

No. 1-14-3540

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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. 12 CR 116
)	
LORENA RIVERA,)	Honorable
)	Mary Margaret Brosnahan,
Defendant-Appellant.)	Judge Presiding.

JUSTICE ROCHFORD delivered the judgment of the court.
Presiding Justice Hoffman and Justice Delort concurred in the judgment.

ORDER

¶ 1 *Held:* We affirmed defendant's convictions and sentences for reckless homicide and leaving the scene of a motor vehicle accident involving a death, finding that defense counsel did not provide ineffective assistance during sentencing and that the trial court did not consider an improper sentencing factor.

¶ 2 Following a bench trial, the trial court convicted defendant, Lorena Rivera, of reckless homicide and leaving the scene of a motor vehicle accident involving a death, and sentenced her to four years' imprisonment for the reckless homicide conviction and to a consecutive term of 10 years' imprisonment for the conviction of leaving the scene. On appeal, defendant contends: (1) her defense counsel provided ineffective assistance during sentencing; and (2) the trial court relied on an improper sentencing factor. We affirm.

¶ 3 Defendant struck the victim, Victor Ybarra, with a vehicle and fled the scene without calling 9-1-1. The victim later died as a result of his injuries, and defendant was charged with first degree murder and leaving the scene of a motor vehicle accident involving a death.

¶ 4 Prior to trial, defense counsel requested that defendant be evaluated by a psychologist, Dr. Craig Hjorth. The court granted the request and Dr. Hjorth's report was tendered to the State. In his report, Dr. Hjorth stated, in pertinent part that, when she was 16, defendant moved in with her sister and brother-in-law in Texas. Defendant witnessed her brother-in-law verbally and physically abuse her sister. Defendant also became a target of her brother-in-law's violence; when defendant was between the ages of 20 and 22, he "hit, threw, stomped and slapped her on numerous occasions."

¶ 5 Dr. Hjorth concluded that, as a result of being abused by her brother-in-law, "[w]hen faced with stress or an uncomfortable experience, it is [defendant's] first instinct to flee. This is called the 'fight or flight response,' and is a physiological reaction that occurs in the presence of stimulation that is interpreted as mentally or physically harmful to the self."

¶ 6 After receiving the report, the State expressed confusion as to what Dr. Hjorth would be testifying to. Defense counsel explained that defendant was involved in an altercation with the victim in the present case, which resulting in defendant being very scared and nervous and, thus, she got into her vehicle and fled the scene. Defendant subsequently struck the victim with her vehicle and, again, fled. Defense counsel stated that Dr. Hjorth would testify that the reason defendant fled on both occasions is because of a "fight or flight" response triggered by the victim's perceived threat to her.

¶ 7 The State filed a motion *in limine* to bar Dr. Hjorth's testimony. The State argued that defendant was attempting to elicit, via Dr. Hjorth, state of mind testimony that defendant lacked

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the intent to kill or do great bodily harm. The State contended that defendant's state of mind did not require any type of expert testimony.

¶ 8 The trial court granted the State's motion *in limine* and barred Dr. Hjorth's testimony, noting that the defense was not asserting any type of psychological defense that would render his testimony relevant or admissible.

¶ 9 At trial, Alma Ybarra testified that she was married to the victim and they had five children. They lived in a second floor apartment at 4116 South Richmond Street. On October 8, 2011, Ms. Ybarra and the victim had been at a party with their children. At about 1:30 a.m., Ms. Ybarra put the children to bed and the victim said he was going to go out and see some friends.

¶ 10 The victim returned to their apartment at about 3 a.m. He did not appear to be intoxicated. Ms. Ybarra stayed up with the victim until about 4:15 a.m., when one of his friends came over. The victim and his friend then left the apartment and went to the parking lot. Ms. Ybarra did not hear any commotion outside and she went to bed.

¶ 11 When the victim did not come home later that day or the next day (Monday, October 10, 2011), Ms. Ybarra called his brother, who told Ms. Ybarra that the victim had not shown up for work. Ms. Ybarra continued calling the victim's phone, but he never answered. Ms. Ybarra went to stores, asking if anyone had seen the victim, and she called some of their friends, but no one had seen him.

¶ 12 On Tuesday, October 11, 2011, Ms. Ybarra located the victim at Mt. Sinai Hospital. She saw that the victim's head was swollen and that, although he was conscious, he was unable to speak as he was connected to so many tubes. The victim was placed in a coma. He died on November 15, 2011, without ever speaking to Ms. Ybarra.

