

No. 1-14-3798

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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. 11 CR 15955
)	
WILLIE JONES,)	Honorable
)	James B. Linn,
Defendant-Appellant.)	Judge Presiding.

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

O R D E R

¶ 1 *Held:* Defendant's conviction for first-degree murder affirmed over his contention the State failed to present sufficient evidence to rebut the affirmative defense of self-defense; trial counsel did not have a *per se* conflict of interest requiring reversal.

¶ 2 Following a bench trial, defendant Willie Jones was found guilty of first-degree murder and aggravated discharge of a firearm. The trial court sentenced him to 55 years' imprisonment for first-degree murder, which included a 25-year firearm-sentencing enhancement for personally

discharging a firearm, and 5 years' imprisonment for aggravated discharge of a firearm, to be served consecutively. On appeal, defendant contends: (1) the State failed to present sufficient evidence to rebut his affirmative defense of self-defense and (2) his trial counsel had a *per se* conflict of interest because he had previously represented the mother of a State witness. We affirm.

¶ 3 The State charged defendant with multiple counts of first-degree murder in connection with the shooting death of Otis Sanders, and attempted first-degree murder and aggravated discharge of a firearm of Cedric Jones.

¶ 4 The evidence at trial showed that Sanders had been a member of the Black P Stones street gang. According to Sanders' father, Steve Richard, defendant drafted Sanders into the gang when Sanders was 13 years old, but on May 30, 2011, the two were not on "good terms" because Sanders had not been participating in the gang's activities. As a result, Sanders "always had a problem with" defendant. In 2002 or 2003, members of the gang "shot up" Richard's house on two occasions, but Richard did not provide specific names to the police when he reported the crime. He also did not tell the police about the shootings during their investigation into Sanders' death. Richard acknowledged that his son might have been selling drugs since 2002 up until his death.

¶ 5 At approximately 9 or 10 p.m. on May 30, 2011, Cedric, a member of the Black P Stones with prior felony convictions, awoke from a nap at a family member's house. As he was leaving the house, he saw Sanders, his first cousin, driving down the street and asked him for a ride home, though Cedric did not expect to be taken directly home. Another friend of Sanders named

James was already in the vehicle. Sanders drove his white Saturn to the intersection of Lorel Avenue and Ohio Street in Chicago, parked his vehicle, and all three men exited. Cedric "wasn't feeling right" about the situation, so he grabbed Sanders' arm and told him they should leave. Sanders told Cedric not to worry, and they walked toward a group of about 20 Black P Stones at the corner of the street. They began to drink alcohol with the group.

¶ 6 Later in the night, defendant pulled up to the corner in a Buick Riviera. Around this time, the group ran out of alcohol, so Sanders volunteered to get more. Defendant gave Sanders \$100, and another man gave him \$80. Sanders and Cedric entered Sanders' vehicle and went to get more alcohol. Sanders' friend James had already left. While they were driving, they saw Sanders' girlfriend and their cousin, and decided they did not need to drink anymore that night. Sanders gave his girlfriend and his cousin \$10 each. Sanders and Cedric drove back toward the gathering, and Sanders gave defendant his \$100 back and the other man \$60 back, telling the man that he owed him \$20.

¶ 7 Cedric and Sanders left the gathering again and went to a gas station. Sanders stayed outside the vehicle and began speaking to a friend while Cedric remained inside in the passenger's seat. A few minutes later, defendant arrived at the gas station and began speaking to Sanders, though Cedric could not hear their conversation. After they finished talking, Sanders "waved [defendant] off," as if to say "F you" or "forget you," walked across the street and began talking to his girlfriend. Despite this, Cedric did not observe any aggression between the two. While Sanders was talking to his girlfriend, Cedric entered the driver's seat of vehicle, drove over to Sanders and told him "[l]et's go."

