Morgan, and Carl Bible were placed under arrest and were interviewed with regard to the methamphetamine materials found at the house. Through the interviews, Eaton learned of an alternative location being used for part of the methamphetamine production. She went to the alternative location and discovered a 40-pound propane tank, altered to be used to hold anhydrous. She also obtained a statement from Morgan which revealed that the defendant was involved in the production of the methamphetamine which occurred at his house and at this alternative location.

¶ 11 Because the defendant denied involvement in the illegal activities and maintained that he was not living at his residence during the relevant time period, the State presented

testimony from Ashley Bymaster and Steven Burns to prove that the defendant was present at his house during the time the methamphetamine was being produced (the officers determined that the methamphetamine was being manufactured from April 23, 2009, until April 25, 2009). Bymaster testified that she was inside the defendant's home for approximately three to four hours the night before he was arrested, and the defendant and J.S. were both present. However, she testified that she did not smell any ammonia or ether, and she did not observe any methamphetamine being manufactured. Steven Burns testified that he was present at the defendant's home on the night of the arrest. He arrived approximately 20 minutes before the police, and he observed the defendant exiting the home from the front door. He was standing outside talking to the defendant, Carl Bible, and his brother when the police arrived.

¶ 12 J.S. testified regarding the defendant's involvement in the illegal activities. She was in custody at the time of the defendant's trial. She was 15 or 16 at the time of the events in April 2009. The defendant was the father of her best friend, and she frequently visited their house. She was either 13 or 14 when she started smoking cannabis and methamphetamine with the defendant and his family. The defendant provided the drugs. In 2008, she was made a ward of the Department of Children and Family Services, and she was placed in a foster home. In March 2009, she was traveling to the Catholic Social Services to be placed in another foster home when she jumped out of the vehicle and hitchhiked to the defendant's house. She went to the defendant's home because it was a safe place where she could get away with everything. She stayed at the defendant's home for approximately 2 to 2½ months before she was arrested. She recalled smoking methamphetamine during that time.

¶ 13 While staying at the defendant's residence, she became sexually involved with Carl "Lucky" Bible, the defendant's son, and she slept in his bedroom for a few weeks. When she became estranged from Bible, she became sexually involved with the defendant. J.S.

testified that they would have sex when everyone was asleep. On two occasions, the defendant offered her money in exchange for sex. The defendant kicked her out of the house twice, but she always returned.

¶ 14 J.S. testified that she discussed the methamphetamine-manufacturing process with the defendant, and she admitted participating in the making of the methamphetamine that occurred at the defendant's house. In April 2009, she observed the defendant and some unknown individuals going into the woods and returning with a jar. She recalled that the jar from the woods was "burped" with rock salt and liquid fire to drop the "dope" to the bottom. She testified that this process occurred at the defendant's residence and both she and the defendant participated. She recalled a bad batch of methamphetamine was produced a few days prior to the police's arrival where too much lithium was added to the mix. The defendant was staying at his house when this occurred; however, his wife and two of their children were staying at his mother's house and had been for approximately 2½ weeks. J.S. testified that Bymaster would buy the materials to make methamphetamine for them, but Bymaster did not know that they were making methamphetamine.

¶ 15 J.S. was initially arrested on a runaway warrant, but she was later charged with offenses related to participation in methamphetamine production. She admitted her involvement in the methamphetamine production, and she was ordered to report to a probation officer. She sought treatment for her drug problems and was in the treatment program for approximately three months before she was kicked out for fighting. She entered a different rehabilitation facility and successfully completed the program. She stayed clean for a few months, and then started taking Oxycontin. She failed a drug test and returned to treatment. She left treatment and started doing Oxycontin and heroin. She was subsequently arrested on another warrant and was scheduled to return to treatment.

¶ 16 J.S. admitted that she was smiling while testifying because she thought the

proceedings were "funny." She thought the proceedings were funny because she blamed the defendant for her life being "pure hell" for the last year and a half. She had hoped that the defendant would help her when she was arrested, but he did not. She wanted him to realize that what he did was wrong. When asked whether she was present at the proceedings "to finally get back" at the defendant, she responded: "Not here to get back at [the defendant]. I am here so that he will see what it's like to—I don't know. So he will see what he did wrong, because it's not right." She then clarified that she wanted the defendant to see what "it's like to sit behind bars for a while."