¶ 13 Ingrid Ramos testified that in October 2011 she lived in an apartment on Archer Avenue with her four-year-old son and with defendant. During the evening hours on October 8, 2011, Ingrid was with her sister at a restaurant. Around 11 p.m., defendant drove with Ingrid's young son to pick up Ingrid, and the three of them drove back to their apartment. Upon their arrival at the front of the building, Ingrid saw the victim, who said something, but she did not hear what he said. Defendant exited the vehicle, opened the vehicle door for Ingrid and her son, and asked the victim what he had said. The victim did not respond.

¶ 14 Ingrid was "kind of drunk," so she and her son went inside the apartment. Defendant left in the vehicle to go to a friend's birthday party. Ingrid put her son to bed, and she went to sleep.

¶ 15 Ingrid woke up at about 3 a.m. and saw she had 21 missed calls from defendant. Ingrid called defendant and, when defendant answered, Ingrid heard screaming and an ambulance siren. Ingrid got dressed and went outside, where she saw the victim choking defendant. Ingrid pushed the victim off defendant, and defendant fell down. The victim just stood there and screamed "gangbanging stuff" and threatened to kill defendant.

¶ 16 Ingrid pulled defendant inside the apartment building and closed and locked the door. Defendant was drunk and struggled to breathe, and she was red-faced and crying and shaking. The victim tried to open the door and Ingrid told him to leave or she would call the police. The victim told her he wanted to return defendant's cell phone, and Ingrid told him no. The victim dropped the cell phone through the mail chute in the door. Ingrid retrieved the phone.

¶ 17 Ingrid and defendant began arguing because defendant wanted to leave, whereas Ingrid thought it best that defendant remain inside the apartment. Defendant left the apartment building through a back exit. Ingrid called her sister Valerie and told her what had occurred.

¶ 18 Defendant returned to the apartment building at about 9 a.m. She was crying and looking depressed. Defendant told Ingrid to call the police and report that the vehicle was stolen. Ingrid did not call the police. Later that day, Ingrid, her son, and defendant packed up their possessions and moved to Des Plaines, Illinois, where they stayed with one of defendant's friends.

¶ 19 Mark Alm testified that in October 2011, he lived with his fiancée, Valerie Ramos. Valerie's sister, Ingrid, lived about two blocks away. At about 5 a.m. on October 9, 2011, Ingrid called Valerie's phone. Mr. Alm answered the phone, spoke with Ingrid, and then handed the phone to Valerie. Valerie then asked Mr. Alm to go to Ingrid's house "to see about some guy that was messing with [defendant]."

¶ 20 Mr. Alm drove to Ingrid's and defendant's apartment building, but did not see anyone in front of the building. Mr. Alm continued to drive around and, as he approached Archer and Francisco Avenues, he saw the victim lying in the street. Worried that someone might run the victim over, Mr. Alm backed his truck up in front of the victim and called 9-1-1. Mr. Alm went over to the victim, who appeared disoriented and was bleeding from the back of his head. The victim struggled to open his eyes, and could not speak. Mr. Alm stayed with the victim until the paramedics arrived, and when the victim was moved, Mr. Alm noticed "rug burn" on the victim's back and legs.

¶ 21 Mr. Alm called Valerie and told her about finding the victim. Then he went home.

¶ 22 The next day, defendant called Mr. Alm and asked him to come to her apartment. When Mr. Alm arrived at the apartment, defendant and Ingrid were both there. Defendant asked Mr. Alm about the victim's condition, and he told her that the victim was in a "bad condition." Mr. Alm also told defendant that if she had anything to do with the victim's injuries, she should turn herself in to the police. Defendant responded that she was not going to do that.

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¶ 23 Officer Reyna Sansone testified that on October 11, 2011, she received an assignment to go to Mt. Sinai Hospital, where there was an unidentified person in intensive care who had been brought there by ambulance. At the hospital, Officer Sansone viewed the unidentified man, the victim, and noticed that he had severe head trauma. He also had “tire tread marks” on his body.

¶ 24 Officer Sansone was able to identify the victim through his tattoos and the Illinois Citizens Law Enforcement Analysis Reporting System (I-CLEAR). Officer Sansone followed up by speaking with Mr. Alm, after which she knew to look for defendant.