¶ 8 Larry Burns, a member of the Black P Stones with a previous felony conviction and two pending felony cases, was at the gathering at Lorel Avenue and Ohio Street with defendant, Sanders and Cedric. Burns knew them from living in the same neighborhood and never had problems with any of them, though he acknowledged being closer to Sanders. Burns talked to both Sanders and Cedric at the gathering, but did not remember about what. Cedric, however, denied seeing Burns that night. Burns observed defendant arrive at the gathering in his Riviera, an antique vehicle, so Burns asked defendant if he could take it for a drive around the block. Defendant, however, did not let him at the time. Burns recalled that Sanders and Cedric left to buy liquor with a third person, but he did not remember if the third person was a man named Arnold Smith. Burns eventually left the gathering and picked up a woman and her infant. Afterward, while he was driving, he saw defendant's vehicle on Chicago Avenue and tried to catch up to see if he could now test drive defendant's vehicle. Eventually, Burns caught up with defendant, who was the only occupant of the vehicle, near the intersection of Chicago Avenue and Pine Avenue, but defendant turned onto Pine Avenue. Burns followed defendant and began honking his horn to get defendant's attention, which caused defendant to pull his vehicle over on Pine Avenue near a stop sign at Huron Street. Burns stated he pulled up on the passenger's side of defendant, causing both of their vehicles to block most of the street.

¶ 9 Meanwhile, Cedric and Sanders were driving west on Huron Street and stopped at a stop sign at Lotus Avenue. Cedric observed defendant's vehicle on Pine Avenue a couple blocks in front of them at a stop sign at the intersection of Huron Street and Pine Avenue. As they approached Pine Avenue, there was no stop sign, so they proceeded to turn left onto Pine

Avenue. Suddenly, defendant pulled his vehicle out as if he was trying to block Sanders' vehicle. As Cedric maneuvered around defendant's vehicle, Cedric observed defendant, the only occupant of the vehicle, point a firearm out of the window and shoot multiple times, which resulted in Sanders being shot. Cedric heard five to eight gunshots, and denied that he or Sanders shot at defendant first. Cedric then drove Sanders home because the nearest hospital did not have a trauma center and neither of them had phones.

¶ 10 Burns, also at the scene, saw Cedric driving Sanders' white Saturn with Sanders in the passenger seat on Huron Street. As Sanders' vehicle approached Pine Avenue, defendant's vehicle "sped up" and Burns observed defendant shoot a firearm toward Sanders' vehicle and heard four or five gunshots. Burns never saw anyone in Sanders' vehicle shoot a firearm. After the shooting, Sanders' vehicle drove down Pine Avenue with defendant behind him and Burns behind defendant. Everyone's vehicles eventually went separate ways. Burns denied that he pulled up to defendant's vehicle afterward and asked if he had been shot.

¶ 11 While Richard was lying in bed, he heard a loud knock at the front door. When he opened the door, Richard observed Cedric, who told him that defendant "just shot [Sanders]." Richard then saw Sanders sitting outside, who told him "[t]hat punk, [defendant], done shot me." As Sanders started to pass out, Richard told his wife to call 911, and an ambulance arrived shortly thereafter. Outside their house, Richard saw Sanders' white vehicle covered in bullet holes. Sanders eventually died at the hospital.

¶ 12 Burns also came to Richard's house after dropping the woman and her infant off, but did not tell anyone that defendant had shot Sanders or that he had been at the scene of the shooting.

The following day, Burns had a conversation with Ulysses Jones, Sanders' cousin, who was "crying" and "hurt," and Burns told Ulysses what he saw. Burns did not tell the police what he witnessed and spoke to them for the first time the following September when they interviewed him. Burns explained that he was "reluctant" to become involved because he knew, and was friends with, both defendant and Sanders. In addition, Burns thought the case against defendant was "open and closed" because Sanders told the police who shot him. He also did not tell the police that he had a woman in the vehicle with him when the shooting occurred.