¶ 17 During redirect examination, the following colloquy occurred between the assistant State's Attorney and J.S.:

"Q. [Assistant State's Attorney:] Now, when you were eventually taken into custody, \*\*\* in April, 2009, you were located in \*\*\* [the defendant's] residence, or at some point in time during that day?

A. [J.S.:] Yes, but I just want to say, before this goes any farther, I am done with this case. \*\*\*

Q. [Assistant State's Attorney:] Could you just answer?

A. [J.S.:] No. No. I just—You, guys, can call me, contempt of court, whatever you want to call it. I am done. Let him go home. Let him go home to his family. Leave me out of it.

Q. [Assistant State's Attorney:] [J.S.], I am sorry for your troubles, here, this morning, and I know this is very difficult.

A. [J.S.:] No, I am done. There is no—no negotiating. Nothing. I am done. I want to go.

Q. [Assistant State's Attorney:] Why do you have that feeling?

A. [J.S.:] Because I don't want—I don't want this. I am done. Done. I was on

drugs. I acted stupid. He was on drugs. He acted stupid. Everybody made choices that they shouldn't have made, and it's over with. And, done. If you, guys, want to press charges, you, guys, do it on your own time, but you are doing it without me, because I am not helping.

Q. [Assistant State's Attorney:] Was your testimony truthful today?

A. [J.S.:] No. You, guys, can charge me for that one, too. Whatever. I don't care. Nothing I have said, nothing matters. I am done. Leave me alone."

The prosecution then announced that he had no further questions for J.S.

¶ 18 Elizabeth White, J.S.'s mother, testified that toward the end of 2008 she noticed differences in J.S.'s personality and suspected she was doing drugs. She recalled that J.S. frequently lied, and she was unable to believe "anything that [J.S.] was saying."

¶ 19 Ian Morgan testified that he was serving a four-year sentence in the Illinois Department of Corrections because he pled guilty to possession of anhydrous ammonia. He was present at the defendant's residence on April 25, and the defendant arrived approximately five minutes before him. The defendant was there to pick up a change of clothes for himself, his wife, and their children. He did not go inside the house because Morgan, Bible, and J.S. kept him outside to prevent him from discovering the fact that they were manufacturing methamphetamine in his home. He recalled that the defendant was at the house for approximately two to three minutes before the police arrived. When the police arrived, Morgan put a padlock on the garage door because the materials used for manufacturing methamphetamine were kept in the garage. He admitted that he was involved in the making of the methamphetamine with the defendant's son, Bible. He testified that the defendant was not involved and did not know what was going on at the house. Morgan testified that the defendant was staying at his mother's house while Morgan and Bible made the methamphetamine at his house. Morgan further testified that the defendant gave him and

Bible \$100 each to fix the bathroom plumbing in his house, and the defendant stayed at his mother's house while the repairs were being completed. Instead of doing the repairs, Morgan and Bible used the money to buy chemicals to make methamphetamine.

¶ 20 Morgan admitted that his testimony was contrary to his prior written statement given to police, but he claimed that the written statement was the result of police threats and coercion. In the written statement, Morgan said that he gave the defendant, Bible, and J.S. a ride to a rural area to "drop juice off." The following night Morgan gave the defendant, Bible, and J.S. a ride to the same property, and then he drove them to the defendant's residence. Morgan claimed that the defendant took the methamphetamine mixture to "blow it off." Morgan later returned to the defendant's house to help filter the mixture.

¶ 21 During his testimony, Morgan claimed that Eaton forced him to include the defendant's name in the statement by threatening that he would be buried "so far in the Department of Corrections, [he] wouldn't be able to dig [his] way out." He further claimed that the prosecutor threatened him with perjury and more time in prison if he did not "tell [the defendant's] name and say that he was at the house." He maintained that his statement implicating the defendant was a lie, and his testimony at the trial was the truth. Morgan admitted dropping off an anhydrous ammonia tank at another person's house, but denied giving the defendant a ride to the person's house so they could make methamphetamine. He claimed that he was under mental duress at the time he gave a statement to Eaton and that he had been awake for four or five days high on methamphetamine.

¶ 22 Rodney McPherson, the defendant's friend, testified that he had frequent contact with the defendant in March and April 2009, and he never observed the defendant using or manufacturing methamphetamine. He talked to the defendant approximately four or five days before he was arrested. He learned that the defendant was staying at his mother's house during this time period, and he visited the defendant at her house.

