2017 IL App (1st) 143539-U

SIXTH DIVISION
March 10, 2017

No. 1-14-3539

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellee, v. TERRY BRIDGES, Defendant-Appellant.	)))))))))	Appeal from the Circuit Court of Cook County. No. 12 CR 8565 Honorable Maura Slattery Boyle, Judge Presiding.

JUSTICE DELORT delivered the judgment of the court.
Presiding Justice Hoffman and Justice Cunningham concurred in the judgment.

ORDER

¶ 1 ***Held:*** The trial court did not err in denying defendant's motion to quash arrest and suppress evidence, nor did it exhibit bias when it restricted one witness's testimony and defense counsel's closing argument. The trial court properly granted the State's motion *in limine* to exclude evidence of defendant's FOID card and legal ownership of an unrelated handgun. We affirm.

¶ 2 Following a jury trial, defendant Terry Bridges was found guilty of possession of a firearm with defaced identification markings and was sentenced to two years' imprisonment. On appeal, defendant contends that the trial court: (1) erred in denying his motion to quash arrest and suppress evidence, (2) exhibited restricting one witness's testimony and defense counsel's

closing argument, and (3) granting the State's motion *in limine* to exclude evidence of defendant's firearm owner's identification (FOID) card and legal ownership of a .380-caliber handgun. We affirm.

¶ 3 BACKGROUND

¶ 4 Defendant was charged by information with one count of possession of a firearm with a defaced serial number (720 ILCS 5/24-5(b) (West 2012)) and four counts of aggravated unlawful use of a weapon (AUUW) (720 ILCS 5/24-1.6 (West 2012)).[1] Defense counsel filed a pretrial motion to quash arrest and suppress evidence. The following evidence was adduced at the hearing on the motion.

¶ 5 Defendant testified that, at around 7:30 p.m. on April 22, 2012, he was parked in front of his aunt Rasheedah Madyun's house in Chicago. Defendant was in the driver's seat of his sport-utility vehicle (SUV) and a friend of his, Boris Ward, was sitting in the front passenger seat. Defendant said he was waiting for Madyun to finish cooking and for a female friend of his to meet him there.

¶ 6 After about 10 to 15 minutes, defendant looked in his rearview mirror and saw a police car drive up and park along the left side of his car. When the police officers exited their car and walked up to the window, defendant lowered his window and gave them his driver's license and proof of insurance.

¶ 7 According to defendant, an officer told him to step out of the car, and the officer's partner "grabbed" Ward out of the car. Defendant testified that the officer grabbed him out of the car as well, and handcuffed the two men together. The officer then began to search the car. The officer

[1] Before trial, the State voluntarily dismissed the AUUW charges.

looked first in the front of the car and then searched the back, where defendant saw the officer "grab" something. Defendant was then arrested and brought to the station.

¶ 8 Defendant stated that he learned that the officer recovered a nine-millimeter handgun from the rear "armrest console" of the SUV. Defendant denied owning that type of gun, but admitted owning a .380-caliber handgun. The officers then went back to the car and returned with the .380-caliber handgun and told defendant that they found this gun in the same location as the nine-millimeter. Defendant added that he did have a valid FOID card.

¶ 9 Chicago police officer Daniel Cravens testified that he had been a police officer for about ten years. He and his partner, officer Renata Holy, were on patrol in their marked police car when an individual flagged them down and told them that there was a gray Infiniti SUV that had been parked "for a while" around the area of West Jackson Boulevard and South Western Avenue with two men inside who did not live in the area. Cravens and his partner then drove to the location and arrived shortly thereafter.

¶ 10 Although Cravens could not see into the rear of the SUV because the windows were tinted, he did observe that there was someone in the driver's seat and the front passenger seat. Cravens exited his car and walked up along the driver's side of the SUV while Officer Holy walked along the passenger side.