¶ 13 The State also presented the testimony of 16-year-old Laquita Jones, Sanders' cousin through her father's side. She was standing outside the home of her father, Ulysses, near the intersection of Huron Street and Pine Avenue, waiting for her aunt to pick her up on the night of the shooting. While she was waiting, she saw Sanders' white Saturn parked on Pine Avenue along with other vehicles parked on the street. She could not recall seeing a green vehicle. She then heard gunshots and ran inside her father's house. She denied seeing the shooting. The State confronted Laquita with a prior statement she made to assistant State's Attorney Michelle Spizzirri a month prior to trial. Laquita denied telling Spizzirri that she saw the only occupant of a green vehicle, who she did not recognize, fire approximately four gunshots at the passenger side of Sanders' vehicle where Sanders was sitting. Laquita stated that prior to speaking with Spizzirri, she asked Spizzirri to speak with her mother. Laquita also spoke with Ulysses prior to making the statement, and he told her what to say. When Laquita's mother found out she gave a statement to Spizzirri, her mother became upset because she had not given Laquita permission

and did not want her to give a statement. Laquita stated that what she told Spizzirri was untrue, and she only did so at the behest of her father, who was present when she gave the statement.

¶ 14 Spizzirri testified that the month prior to trial, she interviewed Laquita in the Cook County criminal courts building. During their conversation, Laquita told Spizzirri that she was there with her mother and wanted to have her mother's consent before giving a handwritten statement. Spizzirri spoke with Laquita's mother, who Spizzirri learned previously had a "professional relationship" with defendant's trial counsel. The mother informed Spizzirri that she was unhappy with Laquita's cooperation in the matter and did not want Laquita to give a handwritten statement. As they continued to discuss the possible statement, Laquita's mother became "increasingly agitated." Once Spizzirri realized their conversation was not productive, she returned to Laquita and learned that Ulysses was also present in a different part of the building because he and Laquita's mother did not have a "friendly relationship." Spizzirri asked Laquita if she would be willing to speak with Ulysses before making a decision on whether to give a statement. She agreed and spoke with Ulysses in private. After they spoke, Laquita informed Spizzirri that she would give the statement. Spizzirri asked Ulysses if he wanted to remain in the room with Laquita and if Laquita wanted Ulysses in the room while she gave her statement. Based on Spizzirri's perception that Laquita wanted her parents' approval to give the statement, Spizzirri thought Laquita would be more comfortable with one of her parents present. Laquita indicated she wanted Ulysses in the room with her, and he stayed while she gave the statement to Spizzirri.

¶ 15 In the statement, which was published in court, Laquita stated on the night in question, she saw Sanders' white Saturn on Huron Street approaching Pine Avenue with Sanders in the passenger seat. Laquita also observed a green vehicle on Pine Avenue with only one occupant, whom she did not recognize. Laquita then saw the occupant of the green vehicle fire four gunshots at the passenger side of Sanders' vehicle. After the shooting, Sanders' vehicle drove down Pine Avenue and the green vehicle followed behind. Soon after, Laquita's aunt picked her up and while they were driving home, they saw an ambulance and decided to go to Sanders' house. Spizzirri did not observe anything from Laquita that would lead her to believe that Laquita was being forced to give the statement.

¶ 16 At the conclusion of the State's case, the parties stipulated that the police recovered seven .45-caliber fired cartridge cases and one fired bullet fragment from the scene of the crime. Additionally, the police recovered one fired bullet from the hospital, which had been removed from Sanders' abdomen. A forensic scientist at the Illinois State Police crime lab tested the cartridge cases and determined they all came from the same firearm. The forensic scientist also determined the fired bullet fragment recovered at the scene of the crime and the fired bullet recovered from Sanders' abdomen were .45-caliber. They, however, could not be identified or eliminated as having been fired from the same firearm. The parties further stipulated that Sanders' cause of death was due to one gunshot that struck his buttocks.

¶ 17 Defendant, a "general" in the Black P Stones, testified that he had known Sanders, Cedric and Burns, who were also members of the gang, for close to 20 years. Defendant arrived at the gathering on the night in question in his Riviera, and he saw Sanders, Cedric and Burns. During

the night, Sanders told the group that he was going to buy more alcohol, so he asked defendant for money and defendant provided \$100. Sanders, Cedric and Arnold Smith entered a white vehicle and left. When they returned, they did not bring back any alcohol because the liquor store did not have the kind they wanted. Sanders gave defendant his money back, and then Sanders and Cedric left the gathering. Smith, however, stayed.

