

No. 1-11-0192

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IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellee,)	Cook County.
)	
v.)	No. 06 CR 27204
)	
SONIA LEBRON,)	Honorable
)	Thomas M. Tucker,
Defendant-Appellant.)	Judge Presiding.

JUSTICE HYMAN delivered the judgment of the court.
Presiding Justice Neville and Justice Pierce concurred in the judgment.

ORDER

¶ 1 *Held:* Trial court did not err in excluding evidence of defendant's initial exculpatory statement, nor in denying her motion to suppress her later inculpatory statement. There was no error in admitting a video recording of her inculpatory statement made without her consent in alleged violation of the eavesdropping statute, as exception for statutorily-mandated electronic recording of custodial interrogations in homicide cases applied.

¶ 2 Defendant Sonia Lebron (also referred to as Labron) was charged in November 2006 with the first degree murder of Raquel Perez and Cesar Camacho and with aggravated arson and residential arson of the house at 1831 South 57th Avenue, Cicero, on October 4, 2006. Lebron was tried by a jury for knowingly setting fire to the house where Perez lived with others, when defendant knew or reasonably should have known people were present there. After being

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convicted of two counts of first degree murder and one count of aggravated arson, Lebron was sentenced to concurrent prison terms of natural life and 30 years.

¶ 3 On appeal, Lebron contends that the court erred in excluding from evidence her initial exculpatory statement as this deprived her of the opportunity to show that she had succumbed to pressure in her later inculpatory statement and thus cast doubt on the latter statement's reliability. She also contends that she was deprived of due process when, during her interrogation, police threatened to take away her children if she did not confess. Lastly, she contends that the court erred in admitting a recording of her inculpatory statement because it constituted eavesdropping without her consent.

¶ 4 Background

¶ 5 Lebron filed three motions to suppress her statements. She alleged that she was arrested in Lake County on an unrelated charge, was held on an "I bond", and then interrogated "for many days" to "force an admission from defendant, even though defendant asserted she had committed no crime." She alleged that "[a]ll incriminating statements were obtained by psychological pressure used to break her spirit to continue to deny involvement." In particular, the police "lied to" her by telling her that "if she does not confess, she would never see her children again," and she "was also told that since she was innocent, if she confessed, she would receive probation." She also alleged that, while being interviewed in a car, she was told that if she confessed to the Cicero case, she would receive a "light sentence" in the Cicero case and the Lake County charge would be "dropped."

¶ 6 Lebron contends that police efforts to inform her of the *Miranda* rights in her first interview were ineffective because some of her rights were read to her while she was asked to read some of her rights; she argued that "self-reading" is insufficient "because there is no assurance a defendant read or understands the rights." An attempt to inform her of the *Miranda* rights in her second interview "was also deficient because the manner of warning given was

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insufficient" in that she "was never advised of her full rights" and "[h]er reading her rights was deficient."

¶ 7 According to Lebron, a substantial part of her interrogation was "secretly videotaped *** even though defendant was told by the agents that she would not be videotaped." In particular, she alleged that her first and second interviews were videotaped without her being told of the recording. She also alleged that on November 1, 2006, she "is alleged to have made an admission concerning the arson" without a video being made, specifically while she was in a car and for about an hour after arriving at the police station, and then was interviewed on video "but was not told [the video camera] was on."

¶ 8 In a supporting legal memorandum, Lebron noted the statutory (725 ILCS 5/103-2.1 (West 2010)) requirement that all conversations between police and suspects in police custody be recorded. She also argued that recordings made without knowledge or consent of the suspect are inadmissible under another statute commonly referred to as the "eavesdropping" statute. 720 ILCS 5/14-1 *et seq.* (West 2010). She thus sought to suppress both the unrecorded confession because it was unrecorded and the recorded confession because it was recorded without her knowledge or consent.

¶ 9 At the hearing on the motion, the parties stipulated to video recordings and transcripts of interviews of Lebron (1) on October 30-31, 2006, by Cicero police detectives at the Waukegan police station for 90 minutes, and again for less than two hours, (2) on November 1, beginning just before 2 p.m., for less than a half-hour by Waukegan Detective Charles Schletz and another Waukegan detective, and (3) on the evening of November 1 for just over an hour later by Detective Schletz and a Cicero detective. The parties also stipulated to "Advice of Rights" forms signed by Lebron on October 31 and the evening of November 1 as true copies.