¶ 11 As Cravens approached, he saw the driver (later identified as defendant) "quickly move the right portion of his body down toward[] the left in a manner that would bring his right arm toward[]" the back seat, and it appeared to Cravens that defendant was "reaching toward the back seat." Cravens could not see defendant's hand, and Cravens explained that, in the course of his experience and training, he had made "thousands" of traffic stops and "one of the first things" he had been trained to look at in approaching a vehicle was a subject's hands. Cravens believed that

defendant was either concealing or retrieving a weapon. Cravens reached the driver's side window and identified himself as a police officer. Cravens asked defendant what he was doing there and then asked him to get out of the car. Cravens said that the reason he asked defendant to get out of the car was because of a concern that defendant may have either concealed or retrieved a weapon, and Cravens wanted to remove defendant from "the situation where he would have access to that weapon."

¶ 12 Cravens then testified that, when defendant opened the car door, the interior dome light went on, and Cravens saw through the tinted windows into the back seat area that the butt of a handgun was protruding from the back-seat console. Cravens said the gun was within arm's reach of where defendant had been sitting and "where *** defendant had been leaning."

¶ 13 Cravens and Holy then handcuffed defendant and Ward together, placed them in his squad car, and retrieved the handgun from defendant's car. The gun was a nine-millimeter handgun with 11 rounds and a defaced serial number. Cravens confirmed that defendant did not provide any paperwork concerning the recovered handgun. Cravens and Holy took defendant to the police station.

¶ 14 At the station, Cravens confronted defendant and asked defendant if he knew what Cravens had found. Defendant responded that his ".380" was there, but he added that the weapon was registered and he also had a FOID card. At that point, Holy went to defendant's car and recovered a .380-caliber semiautomatic handgun containing six rounds. Cravens said that the .380-caliber weapon was found in the same console as the nine-millimeter gun but was "farther back."

¶ 15 On cross-examination, Cravens conceded that he did not know the name or address of the individual who flagged them down, only that he "believed" it was a "black female." Cravens

further agreed that defendant's SUV was parked properly and was not making a loud noise. In addition, Cravens admitted that defendant produced his driver's license and proof of insurance, and that defendant said he was waiting for his aunt. Cravens, however, explained that defendant's sudden move took place before defendant produced his license and insurance, and Cravens reiterated that he ordered defendant out of the car because of a concern that defendant was retrieving or concealing a weapon.

¶ 16 The State then rested, and following arguments, the trial court denied defendant's motion. The trial court found that there was no dispute that defendant did not live in the area and that he was in the driver's seat. The trial court also found that defendant made a "furtive" movement, which the trial court concluded "changed everything" and, "based on the safety and security of the officer," gave Cravens the "right *** to take [defendant and Ward] out" of the car, at which point Cravens saw the butt of the nine-millimeter handgun. The trial court further found that defendant did not have standing to challenge the seizure of the nine-millimeter handgun because he disclaimed any ownership interest in it.

¶ 17 The State subsequently filed a motion *in limine* seeking to prohibit defendant from, *inter alia*, introducing evidence of either the .380-caliber handgun that was later recovered from the car or defendant's possession of a FOID card. The State argued that both matters were irrelevant as to whether defendant possessed a nine-millimeter gun with defaced identification marks, and the State further argued that these matters would also confuse the jury and improperly bolster defendant's prior consistent statements. Following argument, the trial court granted the State's motion but told defense counsel that, if "at some point during cross-examination or *** testimony, [defense counsel] *** would like a sidebar to address why these should be introduced," it would reconsider the matter at that time. The case then proceeded to trial.

¶ 18 At trial, Officer Cravens testified substantially the same as he did during the hearing on defendant's motion to quash. Illinois state police officer Marc Pomerance, testifying as an expert witness in the field of firearm identification, explained that the serial number of the recovered firearm could not be restored, and without a serial number, the weapon was hard to track. The State further introduced evidence establishing that defendant was the registered owner of the SUV that he was sitting in at the time of his arrest. The State then rested and the trial court denied defendant's motion for a directed verdict. Defendant called Madyun to testify.