¶ 18 Smith told defendant there was a young man right around the corner "working." Smith and defendant walked over to the corner, and defendant told the man he could not "work[]" that corner because he did not "want that heat coming down on us." Defendant did not raise his voice or threaten the man, but the man told defendant that Sanders said he could work the corner. Defendant and Smith returned to the gathering where someone had brought more alcohol. However, the group needed ice, so defendant left and went to a gas station. There, he heard someone yell his name, looked and saw Sanders pulling his vehicle up near him. Defendant walked over to Sanders to see what he wanted. Sanders asked defendant if he told the young man on the corner anything, and defendant replied he told the man not to "work right now." Sanders asked defendant "who the f*** [he] think [he is]." Defendant did not respond and began to walk away. When defendant turned around, he saw Sanders wave his hand and say "it is what it is," meaning he was upset and "might try to pull something." Defendant maintained he was still "cool" with Sanders, and defendant returned to the gathering.

¶ 19 About 20 minutes later, defendant received a call from his wife, telling him he had to come home. He told the group he was leaving, and Smith asked for a ride to his girlfriend's house. As they were driving near the intersection of Huron Street and Pine Avenue close to the

house of Smith's girlfriend, defendant noticed a vehicle coming toward them and eventually blocking them in. Defendant realized Sanders and Cedric were in the vehicle. Suddenly, Sanders yelled something, took out a silver firearm and began shooting at them. Defendant "ducked" and heard two gunshots. He grabbed his own gun, a Glock .45, which he kept for protection, and shot back five or six times. Sanders' vehicle drove away. Burns pulled his vehicle to the side of defendant's and asked if he and Smith were alright. Defendant responded that he and Smith were fine. Defendant told Smith to exit his vehicle, and defendant decided to drive home. Defendant did not know if he hit anyone in Sanders' vehicle. On defendant's way home, he stopped on a side street, wiped down his firearm with a rag and threw it in a dumpster. When defendant returned home, he noticed bullet holes in his vehicle. Defendant never went to the police and told them what happened.

¶ 20 The following morning, defendant learned that Sanders had been shot, but would survive, and that Smith had been beaten up so badly he was in a coma. Defendant also called Henry Lee Woods to fix the bullet holes in his vehicle, which Woods subsequently did. Defendant paid Woods in cash.

¶ 21 Approximately a week after the shooting, defendant had a conversation with Ulysses after a man named Terry Poole, a mutual friend and Black P Stones member, called defendant and told him that Ulysses wanted to speak with him. Ulysses told defendant that the police were looking for Ulysses in connection with the beating of Smith. Ulysses asked defendant if he could talk to Smith's girlfriend and "get the police up off of him." Defendant denied telling Ulysses that

he was "sorry," "that it was [his] fault," that he was drunk and that Ulysses should not "put" the police on him.

¶ 22 In August 2011, the police interviewed defendant concerning his role in Sanders' murder. He denied that the police asked him if he was a member of the Black P Stones, if he knew Sanders or if he drove a green vehicle.

¶ 23 Arnold Smith, a member of the Black P Stones with a prior felony conviction, testified that he, defendant, Sanders and Cedric were at the gathering of Black P Stones. After the group ran out of alcohol, Smith went with Sanders and Cedric to buy some more. On the way, Smith saw a "young kid" on a nearby corner selling narcotics. After selling narcotics to a customer, the kid spoke to Sanders and gave him money. They returned to the gathering without going to the liquor store, and Sanders and Cedric gave everyone their money back. Smith told defendant about the kid on the corner selling narcotics. Defendant and Smith went to corner, and defendant told the kid he could not sell narcotics that day because he was too close to the gathering. Defendant left shortly after to go buy ice and returned.

¶ 24 Later in the night, defendant received a phone call and said he was going home. Smith asked defendant for a ride to Huron Street and Lotus Avenue where his girlfriend, Karen Nelson, lived. On the way, defendant stopped at a stop sign at Huron Street and Pine Avenue. There, another vehicle, driven by Sanders and Cedric, "blocked off" their vehicle. Suddenly, Smith heard gunshots, but did not see who was shooting. Both he and defendant "[d]ucked" inside their vehicle. Once the shooting stopped, Smith noticed a firearm in defendant's hand, but he never saw defendant shoot it. Sanders' vehicle drove away. Shortly after, Burns drove his vehicle up to

defendant and Smith, and asked them if they were alright. Smith had not noticed Burns before the shooting and told him they had not been shot.