¶ 10 Detective Charles Schletz testified that Lebron was arrested on October 30, 2006, on suspicion of stabbing a woman in Waukegan. Later that day, Cicero detectives interviewed

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Lebron at the Waukegan police station. The following day, after Lebron acknowledged her *Miranda* rights and agreed to discuss the Waukegan case, Detective Schletz questioned her for about 90 minutes, and again for about an hour. At some point, Lebron mentioned that she had two children in foster care and expressed concern that this would color his opinion of her. He reassured her that he believed she loves her children and "was a good mother" and that "the situation she is in *** doesn't mean she didn't love her kids." That was "the extent of the conversation [he] had with her about her kids prior to the car ride."

¶ 11 Shortly before 1:30 p.m. on November 1, Schletz took Lebron to the Lake County courthouse and jail for a bond hearing. As they were alone in the car for the three block ride that takes less than two minutes, Schletz did not ask Lebron about the Cicero or Waukegan cases nor have any other conversation with her. When they arrived at the jail entrance, Lebron told Schletz that she wanted to tell him about "something else." Sobbing, she expressed her fear that she would not see her children again, then told him that Armando asked her to help set the fire. He told her they would have to return to the Waukegan police station to discuss the matter if she chose to. "She said she did," and they returned to the police station. During the drive, they did not discuss the Cicero case, and he immediately took her to an interview room.

¶ 12 Schletz reported to a sergeant why he did not take Lebron to bond court as assigned and directed another detective to prepare an interview room with video recording equipment for the interview. Accompanied by another Waukegan detective in the interview, Schletz reminded Lebron of her *Miranda* rights before interviewing her but did not tell her that the interview would be, or was being, recorded. He denied that he or anyone else talked to Lebron in the interview room before video recording began, and denied telling her at any time that, if she confessed, the Waukegan or Lake County charges would be dropped and she would receive "a light sentence" on the Cicero charges. Lebron was taken for a bond hearing the next day, November 2.

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¶ 13 Lebron testified that she was never told during any of the interviews that the interview was being recorded. During the interview by the Cicero detectives, in which they shouted at her and expressed disbelief in her account, they told her in essence that she had to confess or would "never see [her] children again." But, on cross-examination, she attributed this threat to Detective Schletz during an unrecorded interview in the car on the way to Lake County jail. She had mentioned to the Cicero detectives that her children were in foster care, and when they asked her if she was "going to get [her] boys back," she had replied "I hope so" as she was "in process of getting them back." She admitted that on Oct. 31, when she was charged in the Waukegan case, she said, "I am never going to see [my sons] again," an acknowledgment that she knew she faced jail for the Waukegan case and "weren't going to see [her] kids for a while" before she confessed in the Cicero case.

¶ 14 Lebron further testified that Schletz interviewed her about the Cicero case for about 20 to 30 minutes without recording in the car on the way to the Lake County jail "and in a different room," during which he said that "I wouldn't lose my kids" and he would "make sure" that she received probation or "house arrest." Indeed, initial charges of attempted murder in the Waukegan case were reduced to aggravated battery, and she believed she would receive an "I bond" and then probation on both the Waukegan and Cicero cases even though the latter involved arson and a double homicide. And, she admitted to knowing that the Waukegan charges, even as reduced, "might affect [her] getting her kids back from DCFS." Detective Schletz's unrecorded interview at the police station – which he told her was not being recorded, thus causing her to assume that the other interviews were not being recorded – was a repetition or recitation of the unrecorded interview in the car.

¶ 15 Schletz testified in rebuttal that he never questioned her in the car on the way to Lake County jail about the Cicero case, never told her that he could get her an "I bond" or reduce the Waukegan charges from attempted murder to aggravated battery nor obtain a sentence of

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probation in the Cicero case, and never threatened "that if she didn't confess, she wouldn't be able to see her kids again." Only about 15 to 20 minutes passed between leaving the jail to return to the police station and the beginning of the videotaped interview, and Schletz denied interviewing her at the police station without video recording and specifically denied telling her that her interview would not be videotaped.