¶ 19 Madyun testified that defendant was her nephew and that she was expecting defendant to come to her house. When defendant called her and told her he was downstairs, Madyun said she would tell him when she was finished cooking. After about 20 minutes, Madyun went to the balcony to let him know she had finished cooking and saw Ward get into defendant's car. About five minutes later, she saw a police car park behind defendant's car and an officer walk up to defendant's window. Madyun saw defendant show the officer "some papers, some[thing] like ID, maybe insurance card, something." Some unmarked police cars then arrived, and Madyun went downstairs to go to defendant, but she testified that the officers would not let her go to him. The following colloquy then took place:

> "Q. [Defense counsel:] Did you learn what was going on at that moment?
>
> A. Yes.
>
> Q. And what did you learn?
>
> [Assistant State's Attorney]: Objection.
>
> THE COURT: Sustained.
>
> Q. What happened next?

A. I asked them what they are [*sic*] taking him to jail for.

[Assistant State's Attorney]: Judge, I'm going to object.

THE COURT: Sustained.

Q. You asked what he was going to jail for?

A. Exactly, yes.

* * *

Q. And did you receive an answer as to why he was being taken to jail?

* * *

[A.] Yes.

Q. Were you outside when the police were searching [defendant's] truck?

A. Yes.

Q. Did you see them searching the front seat?

THE COURT: Sustained. [Defense counsel], I'll remind you of the motions. Continue.

[Defense counsel]: No.

THE COURT: Continue. Continue.

[Defense counsel]: Did they search both the front and the back seat?

THE COURT: Sustained.

[Defense counsel]: Judge, may I be heard?

THE COURT: Not at this time. Ask another question.

The Court will refer all parties to the previous rulings."

On cross-examination, Madyun stated that she did not leave the balcony and go down to defendant until he was taken out of his car.

¶ 20 Defendant then testified that, while he was parked in front of Madyun's house, a police car pulled up along the left side of his car. Defendant said that he "reached over" to retrieve his driver's license and insurance card from his wallet, and he then handed them to the officer that walked up to his window. According to defendant, the officer told him to get out of the car, and the officer also handcuffed defendant and Ward together near the police car. Defendant saw the officers search his car, but he did not see them recover anything. He later learned that they recovered a nine-millimeter handgun from the car, but defendant denied owning it. The defense then rested, and the cause proceeded to closing arguments. The trial court admonished the jury, *inter alia*, that closing arguments are not evidence and that the jury should not consider the arguments as evidence. In addition, the trial court told the jury that it should disregard any statement that a lawyer makes that is not based on the evidence or a reasonable inferences therefrom, and that the jurors should rely upon their own recollection of the evidence.

¶ 21 During defendant's closing argument, defense counsel noted that there was no fingerprint or DNA evidence submitted, which raised reasonable doubt as to whether the gun belonged to defendant or Ward. The following colloquy then took place:

"[Defense counsel]: The circumstantial evidence about well he made a motion and Boris [Ward] did not, well, the officer wasn't paying attention to Boris. His eyes were on [defendant]. You don't know what the other officer saw because she didn't

> testify. Could Boris had [*sic*] made a movement? Sure, he could—
>
> THE COURT: Sustained as to your guess. That will be stricken. It is not for you. It's the evidence in this case and what it shows. And your opinion, the attorney's opinions and comments in regards [*sic*] to what they think are not to be considered by the jury.
>
> Continue on."

¶ 22 The trial court instructed the jury, "Neither by these instructions nor by any ruling or remark which I have made do I mean to indicate any opinion as to the facts or as to what your verdict should be." The trial court added that the attorneys' closing arguments were made to discuss the facts and circumstances in the case, and should be confined to the evidence and the reasonable inferences to be drawn from the evidence. The trial court reiterated that closing arguments were not evidence, and any statement or argument made by the attorneys which was not based on the evidence should be disregarded. Following deliberations, the jury found defendant guilty, and the trial court subsequently sentenced defendant to two years' imprisonment. This appeal followed.