¶ 25 Smith exited defendant's vehicle and began to walk the rest of the way to Nelson's residence, which was nearby. During the walk, a group of people, including Ulysses, came up to Smith and beat him up. Smith heard Ulysses say, "I'm going to kill you, b***, y'all shot my cousin." Smith ended up in a coma and woke up in the hospital two or three months later. He spent another three to four months in a rehabilitation facility, and had permanent brain damage. Smith stated the last time he was in court, Cedric came up to him, smiled and told him "b***, we will put you back on that cane again." A janitor was present when this occurred, and she called security, who arrived, but "that was it," according to Smith.

¶ 26 On cross-examination, Smith could not recall speaking to the police about the beating because he was "on medication." Although he acknowledged that defendant was a "general" in the Black P Stones, Smith denied working for him. He also acknowledged not telling the police that someone had shot at him and defendant.

¶ 27 Henry Lee Woods testified that on May 31, 2011, he received a call from defendant, asking for Woods to do some body work on defendant's vehicle. Woods had previously performed work on other vehicles of defendant's. When Woods arrived at defendant's house, he observed that defendant's Riviera had bullet holes on the fender and door of the driver's side, but Woods did not ask where they came from. A week before, Woods did work on the same vehicle, but he did not notice any bullet holes. Woods did not have any receipts for the work he did to defendant's vehicle because of separate incidents of a fire and flood, which destroyed them.

¶ 28 Ulysses Jones testified in rebuttal and acknowledged previous felony convictions. On the night in question, his girlfriend's cousin woke him up in the middle of the night and told him that Sanders had been shot. A week later, he saw Poole, who told him to come toward his vehicle, and Poole gave Ulysses a cell phone. Defendant was on the other end, and he told Ulysses, referring to the shooting of Sanders, "man, my fault. I was drunk, man. I had n*** [in] my ear. If I could turn back the hand of time, I'm sorry." Defendant asked Ulysses to not "put the [police] on [him]."

¶ 29 Ulysses denied that he knocked on the door of Nelson looking for Smith after Sanders' shooting and denied any involvement in the beating of Smith. He did not even know Smith had been with defendant on the night in question. He also denied telling his daughter, Laquita, what to tell the authorities about the incident. He explained that he only told Laquita to tell the truth.

¶ 30 The State also played a portion of a video recorded interview with defendant and the police from August 2011.¹

¶ 31 In surrebuttal, the parties stipulated that if Karen Nelson testified, she would state that on the night in question, she told Ulysses that Smith was not home. Ulysses responded "I am going to f*** him up when I catch him. Him and [defendant] just shot my cousin."

¶ 32 After argument, the court found defendant guilty of first-degree murder and guilty of aggravated discharge of a firearm, but not guilty of attempted first-degree murder. The court determined that the case hinged on whether defendant's shooting of Sanders was in self-defense. The court stated that based on its consideration of all of the evidence and observation of all the

¹ The recording is not included in the record on appeal.

witnesses, it did not believe that anyone shot at defendant. Rather, defendant killed Sanders in "cold blood." In denying defendant's motion for a new trial, the court stated it found the State's witnesses "credible beyond a reasonable doubt" and did not find defendant or Smith to be credible.

¶ 33 The court subsequently sentenced defendant to 55 years' imprisonment for first-degree murder, including a 25-year sentencing enhancement for personally discharging a firearm, and 5 years' imprisonment for aggravated discharge of a firearm, all to run consecutively. This appeal followed.

¶ 34 Defendant first contends his conviction should be reversed because the State failed to prove him guilty beyond a reasonable doubt of first-degree murder where it did not present sufficient evidence to rebut his defense of self-defense.