¶ 16 The transcript of the interviews of October 30 and 31 by the Cicero detectives shows that a detective¹ informed Lebron of the *Miranda* rights before asking if she would "want to talk to us without having a lawyer present," to which she replied "Yeah." For about an hour, the detectives asked her about the events of the night in question and her relationships with the others in the house. The interview was suspended while the detectives were out of the room and Lebron used the washroom. When the interview continued, the detectives asked questions about her relationships with Perez and others. At one point, Lebron mentioned her two sons, and a detective asked her "How is that going *** are you going to get them back soon?" to which she replied "I hope so." Lebron and the detectives then discussed her pending custody case, under which her sons were in foster care, and her relationship with her sons and their father, before returning to discussing the fire and her relationships with the others in the house. The interview apparently ended, but after a few minutes the detectives returned and told her that she was facing attempted murder charges in the Waukegan case. During this brief interview, Lebron blurted out "my babies," and a detective responded "You should be worried about them, definitely."

¶ 17 The detectives left again, but returned several minutes later and questioned her further about the fire. At one point, a detective said, "I kind of feel that maybe you had something to do with this." At another point, when the detectives were emphasizing that "this is real life" rather than "a cop show," Lebron interjected that "unfortunately the life of my two boys that I'm never

¹All three interview transcripts are recorded in question-and-answer format without distinguishing which detective asked each question.

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gonna see again," to which a detective replied "you don't know that." The interview returned to the events surrounding the fire, punctuated by a break of several minutes. After a detective spoke at length that he believed she set the fire, a detective said:

"If you don't tell us now things are not gonna work out good for you. You say you want to see your kids again, then you better start thinking hot and heavy right now, little lady, about what happened that night and start telling us what happened."

For several more minutes of interviewing, Lebron continued to maintain, as she had throughout the interview, that she had no involvement in the fire.

¶ 18 The transcripts of Schletz's two interviews of November 1 show no reference to Lebron's children during either interview except that, near the end of the second interview, a detective contrasted Cesar who "is never going to grow up" with Lebron's children with "a life ahead of them." At the beginning of the first interview, a detective informed Lebron of the *Miranda* rights, which she acknowledged before responding affirmatively to the question "you want to tell me about what happened in Cicero?" When Lebron asked at the end of the second interview "what happens now?" a detective replied "We don't know yet. We're gonna *** the State's Attorneys are gonna review the case and see what they think and then we're gonna go from there." When Lebron then asked if there was any "chance of me going home tomorrow," a detective replied that "I don't know about that. I can't tell you whether you are or aren't or what the deal is."

¶ 19 Following arguments, the court denied the motions to suppress, finding that "the statement that was given looking at the totality of the circumstances was voluntarily given" and that Lebron was not "in any way threatened physically or mentally."

¶ 20 Lebron filed a motion *in limine* seeking admission at trial of the recording of her first interview, on the night of October 30-31, in which she denied committing any offense. She

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argued that this interview "shows how she was pressured and continued to dispute pressure of police." Lebron acknowledged that the State sought to exclude the interview in question as hearsay but argued that it should be admitted with a limiting instruction that it is not being offered "to show proof of denials."

¶ 21 Responding to the motion, the State argued that self-serving exculpatory statements by defendants are inadmissible hearsay and that "no court in Illinois has ever ruled that [a] defendant is entitled to present [evidence regarding the weight to give her confession] in the form of inadmissible hearsay." The State noted that a defendant has proper routes to introduce evidence challenging the weight of a confession, including Defendant's own testimony and cross-examination of the interviewing officers.

¶ 22 In reply Lebron asserted that due process requires the admission of her initial exculpatory interview not for the truth of the exculpatory statements but to challenge the circumstances under which those statements and her later inculpatory statements were made and thus the credibility of the inculpatory statements.

¶ 23 Lebron's motion *in limine* to admit her exculpatory statements was last mentioned in open court as a pending matter on November 6, 2009, when the case was continued to December 23, 2009. There is no transcript or other record (Ill. S. Ct. R. 323 (eff. Dec. 13, 2005)) of a proceeding on December 23 or any other date where the court heard and denied the motion.

¶ 24 Lebron filed a motion to reconsider the denial of her motions to suppress, which the court denied without further findings just before trial.