¶ 23 ANALYSIS

¶ 24 Defendant's Motion to Quash Arrest and Suppress Evidence

¶ 25 Defendant first contends that the trial court erred in denying his motion to quash arrest and suppress evidence. Specifically, defendant argues that he was unlawfully seized because Officer Cravens did not provide specific and articulable facts to justify ordering defendant out of his car and detaining him. Defendant further argues that, since his illegal seizure led to the

discovery of the nine-millimeter handgun, that handgun should have been suppressed and defendant's resulting conviction for the possession of that handgun should be reversed outright.

¶ 26 Both the fourth amendment to the United States Constitution (U.S. Const., amend. IV) and article I, section 6, of the Illinois Constitution (Ill. Const. 1970, art. I, §6) protect individuals from unreasonable searches and seizures. See also *Elkins v. United States*, 364 U.S. 206, 213 (1960) (noting that the fourth amendment applies to state officials through the fourteenth amendment). We interpret the search and seizure provision of the Illinois Constitution in "limited lockstep" with that of the United States Constitution. *People v. Caballes*, 221 Ill. 2d 282, 313-14 (2006). Under the fourth amendment, an individual is "seized" when an "officer, by means of physical force or show of authority, has in some way restrained the liberty of a citizen." *Florida v. Bostick*, 501 U.S. 429, 434 (1991).

¶ 27 Not every encounter between the police and a private citizen, however, results in a seizure. *People v. Luedemann*, 222 Ill. 2d 530, 544 (2006) (citing *Immigration & Naturalization Service v. Delgado*, 466 U.S. 210, 215 (1984)). Among the three tiers of police-citizen encounters are brief investigative detentions, or *Terry*[2] stops, which must be supported by a reasonable, articulable suspicion of criminal activity. *Id.* (citing *United States v. Black*, 675 F.2d 129, 133 (7th Cir. 1982); *United States v. Berry*, 670 F.2d 583, 591 (5th Cir. 1982)). Pursuant to *Terry*, a police officer has authority under the fourth amendment to detain a suspect briefly and frisk him for weapons when the officer has a reasonable suspicion that, in light of his experience, "criminal activity may be afoot." *Terry*, 392 U.S. at 30. In determining the reasonableness of the officer's conduct, the facts must be analyzed not in hindsight, but as they would have been evaluated by a reasonable officer in the performance of his duties. *In re S.V.*, 326 Ill. App. 3d

[2] *Terry v. Ohio*, 392 U.S. 1 (1968).

678, 683 (2001) (citing *People v. Smithers*, 83 Ill. 2d 430, 439 (1980)). The decision to make a *Terry* stop is a practical one based upon the totality of the circumstances. *Id.* (citing *People v. Sorenson*, 196 Ill. 2d 425, 439 (2001)).

¶ 28 Since an investigative *Terry* stop is brief and relatively unobtrusive, there are fewer fourth amendment concerns than with an arrest or a search incident to an arrest. Therefore, the "reasonable suspicion" standard is lower than the probable cause standard applicable to arrests or searches incident to an arrest. See *Illinois v. Wardlow*, 528 U.S. 119, 123 (2000) (holding that the reasonable suspicion standard requires a showing "considerably less" than a preponderance of the evidence). In other words, "the Fourth Amendment requires at least a *minimal level* of objective justification for making the stop." (Emphasis added.) *Id.* (citing *United States v. Sokolow*, 490 U.S. 1, 7 (1989)). Nervous, evasive behavior is a pertinent factor in determining reasonable suspicion. *Id.* at 124.

¶ 29 Although we will uphold the trial court's factual findings on a motion to suppress unless they are against the manifest weight of the evidence, the ultimate question of whether the evidence should be suppressed is reviewed *de novo*. *People v. Jones*, 215 Ill. 2d 261, 267-68 (2005). "A finding is against the manifest weight of the evidence only if the opposite conclusion is clearly evident or if the finding itself is unreasonable, arbitrary, or not based on the evidence presented." *People v. Deleon*, 227 Ill. 2d 322, 332 (2008).