¶ 23 Terry Flener, Sr., the defendant's friend, testified that he saw the defendant approximately three to four times a week in March and April 2009. He testified that the defendant had moved in with his mother during this time because his bathroom needed remodeling. He knew that the defendant was staying with his mother because he would regularly visit him there. He helped the defendant tear up part of the floor in the bathroom, and he never smelled any unusual odors in the house. He went to the defendant's home shortly before the defendant was arrested, and the defendant was there getting clean clothes. He never observed the defendant using or manufacturing methamphetamine. He also never observed the defendant collecting items to be used for the production of methamphetamine.

¶ 24 Betty Bates, the defendant's "common law wife," testified that she had been in a relationship with the defendant for 21 years and they had three children. She testified that on April 23, 24, and 25, 2009, the family was living with the defendant's mother because their bathroom was being remodeled. They had paid Bible and Morgan to do the repairs in the bathroom. During that time period, the defendant would go to work in the morning and then he would return to his mother's house. As far as she knew, he did not return to their house until April 25. On April 25, the defendant went to work and returned to his mother's house at approximately 5 p.m. After he took a shower and ate dinner with the family, he visited their house to check on the progress of the bathroom.

¶ 25 Bates testified that the defendant had never used or manufactured methamphetamine. She had no knowledge of J.S. staying at their house in March and April 2009. She testified that she always slept in the same room with the defendant, and "there was no way" he had a sexual relationship with J.S.

¶ 26 Phillip Logsdon, the defendant's employer, testified that the defendant was working approximately five to six days a week in the spring of 2009. From April 23, 2009, through April 25, 2009, they worked in Zeigler patching a roof and tearing down a garage. They

worked from 8 a.m. until 5 or 6 p.m. Logsdon testified that he picked the defendant up from his mother's house for work and then dropped him off there at the end of the workday. He also socialized with the defendant outside of work and never witnessed him using methamphetamine. He testified that the defendant has never exhibited any of the symptoms that he associated with methamphetamine use.

¶ 27 Kristy Shidler, the defendant's 19-year-old daughter, testified that she was 15 years old when she first met J.S., and they became best friends. She introduced J.S. to her family, and J.S. would frequently visit her at her house. On several occasions, J.S. was asked to leave the house and told to never return. However, Bible would sneak her back into the house or she would use the crawl space under the house and enter through a hole in the bathroom floor. Shidler was at the house about three days before her father was arrested, but her father was not staying there because he was staying at her grandmother's house. J.S. was staying at the house during that time period. Shidler testified that her father would sometimes come to the house to inspect the repair work.

¶ 28 Helen Darnell, the defendant's mother, testified that the defendant did not have a driver's license, and he had to rely on others for transportation. The family periodically stayed with her in March and April 2009 because they were having plumbing problems at their house. Beginning April 23, they were no longer staying at their own house and were instead living with her. She recalled that the defendant worked all day on April 25, and he returned to her house and took a shower at approximately 4 p.m. She then drove him to his house shortly after 4 p.m. Approximately 30 minutes later she received a telephone call from Bible informing her that the defendant had been arrested.

¶ 29 The defendant testified that he frequently stayed at his mother's house prior to April 22, 2009, and he eventually moved his family to her house on either April 22 or 23 because his house did not have running water. He offered Bible and Morgan \$225 to fix the

bathroom floor while he was staying at his mother's house.

¶ 30 The defendant recalled that he was working for Phil Logsdon from April 21 until April 25. They were tearing down a garage in Zeigler. On April 25, he went to work and returned to his mother's house around 3 p.m. to take a shower. After he showered and had dinner, his mother drove him to his house to check on the progress with the repairs. He believed that he arrived at his house at approximately 4 p.m. He recalled that Bible, Morgan, and Steven Burns were standing in the front yard when he arrived at the house. He had a feeling that J.S. was also at the house, but he did not see her. He recalled that he was at the house for approximately five minutes before the police officers arrived. The police report indicated that the officers arrived at 7 p.m. The officers asked him about J.S., and he asked Bible if she was there. Bible told him that J.S. had been there, but had left with someone. The defendant repeated this to the officers. They asked to search the residence, and the defendant gave them permission.

¶ 31 The defendant testified that the officers confronted him about the smell of ether in the house, but he did not smell anything. He gave the officers permission to continue searching the house because he did not have anything to fear. He admitted that he owned the wooden box and the marijuana pipe found inside the box, but the foils and the methamphetamine pipe did not belong to him. He also admitted that he occasionally smoked marijuana. He testified that he was not fleeing the police when he exited the house after being told that he was under arrest. Instead, he was attempting to find Bible because he was going to "wring [his] neck."