¶ 35 When a defendant challenges his conviction based upon the sufficiency of the evidence presented against him, we must ask whether, after viewing the evidence in the light most favorable to the State, any rational trier of fact could find all the elements of the crime proven beyond a reasonable doubt. *People v. Brown*, 2013 IL 114196, ¶ 48 (citing *Jackson v. Virginia*, 443 U.S. 307, 318-19 (1979)). All reasonable inferences must be allowed in favor of the State. *People v. Lloyd*, 2013 IL 113510, ¶ 42. We will not overturn a conviction unless the evidence is "so unreasonable, improbable, or unsatisfactory as to justify a reasonable doubt of the defendant's guilt." *Brown*, 2013 IL 114196, ¶ 48. While we must carefully examine the evidence before us, we must give proper deference to the trier of fact who observed the witnesses testify (*id.*), because it was in the "superior position to assess the credibility of witnesses, resolve

inconsistencies, determine the weight to assign the testimony, and draw reasonable inferences therefrom." *People v. Vaughn*, 2011 IL App (1st) 092834, ¶ 24.

¶ 36 First-degree murder occurs when a person, *without lawful justification*, performs the acts which causes the death of another, and: "(1) he either intends to kill or do great bodily harm to that individual or another, or knows that such acts will cause death to that individual or another" or "(2) he knows that such acts create a strong probability of death or great bodily harm to that individual or another" or "(3) he is attempting or committing a forcible felony other than second degree murder." (Emphasis added.) 720 ILCS 5/9-1(a) (West 2010).

¶ 37 Self-defense is a lawful justification to first-degree murder. *People v. Jeffries*, 164 Ill. 2d 104, 127 (1995); see also 720 ILCS 5/7-1 (West 2010). As an affirmative defense, unless the State's evidence raises the issue, the defendant has the burden of raising self-defense. *People v. Everette*, 141 Ill. 2d 147, 157 (1990). To raise the issue, the defendant must present some evidence that: "(1) force [was] threatened against a person; (2) the person [was] not the aggressor; (3) the danger of harm was imminent; (4) the threatened force was unlawful; (5) he actually and subjectively believed a danger existed which required the use of the force applied; and (6) his beliefs were objectively reasonable." *Jeffries*, 164 Ill. 2d at 128. Once the defendant has presented evidence to raise self-defense, the State must prove beyond a reasonable doubt that the defendant did not act in self-defense (*People v. Young*, 347 Ill. App. 3d 909, 920 (2004)), which it can do by negating any of the elements of self-defense. *Jeffries*, 164 Ill. 2d at 128. Whether a murder is justified by self-defense is a question of fact to be resolved by the trier of fact. *People v. Felella*, 131 Ill. 2d 525, 533 (1989).

¶ 38 Defendant does not dispute that he killed Sanders. Rather, he argues that after he presented evidence of self-defense that lawfully justified him doing so, the State failed to present sufficient evidence to rebut his affirmative defense. The State maintains that it presented sufficient evidence to not only rebut defendant's self-defense claim but completely negate it. Consequently, we review the limited question of whether the State presented sufficient evidence to prove beyond a reasonable doubt that defendant did not act in self-defense.

¶ 39 Here, the testimony of the State's witnesses, which the trial court found credible, sufficiently proved defendant did not act in self-defense. Steve Richard, Otis Sanders' father, testified that Sanders had not been participating in the Black P Stones gang activities and Sanders always had a problem with defendant. On the night in question, Richard said that Sanders and defendant were not on good terms. Cedric Jones testified that defendant fired shots at Sanders' vehicle, and that neither he nor Sanders shot at defendant. Larry Burns testified that defendant shot a firearm at Sanders' vehicle, but Burns never saw anyone shoot a firearm from Sanders' vehicle.

¶ 40 Similarly, Laquita Jones' testimony, through the substantive admission of her prior inconsistent statement, showed that she observed an unidentified individual in a green vehicle shoot a firearm at Sanders' vehicle. See *People v. McCarter*, 2011 IL App (1st) 092864, ¶ 23 (stating "[t]he trier of fact may consider a prior inconsistent statement introduced as substantive evidence *** the same as direct testimony by that witness"). The statement never mentioned that someone from Sanders' vehicle shot at the green vehicle. Ulysses Jones testified that defendant admitted to him that Sanders' shooting was his fault because he was drunk and had people in his

ear. Therefore, viewing the evidence in the light most favorable to the State, a rational trier of fact could have found that the State proved defendant did not act in self-defense.