¶ 30 In this case, the trial court did not err in denying defendant's motion to quash arrest and suppress evidence. The evidence at the hearing included Officer Cravens's testimony that, as he approached defendant's car, he saw defendant "quickly" move in a manner that appeared to Cravens that defendant was reaching toward the back seat. Cravens could not see defendant's hands, "one of the first things" he had been trained to look at in approaching a vehicle. As a

result of his training and experience, which included "thousands" of traffic stops, Cravens believed that defendant was either concealing or retrieving a weapon. Since the reasonable-suspicion standard is considerably less than a preponderance-of-the-evidence standard (*Wardlow*, 528 U.S. at 123), Cravens had ample reasonable suspicion to support his request that defendant step out of his car.

¶ 31 Moreover, defendant's citation to *People v. Marchel*, 348 Ill. App. 3d 78 (2004), and *People v. Ocampo*, 377 Ill. App. 3d 150 (2007), does not alter our conclusion. In *Marchel*, the sole basis underlying the officer's purported suspicion was that the defendant, in a " 'highly drug-infested' " area, "made a 'furtive' movement toward his mouth when he saw [the officer's] squad car," but the officer, who was about 50 feet from the defendant, did not see the defendant place an object in his mouth. *Marchel*, 348 Ill. App. 3d at 79-80. There was also no testimony from the officer that he was concerned for his safety. In this case, defendant made a furtive movement toward the tinted, obscured part of the car that, unlike an individual's mouth, could contain a firearm or weapon. In *Ocampo*, the officer testified that he observed the driver of a vehicle talk on his cell phone and then emerge from behind a gas station, tap on the trunk, enter the vehicle, and engage in a short conversation with the driver, during which defendant "move[d] *as if* he were taking something out of his pocket." (Emphasis added.) *Ocampo*, 377 Ill. App. 3d at 161. As in *Marchel*, the officer did not testify that he was concerned for his safety. Here, by contrast, Cravens consistently testified that, based upon his training and experience, it appeared likely that defendant's sudden movement toward the partially-hidden rear area of the car raised a concern that defendant had either retrieved or concealed a weapon. For that reason, Cravens sought to remove defendant from his car, and only when defendant opened the car door,

illuminating the interior light, was the butt of a handgun revealed in the back-seat console, which Cravens saw through the tinted windows. *Marchel* and *Ocampo* are therefore unavailing.

¶ 32 Judicial Bias

¶ 33 Defendant next contends that he is entitled to a new trial because the trial court improperly inserted itself into defendant's case and departed from its duty to remain neutral when it "sustained [its] own *sua sponte* objections" during Madyun's direct examination and defense counsel's closing argument. Defendant argues that the trial court discredited his theory of the case in the minds of the jurors when, "under the guise of" adhering to prior rulings, it refused to allow Madyun to testify about what she saw the police doing around defendant's car. Defendant also claims the trial court deprived him of an opportunity to present his defense when it disallowed defendant's argument that Ward "[c]ould *** have" made a movement toward the recovered handgun and characterized that argument as "nothing more than [defense counsel's] own opinion." Defendant concludes that this "indelible damage" warrants a new trial.

¶ 34 At the outset, defendant concedes that he failed to lodge a contemporaneous objection at the time of the trial court's purported errors, which would ordinarily forfeit this claim. Nonetheless, he argues that, pursuant to *People v. Sprinkle*, 27 Ill. 2d 398 (1963), forfeiture is relaxed where, as here, the challenge centers on the conduct of the trial court. We disagree.