¶ 32 The defendant denied knowing Ashley Bymaster and testified that he had never seen her at his house. He also denied being at his house on April 24 and stated that the last time (prior to the day of his arrest) he was at the house was April 21. He clarified that Burns observed him coming from his front porch on April 25 and not from inside the house. He testified that he did not know how to make methamphetamine, he never had any experience

with it, and he never smoked it. He denied being involved in the manufacture of the methamphetamine on April 23 through April 25. J.S. stayed at his house in March and April 2009 without the defendant's permission and knowledge because Bible allowed her into the house.

¶ 33 Carl Bible, the defendant's 28-year-old son, testified that he was currently incarcerated because he pled guilty to unlawful manufacture of 15 grams of methamphetamine and aggravated criminal sexual abuse to a minor. He testified that he had lived in Houston, Texas, for the majority of his life, but he would come to Illinois occasionally to visit his father. He visited his father in February 2009. He offered to fix the bathroom in his father's house because it was in need of serious repair. He told his father to take the family to his grandmother's house while he completed the repairs. Although the defendant occasionally spent the night at Bible's grandmother's house during the month of March and April, the defendant did not move the family there until April 23. The defendant did not return to the house until approximately 4:30 or 5 p.m. on the day he was arrested. J.S. and Morgan stayed at the house while the defendant was absent, and the defendant had no knowledge of J.S. staying in the house.

¶ 34 According to Bible, the defendant was standing outside when the police arrived. Bible also testified that the defendant was in the yard the entire time he was at the house because Bible was distracting him to keep him from finding J.S. inside the house. From April 23 to April 25, Bible manufactured methamphetamine at the defendant's house because he was hoping to make enough money to return to Texas. The defendant had given Morgan and Bible \$100 each to fix the bathroom, and they used the money to buy supplies to make methamphetamine. They began the production on April 23 as soon as his father left. He kept the majority of the supplies at the house. He maintained that his father did not have any involvement in his illegal activities. He denied knowing Ashley Bymaster. He testified that

they had opened the wooden box that his father kept in the bedroom and were smoking some of the marijuana found in the box.

¶ 35 After hearing all of the evidence, the trial court found the defendant guilty of participation in methamphetamine manufacturing, unlawful possession of anhydrous ammonia, unlawful possession of a methamphetamine precursor in standard dosage form, unlawful possession of methamphetamine-manufacturing material, and aggravated participation in methamphetamine production.

¶ 36 The defendant filed a motion to reconsider verdict or alternatively for a new trial pursuant to section 116-1 of the Code of Criminal Procedure of 1963 (725 ILCS 5/116-1 (West 2010)) on October 28, 2010, and a memorandum of law in support of the motion on December 29, 2010. In his motion, he argued that the State failed to prove him guilty beyond a reasonable doubt. On January 12, 2011, the trial court denied the defendant's motion. Thereafter, the court sentenced the defendant to six years in prison for the possession-of-anhydrous-ammonia conviction, five years in prison for the unlawful-possession-of-methamphetamine-precursor conviction, five years in prison for the unlawful-possession-of-methamphetamine-manufacturing-material conviction, and eight years in prison for the aggravated-participation-in-methamphetamine-production conviction. The court concluded that the conviction for participation in methamphetamine manufacturing merged into the conviction for aggravated participation in methamphetamine production. The court further concluded that the defendant's sentences would be served concurrently. The defendant appeals.

¶ 37 The defendant raises the following arguments on appeal: (1) the State failed to prove him guilty beyond a reasonable doubt; (2) the trial court erred by considering Ian Morgan's prior written statement where he implicated the defendant as a participant in the manufacture of the methamphetamine as substantive evidence of the defendant's guilt rather than for the

limited purpose of impeaching Morgan; (3) the defendant's trial counsel was ineffective for failing to object to the introduction of Morgan's prior written statement for any purpose, which included impeachment, because it was the result of improper police threats and coercion; (4) the State committed prosecutorial misconduct by arguing that Morgan's written statement was evidence of the defendant's guilt when the statement was only admitted for the limited purpose of impeaching Morgan's testimony; (5) he is entitled to additional credit for 143 days previously served; and (6) he is entitled to \$5-per-day credit toward his fines for 143 days previously served. Because we conclude that the trial court's decision should be reversed based on the defendant's sufficiency-of-the-evidence argument, we need not address the remainder of the arguments that the defendant has raised on appeal.