¶ 25 Trial

¶ 26 At trial on the charges of first degree murder and aggravated arson, Lieutenant Eric Habercross of the Cicero fire department testified that, shortly after midnight on October 4, 2006, his fire engine responded to a house fire at 1831 South 57th Ave. On arrival, the house was heavily aflame, particularly by one of the bedroom windows, and flames were reaching the

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neighboring building. A bystander told the firefighters that his mother and brother were still in the house, in the "fire room." When Habercross and other firefighters entered the house and reached that bedroom, the fire had already consumed the bedroom door. Inside, Hubercross found a woman and child, both already dead. Habercross was wearing a breathing mask while searching the house and fighting the fire, but on removing his mask he smelled gasoline in the burned-out bedroom and near the front and rear exits of the house. Also near the rear exit, Habercross saw wadded paper that appeared to have "been lit on fire."

¶ 27 Tanya Camacho, daughter of Perez and brother of six-year-old Cesar, testified that in October 2006 she lived in the house with Perez, Cesar, her other brothers, Armando, Oscar, and Gonzalo, Gonzalo's wife Georgina Cerdo, a friend of the family named Fermin Peralta, and Lebron, who was Armando's girlfriend. On the night of October 3, Armando was in his first-floor bedroom, Perez and Cesar were in the other first-floor bedroom, Cerdo and her two children were in a second-floor bedroom (Gonzalo was away at work), and Peralta was in another second-floor bedroom.

¶ 28 Tanya was studying for school at the kitchen table; Lebron was washing dishes. Lebron then went to take a shower in the bathroom across from Perez's bedroom, while Tanya went to the living room where Oscar was asleep on the couch. Tanya fell asleep watching television in the living room but was awakened by "smoke and a lot of fire." She saw flames throughout the house and fire "coming out of [Perez's] room," and she heard Perez crying for help. Tanya woke Oscar, and she threw water at the fire while he tried to open the bedroom door; both their efforts were to no avail. Oscar and Tanya fled the house through the front door and were joined by Armando, Cerdo and her children, Peralta, and Lebron. Oscar and Armando separately re-entered the house covered in a wet sheet or blanket but could not rescue Perez or Cesar. On cross-examination, Tanya testified that she did not smell gasoline on Lebron as they stood outside the burning house.

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¶ 29 Oscar Camacho testified consistently with Tanya, including that he did not smell gasoline on Lebron. Fermin Peralta testified consistently with Tanya but was not asked about gasoline. Georgina Cerdo testified consistently with Tanya, adding that Lebron's relationship with Perez worsened over time. Because of the lingering smell of smoke, Cerdo was uncertain as to whether she smelled gasoline on Lebron.

¶ 30 Armando Camacho testified consistently with Tanya, adding that Lebron's relationship with Perez had been "good" but had turned sour by October 2006. In particular, Lebron was upset that Perez was keeping in contact with Armando's ex-wife. On the night of the fire, screams startled Armando to waken. Lebron was in the bedroom with him but already awake, and she told him that the house was on fire. Armando initially smelled no smoke but on opening his bedroom door saw "lots of flames" coming from Perez's bedroom.

¶ 31 A few days after the fire, when Armando was driving Lebron to her mother's home, Lebron told him that they were going to "split up" and thus "she was going to give me what I wanted." He had tried to end the relationship earlier but "she would follow me." Also a few days after the fire, Lebron's car (which Armando also drove) was towed away by the Cicero police. Armando denied setting the fire in his house or asking Lebron to help him do so.

¶ 32 A medical examiner testified that he conducted autopsies of Perez and Cesar and found that both died of carbon monoxide poisoning from smoke inhalation.

¶ 33 Assistant Fire Marshal Ronald Opalecky testified that he investigated the fire at the house. He noticed that the "first window had heavy fire damage" and the adjoining building had fire damage "directly across from that window." He found a charred paper towel in the backyard but no other signs that fire had started or occurred outside the house. The burn patterns led him to the "first front bedroom" with heavy fire damage, including that the door was "burned away," and two victims inside. He smelled a strong odor of gasoline in the carpeting just inside the bedroom doorway, and the heaviest fire damage was near the doorway. He found "a separate

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burn pattern" in the kitchen – that is, not connected by burn damage to the bedroom fire – and smelled gasoline there. He saw charred paper towels by the back door of the house and a lighter near the kitchen sink. He found charring and an odor of gasoline on the carpet "leading from the living room into the foyer out the front door," with no burn damage connecting that area to the bedroom or kitchen fires. He found no electrical appliances near any of the three fire areas and ruled out accidental causes for the fires. He concluded that the bedroom fire was caused by pouring and igniting gasoline and that all three fires "were incendiary."