¶ 25 Officer Bogumila Galey testified that on October 18, 2011, she went to the crime scene at Archer and Francisco Avenues, canvassed the area, and located a surveillance video from a store on the corner. The video was identified at trial as People’s exhibit number 13 and published. Officer Galey testified that the video showed the victim walking on Archer Avenue and a vehicle that appeared to be a red Mazda (Mazda). The impact itself was not depicted in the video.

¶ 26 Officer Galey testified that at about 7:30 a.m. on October 22, defendant came into the police station with Ingrid to turn herself in for the accident involving the victim. Officer Galey gave defendant her *Miranda* warnings and defendant stated she understood them. Defendant told Officer Galey that prior to the incident with the victim, she had been at a birthday party and drank one or two margaritas. When she later left the party and arrived at her apartment building, she heard “screaming and *** a disturbance,” and tried to hide between her apartment building and another building.

¶ 27 Defendant told Officer Galey that she called Ingrid to let her into the building. Meanwhile, the victim approached her while flashing gang signs, and asked her if she belonged to a gang. The victim then began choking her. Ingrid came out of the apartment building, pushed the victim off her, and pulled her inside. Defendant then ran up the stairs and out the

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back door. She entered the vehicle, a Mazda, drove around, and “hit something” at Archer and Francisco Avenues.

¶ 28 Defendant told Officer Galey that she “kept on going” to 55th Street and Paulina Avenue and spent the night in the vehicle. When she awoke, defendant left the vehicle there, and then took a bus back to her apartment where she informed Ingrid that they had to leave. They packed up and left.

¶ 29 Assistant State’s Attorney (ASA) Michael O’Malley testified that he spoke with defendant on the morning of October 22, 2011, at the police station. ASA O’Malley advised defendant of her *Miranda* rights, which she stated she understood. Defendant told ASA O’Malley that she drove Ingrid’s Mazda to her apartment in the early morning hours of October 9, 2011, exited the vehicle and heard gunshots and “men and women yelling gang things.” She kneeled near the front of the building and called Ingrid approximately 20 times to let her inside. The victim walked over to her, told her he was in the “Two-Six” gang, and asked about her gang affiliation. Defendant responded that she was a woman and was not in a gang. The victim then kicked the cell phone out of her hand, stomped on it, and began choking her. Ingrid came outside, pushed the victim off her, and pulled defendant inside the building.

¶ 30 Defendant ran through the building, out the back door, and got back into the Mazda. She drove around, crossed Archer Avenue, and “hit something, she believed that it was a person, since the windshield had cracked.” She did not stop, but continued driving to 55th Street and Paulina Avenue, where she spent the night in the vehicle. Then she returned to the apartment, and told Ingrid to report the Mazda stolen. Defendant did not contact the police.

¶ 31 After speaking with defendant, ASA O’Malley left and viewed the video of defendant’s statement and spoke with other witnesses. ASA O’Malley determined that defendant’s statement

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was not “entirely truthful,” and he spoke with defendant again on October 23, 2011. Defendant told ASA O’Malley that after Ingrid pulled the victim off her and she got into the vehicle, she thought about how her brother-in-law had previously abused her in Texas. At this point “these emotions made her angry, thinking about what had happened to her back in Texas, and what had just occurred to her on Archer [Avenue].” She crossed Archer Avenue, saw the victim, and hit him with the vehicle. She did not try to stop, slow down, or swerve to avoid him, and she did not stop to check on his condition.

¶ 32 Sergeant Benny Martinez testified he went to 55th Street and Paulina Avenue, where he found the Mazda parked in front of an abandoned building. The Mazda had extensive front-end damage, matching the description of the vehicle for which he was looking. The windshield damage was “somewhat consistent with having struck an object such as a person.”

¶ 33 Cook County Assistant Medical Examiner, Dr. Ariel Goldschmidt, testified that he performed the autopsy on the victim, and that the victim suffered severe head trauma and severe brain injury including fracturing of the skull, bleeding around the brain, and damage to the brain itself. He stated that the cause of death was from bleeding in the airways resulting from the motor vehicle collision, and the manner of death was homicide.

¶ 34 Following the State’s evidence, defendant moved for a directed finding, which the trial court denied.

¶ 35 Defendant testified that when she was a teenager, she moved in with her sister and brother-in-law in Texas. Her brother-in-law was verbally and physically abusive to her sister, and then he began to abuse defendant as well. Defendant did not specify the type of abuse inflicted upon her by the brother-in-law. Defendant left their house and moved to Chicago when she was 20.