¶ 35 In *Sprinkle*, our supreme court found that a defendant accused of burglary was denied a fair trial when the trial judge indicated on multiple occasions that he believed defendant to be guilty of the crime and otherwise disparaged defendant. *Id.* at 401-03. When the victim testified, the trial judge referred to her as "marvelous" and told her "God bless you"; he also questioned her as to whether she remembered anything about "the man who beat you at your house," and when she failed to identify the defendant, he asked her, " 'The first time you have

seen [defendant], *since that time*, was today?' " (Emphasis added.) *Id.* at 401. Finally, when the defendant's father testified that the defendant was at home at the time of the burglary, the trial judge asked him numerous questions that implied that his son was a frequent lawbreaker and that the father was thus well acquainted with trial procedure. *Id.* at 401-02. By contrast, the trial judge here case showed neither derision toward defense witnesses, nor favoritism toward the State's witnesses. *Sprinkle* is thus distinguishable, and we must honor defendant's forfeiture.

¶ 36 Nonetheless, defendant also asks that we review this issue for plain error. The plain error rule bypasses normal forfeiture principles and allows a reviewing court to consider unpreserved error when either: (1) the evidence is close, regardless of the seriousness of the error; or (2) the error is serious, regardless of the closeness of the evidence. *People v. Herron*, 215 Ill. 2d 167, 185-87 (2005). Defendant argues that both prongs of the plain error doctrine apply. Under the first prong, he must prove "prejudicial error," *i.e.*, he must show both that there was plain error and that "the evidence was so closely balanced that the error alone severely threatened to tip the scales of justice against him." *Id.* at 187. Under the second prong of the plain error doctrine, a defendant must show that the error was so serious that it affected the fairness of his trial and challenged the integrity of the judicial process. *Id.* However, we must first determine whether any error occurred, for if there is no error, there is no plain error. *Id.*

¶ 37 A trial judge has a duty to refrain from conveying improper impressions to the jury, and a hostile attitude toward the defense may be prejudicial and erroneous. *People v. Brown*, 172 Ill. 2d 1, 38 (1996). For a trial judge's allegedly hostile comments to constitute reversible error, a defendant must establish that the comments constituted a material factor in the conviction or were such that an effect on the jury verdict was the probable result. *Id.* at 38-39.

¶ 38 In this case, no reversible error occurred. Turning first to the claim of error regarding Madyun's testimony, the trial court allowed the State's pretrial motion *in limine*, which sought to prevent the introduction of evidence that another unrelated firearm (the .380) was recovered from the SUV and that defendant had been issued a valid FOID card. During Madyun's direct examination, the trial court denied defendant's attempt to elicit any testimony from Madyun related to whether she saw Officer Cravens search the front seat of the SUV, reminding defense counsel of "the motions." Defendant asserts without support that the trial court restricted the direct examination "under the guise" of the State's pretrial motion *in limine*. We find nothing in the record to support defendant's insinuation that the trial court attempted to cloak its bias with the pretrial order granting the State's motion, and we thus reject this argument. If, by contrast, the trial court's behavior *was* based upon the State's motion, defendant's argument still fails because the trial court's action was simply the enforcement of its own pretrial order.

¶ 39 With respect to the trial court's interjection during defense counsel's closing argument challenging Cravens's testimony that defendant and not Ward made a movement, the trial court prevented defense counsel from arguing that Ward "[c]ould *** ha[ve]" made a movement toward the gun because Cravens's "eyes were on [defendant]," and the jury did not know what Cravens's partner saw because she did not testify. It is well-established that, "[t]o be proper, closing argument comments on evidence must be either proved by direct evidence or be a fair and reasonable inference from the facts and circumstances proven." *People v. Hood*, 229 Ill. App. 3d 202, 218 (1992) (citing *People v. Mullen*, 141 Ill. 2d 394, 404 (1990)). Defense counsel's comment, however, was neither a recitation of the direct evidence nor a fair and reasonable inference from it. In essence, defense counsel attempted to invite the jury to speculate that, *had* Cravens's partner testified, she would have testified that Ward also made a

sudden, furtive movement in the direction of the recovered firearm. The trial court therefore correctly prevent defense counsel from making this particular argument. In any event, even assuming *arguendo* that the trial court's comments were improper, they did not constitute reversible error because they were neither a material factor in defendant's conviction, nor would "an effect on the jury verdict" have been the probable result." *Brown*, 172 Ill. 2d at 38. Accordingly, since there was no error, there can be no plain error (see *Herron*, 215 Ill. 2d at 187), and defendant's contention of error on this point is meritless.