¶ 38 When presented with a challenge to the sufficiency of the evidence, the relevant question on appeal is whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. *People v. Ortiz*, 196 Ill. 2d 236, 259 (2001). The reviewing court will not retry the defendant when considering a sufficiency-to-the-evidence challenge. *People v. Herman*, 407 Ill. App. 3d 688, 704 (2011). "Rather, it is our duty to carefully examine the evidence while bearing in mind that the trier of fact is in the best position to judge the credibility of witnesses, and due consideration must be given to the fact that the fact finder saw and heard the witnesses." *Id.*

¶ 39 "However, the fact that a judge accepted the truth of certain testimony does not guarantee its reasonableness." *Id.* The trial court's determinations are not conclusive. *Ortiz*, 196 Ill. 2d at 259. Therefore, we will reverse a conviction where the evidence is so unreasonable, improbable, or unsatisfactory as to justify a reasonable doubt of the defendant's guilt. *Herman*, 407 Ill. App. 3d at 704.

¶ 40 With these principles in mind, we conclude that the evidence is so unsatisfactory as

to justify a reasonable doubt of the defendant's guilt. From a review of the record, it is apparent that methamphetamine was being manufactured in the defendant's residence from April 23, 2009, until April 25, 2009. Therefore, the crucial issue in this case is whether the defendant participated in this illegal activity. The key evidence offered by the State to prove the defendant's guilt was J.S.'s testimony regarding the defendant's involvement, Morgan's written statement incriminating the defendant, the testimony from Bymaster placing the defendant at his house during the relevant time period, and the testimony from Burns that he observed the defendant walk out his front door on April 25. We conclude that this evidence was not sufficient to prove the defendant's guilt beyond a reasonable doubt.

¶ 41 Although J.S. testified that the defendant was involved in the methamphetamine production that occurred at his house, the weight of her testimony is weakened by the fact that she had strong negative feelings toward the defendant, as evidenced by the statements she made during her testimony. Specifically, she (1) admitted to smiling on the stand because she thought the proceedings were "funny"; (2) blamed the defendant for her life being "pure hell" for the last year and a half; (3) admitted that she wanted the defendant to see what it was like to sit behind bars; (4) admitted that she felt some resentment toward the defendant because she expected him to help her when she was arrested; (5) told the State to let the defendant go home to his family because she wanted no further involvement in the case; and (6) was extremely emotional during her testimony. We also note that during redirect examination, she revealed that her testimony might not have been truthful. This statement could reasonably be considered as repudiation of her prior testimony where she indicated that the defendant was a participant in the manufacture of the methamphetamine. As support for this, J.S.'s mother testified that J.S. frequently lied, and she was unable to believe anything J.S. was saying.

¶ 42 Additionally, the State offered Morgan's prior written statement as evidence to prove

the defendant was a participant in the manufacture of the methamphetamine. Although Morgan's written statement to police indicated that the defendant had been involved, his testimony contradicted his written statement. During his testimony, he insisted that the defendant was not involved in the methamphetamine production. He claimed that the defendant was staying at his mother's house during the relevant time period and did not return to his residence until a few minutes before the police arrived on April 25. He testified that the defendant did not go inside the house before the police arrived and was clueless about the illegal activity at the house. This testimony was consistent with Bible's testimony.

¶ 43 Further, the evidence presented by the State that revealed the defendant may have been present at his house during the relevant time period was contradicted by the evidence presented by the defense. Although Bymaster and Burns placed the defendant inside the residence during April 23 through April 25, the defense presented several witnesses to rebut this testimony. The defendant's son, Bible, testified that the defendant was staying at his mother's house during this time period and did not return to his house until approximately 4:30 or 5 p.m. on the day he was arrested. Bible was living at the defendant's house during the relevant time period. Bible maintained that the defendant was not involved in the illegal activities that were taking place at his residence. Instead, the defendant believed that Bible and Morgan were staying at his house while they repaired his bathroom. Additionally, the defendant's boss, Logsdon, testified that the defendant was working in Zeigler from April 23 through April 25. Logsdon testified that they worked from 8 a.m. until 5 or 6 p.m. During that time period, he picked the defendant up from his mother's house for work and then dropped him off there at the end of the workday. He never observed the defendant using methamphetamine, and the defendant never exhibited any signs of methamphetamine use. The defendant's 19-year-old daughter also corroborated the testimony about the defendant staying at his mother's house while the repair work in the bathroom was being completed.