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¶ 36 Defendant met Ingrid in 2009, they dated for six months, and they moved into the apartment together. Ingrid had a young son, Christopher, from a previous relationship who also lived with them. The apartment building was on Archer Avenue between Richmond Street and Francisco Avenue.

¶ 37 In the evening of October 8, 2011, defendant took Christopher to a soccer game, then drove him to a pizza restaurant to pick up Ingrid at about 12.30 a.m. on October 9, 2011. She dropped Ingrid and Christopher off at the apartment, then went to a friend's birthday party, where she had "a couple margaritas." After the party ended, defendant drove back to the apartment building and parked her vehicle on Richmond Street at about 3 a.m.

¶ 38 As she was parking the Mazda, defendant heard gunshots and men and women screaming. Defendant exited the Mazda, ran to a small gangway dividing her apartment building from another building, crouched down and called Ingrid to let her into the apartment. Defendant made over 15 calls to Ingrid, but she did not answer.

¶ 39 The victim approached her "with violence and aggressiveness." Defendant did not recall having seen him before. He was very tall, and weighed over 250 pounds. He inquired about her gang affiliation. Defendant told him that she was not a gang member, that she was a woman who was not looking for any trouble.

¶ 40 The victim threw a beer can at her, kicked the phone out of her hand, grabbed her by the neck and began choking her. Defendant blacked out. The next thing she remembers is being inside the apartment building. Defendant was hysterical, crying, and having difficulty breathing, and she was scared for her life. Feeling the need to run away, defendant ran out the back door, got in the Mazda, and drove away. Defendant denied being angry at the victim or that she wanted to get even with him or hit him with the Mazda.

¶ 41 Defendant drove to Richmond Street and Archer Avenue, where she saw the victim approaching her. Defendant then turned right onto Archer Avenue to get away from the victim and circled her neighborhood. She was in a panicked, terrified state of mind. She eventually turned onto Francisco Avenue and “hit something” at the intersection of Francisco and Archer Avenues, shattering her windshield. She did not know what she had hit.

¶ 42 Still in a panicked state of mind, defendant drove away without finding out who or what she had struck. She parked at Paulina Street and spent the night in her vehicle, then took a bus back to the apartment the next morning. Ingrid told defendant she had called Mr. Alm to look for her. Defendant then called Mr. Alm, who came to the apartment and told her he had found the victim, who had been struck by a motor vehicle.

¶ 43 Defendant was scared she might go to jail, and she was also concerned for Ingrid, because the Mazda belonged to her. Defendant was also fearful that the victim’s gang might come looking for her, so she and Ingrid went to a friend’s house in Des Plaines for three or four days. Defendant then decided to come back to Chicago and turn herself in to the police. Defendant stayed at Mr. Alm and Valerie’s house for a couple of days before going to the police station. Defendant testified she “made it clear” to the police that she did not see what she had hit with the Mazda.

¶ 44 On cross-examination, defendant denied thinking about her past abuse in Texas at the time she was driving the Mazda.

¶ 45 Following all the evidence, the trial court convicted defendant of reckless homicide and leaving the scene of a motor vehicle accident involving a death.

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¶ 46 During the sentencing hearing, the State argued in aggravation that defendant circled the neighborhood in the Mazda, looking to strike the victim. The State also noted that defendant did not have a driver's license, yet drove all evening, drinking, and used her vehicle as a weapon.

¶ 47 In mitigation, defense counsel argued that defendant had no criminal history, no gang affiliation, no drug history, and had been a law-abiding citizen prior to striking the victim with the Mazda. Defense counsel noted that when confronted with "some type of combative issue," defendant's instinct is to flee, which explains why she got in her vehicle and drove away after being confronted and choked by the victim in front of her apartment building. Defense counsel also argued that her criminal conduct was induced or facilitated by the victim's choking her.

¶ 48 Defense counsel tendered 10 certificates obtained by defendant since her incarceration that showed she aided other students and educational staff, earned her high school diploma, and was recognized for "outstanding service." Defense counsel also tendered 18 letters on defendant's behalf.

¶ 49 Defendant spoke in allocution, apologized to the victim's family, acknowledged their loss and their pain suffered at her hands and asked for forgiveness. Defendant addressed the court, accepted her responsibility, and begged for mercy.