¶ 34 Crime scene technician John Barloga testified that he examined the house after the fire. He removed and inventoried for analysis a section of carpeting from the living room, another from the victims' bedroom, and a section of tile from the kitchen; he smelled gasoline on all three samples. He recovered and inventoried charred paper towels from the backyard and the kitchen, both of which bore the same "embossed heart-shaped pattern. He found in the kitchen a roll of paper towels embossed with the same pattern and inventoried a sample of the roll, and he found and inventoried a lighter on the kitchen floor.

¶ 35 Forensic chemist Alan Osboa testified that he found gasoline on the bedroom carpet sample and an "unidentified petroleum product" on the tile and living room carpet samples. The parties stipulated to the effect that no useable human DNA was found on the paper towels and no useable fingerprints were found on the lighter.

¶ 36 Detective Charles Schletz testified consistently with his hearing testimony, except that he did not disclose the nature of the Waukegan case. The recording of the November 1 interview was shown to the jury, and a transcript of that interview was admitted into evidence in which Lebron admitted to participating in setting the fire at the house, albeit at Armando's behest. She admitted to buying the gasoline and to placing wads of paper towel at various places in the house but denied that she poured out the gasoline or started any fire, and she stated that Armando's hands smelled like gasoline just before the fire erupted.

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¶ 37 Lebron testified that she did not set the fire at the house nor help anyone else do so, and she denied buying gasoline. When the Cicero police interviewed her, and everyone else in the house, she was not taken into custody nor was any of her clothing confiscated "to see if it *** had gasoline." The next time she saw the Cicero police was at the Waukegan police station, when four detectives questioned her for about two hours. When she was asked if she gave the detectives an exculpatory statement, the State's objection was sustained. Her two sons were in foster care, and she was taking parenting and counseling classes to advance the goal of their return. She believed that if she did not give a statement, she "would never see [her] kids again." She was told so by one of the detectives, whose name she could not recall. When Detective Schletz interviewed her the next day, he told her "that he believed that I was a good mother and that I would be able to see my children again." Detective Schletz spoke to her first in the car on the way to jail, and she resolved to "just give them anything" so the questioning would cease. On returning to the police station, she was placed in an interview room where Detective Schletz told her that she was not being videotaped. She then gave a false statement "to put an end to it" and so she could "see my kids." On cross-examination, Lebron admitted that she "didn't like" Armando visiting his ex-wife or Perez maintaining contact with her. She also admitted when confronted with the transcript of the interview by the Cicero detectives that, while they mentioned seeing her children again, it was not in connection with confessing but with telling the truth about the events surrounding the fire. But, she believed that the detective meant that she had to confess or she would not see her children again.

¶ 38 Following closing arguments, instructions, and deliberations, the jury found Lebron guilty of aggravated arson and the first degree murders of Perez and Cesar.

¶ 39 Lebron filed a post-trial motion, arguing in relevant part that the court erred in denying her motion *in limine* to admit evidence of her exculpatory statements and her motions to suppress her inculpatory statements. Following argument, the court denied the motion.

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¶ 40 After evidence and argument in aggravation and mitigation, the court sentenced Lebron to concurrent prison terms of natural life for the murders and 30 years for the arson. This appeal timely followed.

¶ 41 Analysis

¶ 42 We first consider Lebron's contention that she was deprived of due process when, during her interrogation, police threatened to take away her children if she did not confess. As this was an issue addressed in her motions to suppress, on which evidence was presented at the hearing on those motions, we deem this contention a challenge to the trial court's denial of the motions to suppress.