¶ 40 For these reasons, defendant's reliance upon *People v. Wiggins*, 2015 IL App (1st) 133033, is unavailing. There, the trial court changed the basis of one of the State's objections—which the trial court then sustained—and interrupted the defendant's cross-examination of a State's witness to again sustain its own objection that was unrelated to any pretrial order or motion *in limine*. *Id.* ¶¶ 11-12, 20. In addition, during the cross-examination of another State's witness, the trial court admonished the defense attorney in the presence of the jury, "[W]atch yourself, man." *Id.* ¶ 17. Here, the trial court's restriction of Madyun's direct examination related to a pretrial motion *in limine* that it had granted. Furthermore, the trial court's isolated comment during defendant's closing argument correctly prevented mere speculation rather than a reasonable inference from the evidence (see *Hood*, 229 Ill. App. 3d at 218); in any event, the trial court's specific comment could not reasonably be equated to the comment of "watch yourself, man." Defendant's reliance upon *Wiggins* is therefore unavailing, and we must reject his contention of error.

¶ 41 The State's Motion *in Limine*

¶ 42 Finally, defendant contends that the trial court erred in granting the State's motion *in limine* that prohibited defendant from presenting evidence of defendant's .380-caliber handgun

that was later found in his car and his ownership of a valid FOID card. Defendant argues that, contrary to the trial court's finding, this evidence was relevant to defendant's ability to impeach Cravens's credibility regarding the course of his investigation, because it would have shown that Cravens was not thorough in his search of the car despite his professed concern that a gun might be present.

¶ 43 At the outset, we must reject the State's argument that defendant has forfeited this issue because he failed to make an adequate offer of proof during Madyun's testimony that would have established the relevance of the .380 handgun. See *People v. Enoch*, 122 Ill. 2d 176, 186 (1988) (holding that, to preserve an error, a party must contemporaneously lodge an objection and raise the issue in a post-trial motion). During Madyun's testimony, after the trial court preemptively "sustained" an objection to defense counsel's question as to whether the police searched both the front and the back seat of the car, defense counsel asked the trial court whether she could "be heard." The trial court, however, answered, "Not at this time," and instructed counsel to "[a]sk another question," despite the trial court's prior statement at the close of the hearing on the State's motion *in limine* that it would allow defense counsel "a sidebar to address why these should be introduced" at any point during cross-examination or testimony, at which time the trial court would reconsider its ruling. When defense counsel took the trial court up on its offer, however, counsel was prevented from providing an offer of proof. On this basis, we cannot hold that defendant forfeited this issue. We now turn to the substance of this claim.

¶ 44 Although a defendant has the right to present a defense (*People v. Manion*, 67 Ill. 2d 564 (1977)), a trial court may prevent a defendant from introducing irrelevant or unreliable evidence. *People v. Hayes*, 353 Ill. App. 3d 578, 583 (2004). Relevant evidence is defined as evidence that has "any tendency to make the existence of any fact that is of consequence to the determination

of the action more probable or less probable than it would be without the evidence." Ill. R. Evid. 401 (eff. Jan. 1, 2011); see also *People v. Blue*, 189 Ill. 2d 99, 122 (2000). Relevant evidence should be admitted unless "its probative value is substantially outweighed by the danger of *** confusion of the issues, or misleading the jury ***." Ill. R. Evid. R. 403 (eff. Jan. 1, 2011); see also *Blue*, 189 Ill. 2d at 122. In assessing the trial court's decision regarding the admission of evidence, we must determine whether the proffered testimony would have made the question of the defendant's guilt of the charged offenses more or less probable. *Hayes*, 353 Ill. App. 3d at 583. It is axiomatic that "[i]n all criminal cases it is important that the evidence be fairly limited to the issue on trial, as collateral or extraneous matters can only mislead or prejudice a jury." *People v. Pickett*, 34 Ill. App. 3d 590, 598-99 (1975). The admissibility of evidence sought to be excluded as irrelevant is committed to the sound discretion of the trial court, and we will only reverse a trial court's decision whether to admit evidence if the trial court abused its discretion. *People v. Becker*, 239 Ill. 2d 215, 234 (2010). An abuse of discretion occurs when the trial court's decision is "arbitrary, fanciful or unreasonable," or where "no reasonable person would agree with the position adopted by the trial court." *Id.*