The defendant's mother testified that the defendant was living with her from April 23 through April 25. She recalled that he worked all day on April 25 and returned to her house at approximately 4 p.m. After he took a shower, she drove him to his house shortly after 4 p.m. because he did not have a driver's license and had to rely on others for transportation. The defendant's wife testified that the family was living with the defendant's mother from April 23 through April 25. The defendant worked all day and would return to his mother's house at the end of the day. She recalled that on April 25, he went to work and returned to his mother's house at approximately 5 p.m. and then he went to the house to check on the progress of the bathroom. She believed this was the first time that he had visited the house since the family had moved into his mother's house. Therefore, the record reveals that the evidence is contradictory as to whether the defendant actually returned to his residence prior to April 25, the date he was arrested.

¶ 44 The State further argues that the defendant had to be involved in the manufacture of methamphetamine because the evidence indicates that he was at his house for approximately three hours before he was arrested. In support of this argument, the State points to the defendant's testimony that he arrived at his house shortly after 4 p.m. and the police report which indicated that the police arrived at the defendant's house at 7 p.m. However, the evidence on this point is not as clear as suggested by the State. The defendant and his mother both testified that he returned to her house at approximately 4 p.m. and then took a shower before she gave him a ride to his house. The defendant and his mother both estimated that the defendant was dropped off at his house at approximately 4 p.m. However, the defendant also testified that he was at his house for approximately five minutes before the police arrived. His mother testified that she received the telephone call regarding his arrest approximately 30 minutes after dropping him off. Further, the defendant's boss testified that he worked with the defendant until approximately 5 or 6 p.m. on April 25. The defendant's

wife testified that he did not arrive home until 5 p.m., and he took a shower and ate dinner with the family before returning to their house to check on the progress of the repairs. Therefore, the evidence is inconsistent as to how long the defendant was actually at his residence before the police arrived.

¶ 45 The State also argues that the defendant had constructive possession of the house and garage at the time of the manufacture of the methamphetamine and this is sufficient to support his conviction. We disagree with the State's argument.

¶ 46 "Narcotics found on premises under the defendant's control give rise to an inference of the defendant's knowledge and possession; such an inference may be sufficient to sustain a conviction, absent other facts or circumstances which leave a reasonable doubt." *People v. Lesure*, 195 Ill. App. 3d 437, 441-42 (1990). Although the defendant was the owner of the residence where the methamphetamine production was uncovered, the defense presented evidence of other circumstances which leave a reasonable doubt of the defendant's guilt. The evidence is consistent that the defendant was staying with his mother during the relevant time period. Evidence was presented that he did not visit his house until April 25, and he was unaware that his son had set up a methamphetamine-manufacturing operation in his house. Accordingly, the fact that the defendant owned the residence where the methamphetamine was found is not conclusive evidence that he was involved in the illegal activities.

¶ 47 Further, the State points to the defendant's flight as evidence of his guilt. The State notes that Eaton and Trogolo both testified that the defendant ran outside when he was told that he was under arrest. However, the defendant testified that his intention was not to run from the police. Instead, his intention was to find his son to "wring his neck," an explanation that is reasonable if the defendant was not involved in the illegal activities taking place at his residence.

¶ 48 In summary, we find that the State's evidence was insufficient to prove the defendant's

guilt beyond a reasonable doubt. The defense presented sufficient evidence to raise a reasonable doubt as to whether the defendant was actually a participant in the illegal activities occurring at his residence during the relevant time period. Accordingly, we conclude that the trial court's decision should be reversed.

¶ 49 Further, we note that several items found in the defendant's residence and used by the State as evidence against the defendant were destroyed shortly after the defendant's arrest, which resulted in the defendant being denied access to the physical evidence being used against him. The justification that the items were too hazardous to safely maintain is implausible as the destroyed items consisted of plastic tubing, salt containers, a yellow Dollar General bag, drain cleaner, Coleman fuel, and a bottle of mineral spirits—household items found on the shelves at hardware and department stores across the country. Although we decline to use this destruction of evidence as an inference that the destroyed materials would have proven favorable to the defendant (as the defendant urges us to), we believe that the destruction of these common household items was more than likely unnecessary as it is hard to believe that they could not be safely stored.

¶ 50 For the foregoing reasons, the judgment of the circuit court of Franklin County is hereby reversed.

¶ 51 Reversed.