¶ 43 At a hearing on a motion to suppress, it is the function of the trial court to determine the credibility of the witnesses and to resolve any conflicts in the evidence. *People v. Walker*, 2012 IL App (1st) 083655, ¶ 46. Hence, we afford great deference to the court's factual findings and will not reverse unless those findings are against the manifest weight of the evidence. *Id.*, ¶ 40. We review *de novo* the ultimate issue of whether the court properly ruled on the motions to suppress. *Id.*

¶ 44 Lebron testified that she was threatened with never seeing her sons again unless she confessed. She first attributed the threat to the Cicero detectives and then to Detective Schletz. As to the recorded interview by the Cicero detectives, it is reasonable to conclude that the gist of the detective's reference to Lebron's children was that she would not regain custody of her children if she did not confess. The reference to Lebron giving a full account of events closely followed assertions that her account to that point was untrue. Thus, the distinction elicited from Lebron in her trial cross-examination – that the Cicero detectives did not expressly link custody of her children to a confession – is a distinction without a difference. But more than anything else, the issue turns on the fact that Lebron thereafter, until the end of the interview by the Cicero

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detectives, continued to deny involvement in the offenses. Thus, this threat alone did not coerce or pressure her confession.

¶ 45 That brings us to Detective Schletz. He firmly denied making a threat during any unrecorded interview – and indeed that he conducted any unrecorded interview beyond Lebron's spontaneous confession at the jail entrance – and there is no threat in either of the recorded inculpatory interviews. By Schletz's account, both references to Lebron's children – in one of the interviews of October 31 regarding the Waukegan case, and during the spontaneous confession – were initiated by a worried Lebron. The evidence that Schletz made any threat regarding Lebron's children is, in a word, conflicted. It is inextricably linked to the relative credibility of Lebron and Detective Schletz.

¶ 46 In sum, the threat in question was made well over a day before Lebron's inculpatory statement by a detective other than – indeed, from a different police force – the one to whom she confessed. Conversely, it is not against the manifest weight of the evidence to conclude that the detective to whom Lebron confessed did not make a threat. Under these circumstances, we conclude that the trial court did not err in denying the motions to suppress.

¶ 47 Lebron also contends that the court erred in excluding her initial exculpatory statement as this deprived her of the opportunity to show that she had succumbed to pressure in her later inculpatory statement and thus to cast doubt on that statement's reliability.

¶ 48 As a threshold matter, we note that the record does not include a hearing on, or order disposing of, Lebron's motion *in limine* seeking admission of the statement. Nevertheless, we find sufficient basis for concluding that the court indeed denied the motion from (1) the court sustaining a State objection when defense counsel tried to elicit from Lebron that she made exculpatory statements to the Cicero detectives, and (2) Lebron including in her post-trial motion the denial of her motion *in limine*.

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¶ 49 Generally, a prior statement that is consistent with a witness's trial testimony constitutes hearsay and is inadmissible to bolster that witness's credibility or to rehabilitate the witness when the witness has been impeached by a prior inconsistent statement. *People v. Denson*, 2013 IL App (2d) 110652, ¶ 29; *People v. Ruback*, 2013 IL App (3d) 110256, ¶ 26. The basis for this rule is the notion that the trier of fact is likely to unfairly enhance the credibility of a witness simply because his or her statement has been repeated. *People v. McWhite*, 399 Ill. App. 3d 637, 641 (2010). A prior consistent statement is admissible only to rebut an express or implied allegation on cross-examination that the witness is motivated to testify falsely or his or her testimony is a recent fabrication. *Ruback*, ¶ 26. A consistent statement that "does not disprove, explain, or qualify the failure to speak or the making of the inconsistent statement" is not admissible. *McWhite*, 399 Ill. App. 3d at 641-42. A prior consistent statement admitted on this basis may be used solely to rehabilitate the witness and may not be used as substantive evidence. *McWhite*, 399 Ill. App. 3d at 641.

¶ 50 Where a codefendant being interviewed by police initially denied witnessing and participating in the Lebron's offense but later in the same interview admitted it, this court has rejected the argument that the earlier exculpatory statement should be admitted under the completeness doctrine. *Ruback*, ¶¶ 41-45. The completeness doctrine provides that where one party introduces part of a statement or document, the opposing party may introduce the remainder or so much of it that is required to place the part originally offered in proper context so its true meaning can be conveyed to the finder of fact. *Id.*, ¶ 43. But, the doctrine applies only when fairness requires admission of the complete statement to prevent the jury from receiving a misleading impression as to the nature of the introduced statement, and the remainder of the statement must concern what was said on the same subject at the same time. *Id.* In *Ruback*, we concluded that:

At the start of the interview, [the codefendant] Amanda denied seeing the defendant engage in sexual misconduct with the victim. After approximately 33 minutes, Amanda stated that she saw the defendant sexually assault the victim and that she participated in some of the acts. Amanda's statements from the beginning of the interview do not explain why she later denied the allegations, or qualify her later statements; they merely contradict the prior inconsistent statement admitted into evidence by the State. *Id.*, ¶ 45.