¶ 45 In this case, the trial court correctly granted the State's motion. Defendant was charged with possession of a firearm with defaced identification marks (720 ILCS 5/24-5(b) (West 2012)). A person commits the offense of possession of a firearm with defaced identification marks when he possesses "any firearm upon which any such importer's or manufacturer's serial number has been changed, altered, removed or obliterated." *Id.* The State thus had to prove beyond a reasonable doubt that defendant intentionally or knowingly possessed a firearm with a changed, altered, removed, or obliterated serial number. *People v. Falco*, 2014 IL App (1st) 111797, ¶ 18. The presence of an unrelated firearm or a FOID card issued to defendant are

irrelevant to the charge and would likely either mislead or prejudice the jury, so the trial court properly refused to allow this evidence to be presented to the jury. See *Pickett*, 34 Ill. App. 3d 598-99. As to defendant's argument that this evidence would have cast doubt on Cravens's investigative process, that connection is far too attenuated to sow any uncertainty. The defaced firearm was exposed in plain view when defendant opened the door of the SUV and illuminated the interior of the vehicle. On these facts, we cannot hold that the trial court's decision is "arbitrary, fanciful or unreasonable," or where "no reasonable person would agree with the position adopted by the trial court." *Becker*, 239 Ill. 2d at 234. The trial court therefore did not abuse its discretion, and defendant's claim of error is without merit.

¶ 46 Regardless, a trial court's erroneous exclusion of evidence is not reversible error if the exclusion is harmless, *i.e.*, where there is no reasonable probability that the outcome of the trial would have been different absent the error. *People v. Hood*, 244 Ill. App. 3d 728, 734 (1993) (citing *Chapman v. California*, 386 U.S. 18, 23 (1967); *Fahy v. Connecticut*, 375 U.S. 85, 86-87 (1963)). To determine whether an error is harmless, we focus on, *inter alia*, either the error, and whether it might have contributed to the conviction, or other properly admitted evidence, and whether it overwhelmingly supports the conviction. See *Becker*, 239 Ill. 2d at 240.

¶ 47 Here, any purported error was harmless beyond a reasonable doubt. Again, the evidence at trial revealed that, as Officer Cravens approached defendant's SUV, he saw defendant, seated in the driver's seat, suddenly move down and toward the rear of the vehicle. Suspecting that defendant had either hidden or was trying to access a weapon, Cravens asked defendant to get out of the car. When defendant opened the door to do so, the interior light went on, illuminating the rear area of the SUV, where Cravens saw in plain view the butt of a firearm. Under these circumstances, we cannot hold that, had defendant presented evidence of an unrelated firearm

later discovered in the SUV or his possession of a FOID card, the jury would have rendered a different verdict because the evidence of defendant's guilt was so clear and convincing as to render the error harmless beyond a reasonable doubt. See *id.* at 240. We must therefore reject defendant's final contention of error.

¶ 48 CONCLUSION

¶ 49 The trial court did not err in denying defendant's motion to quash arrest and suppress evidence, nor did it improperly restrict one witness's testimony and defense counsel's closing argument. We reject defendant's claim that the trial court erred in granting the State's motion *in limine* to exclude evidence of defendant's FOID card and legal ownership of a handgun. Accordingly, we affirm the judgment of the trial court.

¶ 50 Affirmed.