¶ 41 Nevertheless, defendant argues that his defense of self-defense was corroborated by both Arnold Smith and Henry Lee Woods, and the court ignored critical questions posed by the State's evidence which renders its witnesses unbelievable. At the heart of most of the questions posed by defendant on appeal are credibility determinations. Defendant essentially asks this court on review to disregard the trial court's credibility determinations, insert our own in favor of his witnesses rather than the State's witnesses, and reverse his conviction. However, "we shall not reverse a conviction simply because the defendant tells us that a witness was not credible." *People v. Byron*, 164 Ill. 2d 279, 299 (1995). Furthermore, "[a] trial court's decision to believe one witness's account of an attack over another 'is virtually unassailable on appeal.'" *People v. Castellano*, 2015 IL App (1st) 133874, ¶ 145 (quoting *In re Jessica M.*, 399 Ill. App. 3d 730, 738 (2010)).

¶ 42 Additionally, when defendant chose to testify, he placed his credibility at issue as any other witness. *In re A.M.*, 274 Ill. App. 3d 702, 713 (1995); *People v. Clark*, 55 Ill. App. 3d 379, 391 (1977). As such, when he explained his version of events, he was bound to tell a reasonable story or be judged by its improbabilities. *People v. Williams*, 209 Ill. App. 3d 709, 721 (1991). In his version, which the court did not find credible, defendant claimed Sanders shot at him first. However, after the shooting, defendant wiped down his firearm and threw it in a dumpster. He did not go to the police and tell them he was shot at by Sanders. Furthermore, he had no proof that his vehicle had bullet holes or that it was repaired shortly after the shooting. Simply because

defendant presented a version of events that differed from the State's version does not mean the trial court was required to accept his version. *People v. Ortiz*, 196 Ill. 2d 236, 267 (2001).

Despite defendant's many arguments about why his version of events should be believed over the State's version, we cannot find the evidence as a whole "so unreasonable, improbable, or unsatisfactory as to justify a reasonable doubt of the defendant's guilt" to overturn his conviction. *Brown*, 2013 IL 114196, ¶ 48.

¶ 43 Defendant next contends that his trial counsel had a *per se* conflict of interest because he had previously represented the mother of State witness Laquita Jones. Because of this conflict, which defendant asserts there is no indication in the record he waived, he is entitled to a reversal.

¶ 44 "The sixth and fourteenth amendments to the United States Constitution guarantee the right to effective assistance of counsel," including that counsel provide conflict-free representation. *People v. Taylor*, 237 Ill. 2d 356, 374 (2010). There are two types of conflicts: actual and *per se*. *People v. Fields*, 2012 IL 112438, ¶ 17. Defendant limits his argument to only a *per se* conflict of interest, which exists when a defendant's trial counsel is connected to an individual who would benefit from the defendant's unfavorable verdict. *Id.* Our supreme court has identified three situations where a *per se* conflict of interest exists: "(1) where defense counsel has a prior or contemporaneous association with the victim, the prosecution, or an entity assisting the prosecution; (2) where defense counsel contemporaneously represents a prosecution witness; and (3) where defense counsel was a former prosecutor who had been personally involved with the prosecution of defendant." *Id.* ¶ 18. If a *per se* conflict of interest has been found, the defendant does not need to demonstrate the conflict affected his counsel's

performance, and it is automatic grounds for reversal unless the defendant waived the conflict.

Id. When the facts are not in dispute, we review whether a *per se* conflict exists *de novo*. *Id.* ¶ 19.

¶ 45 Here, during the testimony of assistant State's Attorney Michelle Spizzirri and Laquita Jones, it was revealed that defendant's trial counsel previously had represented Laquita's mother in her own cases. However, defendant's alleged *per se* conflict of interest does not fit into any of the three categories enumerated by our supreme court. See *id.* ¶ 18. Additionally, defendant cites to no authority supporting his claim that a *per se* conflict of interest exists where defendant's trial counsel had previously represented the mother of a prosecution witness. Therefore, we find no *per se* conflict of interest existed.

¶ 46 For the foregoing reasons, the judgment of the circuit court of Cook County is affirmed.

¶ 47 Affirmed.