¶ 51 Moreover, the *Ruback* court noted that:

While an additional part of a written or recorded admission of a criminal defendant that explains, qualifies, or otherwise sheds light upon that portion of the accused's statement offered by the prosecution would satisfy the completeness doctrine, a separate statement, written or recorded, made by the criminal defendant denying the events acknowledged in the statements offered by the prosecution would be inadmissible. *Id.*, ¶ 44, citing Michael H. Graham, *Graham's Handbook of Illinois Evidence* § 106.1 (10th ed. 2010).

¶ 52 First, *Lebron* cites no case for the proposition that an exculpatory statement is admissible to provide context for, or impeachment of, a later inculpatory statement. We are aware of no case on point, though the scenario of a defendant initially denying and then admitting his offenses is common enough that it would likely have arisen in the opinions of this court or our supreme court. Secondly, this case falls squarely under the rule referenced in *Ruback* that one statement cannot be introduced to explain or complete another statement. Thirdly, though

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Lebron's videotaped statement to the Cicero detectives is inadmissible under the prior consistent statement rule, she testified at trial to the threat regarding her children made during that interview. Thus, the cases Lebron cites for the proposition that she can present evidence regarding the credibility or weight of her confession do not avail her because the trial court did not deprive her of that opportunity. Next, for the reasons set forth under the first contention of error – that the Cicero detective's threat did not result in an inculpatory statement and the evidence supports a conclusion that the detective who obtained the inculpatory statement did not threaten her – we conclude that any error from excluding the exculpatory statement would be harmless.

¶ 53 Lebron lastly contends that the court erred in admitting a recording of her inculpatory statement because it constituted eavesdropping without her consent. Illinois was the first state to adopt the procedure of electronically recording custodial interrogations in 2003, and recording a custodial interview is mandatory under 725 ILCS 5/130-2.1.

¶ 54 Article 14 of the Criminal Code, the eavesdropping statute, defines the offense of eavesdropping as when a person, including a law enforcement officer, "[u]ses an eavesdropping device to hear or record all or any part of any conversation unless he does so *** with the consent of all of the parties to such conversation." 720 ILCS 5/14-1(b), 14-2(a)(1) (West 2010). Evidence obtained in violation of the eavesdropping statute is inadmissible in any criminal trial. 720 ILCS 5/14-5 (West 2010). But, eavesdropping does not include audio or video recordings "of a custodial interrogation of an individual at a police station or other place of detention by a law enforcement officer under *** Section 103-2.1 of the Code of Criminal Procedure." 720 ILCS 5/14-3(k) (West 2010). Section 103-2.1 provides that, generally, a written or oral statement arising from "a custodial interrogation at a police station or other place of detention" that is not electronically recorded, and any subsequent statement even if electronically recorded,

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is presumed inadmissible, except as impeachment, in any criminal proceeding on a homicide offense. 725 ILCS 5/103-2.1(b), (d) (West 2010).

¶ 55 Lebron acknowledges the exception in the eavesdropping statute for electronic recording of homicide interrogations but argues, analogizing to *Miranda v. Arizona*, 384 U.S. 436 (1966), that a defendant's statement is not voluntary where he or she has not consented to being recorded, and this violates her due process and Sixth Amendment rights under the U.S. Constitution. She fails to develop her argument regarding consent, and cites *Mingo v. Roadway*, 135 F. Supp. 2d 884 (N.D. Ill. 2001), which does not involve the recording of a custodial interview and, therefore, has no bearing here. As such, Lebron's constitutional argument fails for lack of relevant case law or meaningful analysis.

¶ 56 We note, however, that Lebron's recorded statements did not violate the eavesdropping statute because she not only voluntarily and intelligently waived her Miranda rights at the outset of the recording, but, by having been advised of her Miranda rights, was on notice and knew that anything she said could be used against her at trial.

¶ 57 Accordingly, the judgment of the circuit court is affirmed.

¶ 58 Affirmed.