¶ 50 The trial court stated it had reviewed the exhibits submitted by the defense, considered the presentence investigation report, its notes from the trial, and the statutory factors in aggravation and mitigation. The trial court then stated:

"I do not believe that you got [into] the [vehicle] and you were trying to go away.

*** I believe that you got in the [vehicle], you were very upset at what had occurred, and instead of making the choice to stay inside the four walls of the apartment with the people that you consider to be your family, you immediately *** after being saved from that

situation *** ran out the back door in a frenzy, in a rage, *** [and] got in your [vehicle]. And I believe the intent was to drive around, not to drive away from the scene. *** It is what you did after when you hit [the victim] that is particularly chilling to the court. You knew that you hit another human being *** and at no point did you call 9-1-1. *** I know that [the victim] *** was in a coma from pretty much the instant he was found out there on the street until when he passed away. *** And as we sit here today we'll never know if [the victim] would have survived had a phone call been made at that point in time. *** And the fact that you didn't call the police, that deprived the family of being with him in those first couple of days. It deprived them of holding his hand, of trying to let him know that they were there.”

¶ 51 The trial court sentenced defendant to four years' imprisonment for the reckless homicide conviction to be served consecutively to 10 years' imprisonment for the conviction of leaving the scene of a motor vehicle accident involving a death. Defendant appeals.

¶ 52 First, defendant contends her trial counsel provided ineffective assistance during sentencing. Ineffective assistance of counsel claims are governed by the standard set forth in *Strickland v. Washington*, 466 U.S. 668 (1984), and adopted by the Illinois Supreme Court in *People v. Albanese*, 104 Ill. 2d 504 (1984). To prevail on a claim of ineffective assistance of counsel, defendant must show her counsel's performance was objectively unreasonable and that she was prejudiced thereby such that there is a reasonable probability that, but for her counsel's unreasonable performance, the result of the proceeding would have been different. *People v. Petrenko*, 237 Ill. 2d 490, 496-97 (2010). Matters of trial strategy are generally immune from claims of ineffective assistance of counsel. *People v. Manning*, 241 Ill. 2d 319, 327 (2011).

¶ 53 Defendant argues that her trial counsel was ineffective during sentencing for failing to present, as mitigating evidence, the report or testimony of Dr. Hjorth regarding her mental condition that triggers a “fight or flight” response when confronted with stress. Defendant contends that Dr. Hjorth’s report and/or testimony would have helped explain her decision to flee the apparent safety of her apartment building following her initial confrontation with the victim, as well as her decision to flee the scene of the accident in which the victim was injured.

¶ 54 We find no ineffective assistance of counsel. Defense counsel did not act in an objectively unreasonable manner by failing to present the report or testimony of Dr. Hjorth during the sentencing hearing, as defendant had moved, prior to trial, for the admission of Dr. Hjorth’s report and/or testimony, and the trial court had instead granted the State’s *in limine* motion barring its admission on the basis that it was not relevant. Defendant later filed a motion for a new trial arguing that the court had erred in granting the State’s *in limine* motion barring Dr. Hjorth’s testimony, but the trial court reaffirmed its earlier *in limine* order and denied defendant’s post-trial motion. Thus, as the trial court had repeatedly ruled that Dr. Hjorth’s report and/or testimony was irrelevant and inadmissible, defense counsel clearly made the strategic decision not to relitigate the issue at the sentencing hearing.

¶ 55 Notwithstanding the absence of Dr. Hjorth’s report and testimony during the sentencing hearing, defense counsel argued Dr. Hjorth’s findings from his psychological profile of defendant, specifically, that when confronted with “some type of combative issue,” her instinct is to flee, which explains why she got in her vehicle and drove away after being choked by the victim in front of the apartment building. Defense counsel also argued that her criminal conduct was induced or facilitated by the victim’s choking her. Further, defense counsel argued in mitigation that defendant had no criminal history, no gang affiliation, no drug history, and had

been a law-abiding citizen prior to this incident with the victim, and a model prisoner since her arrest. Defense counsel provided 10 certificates obtained by defendant since her incarceration showing that she has earned her high school diploma and aided other students, and defense counsel also provided 18 letters on defendant's behalf. Finally, defense counsel argued that defendant's crime occurred as a result of "a tragic set of events" unlikely to reoccur, and that she would not commit this type of crime in the future.

¶ 56 This record shows that defense counsel acted in an objectively reasonable manner during sentencing by presenting extensive mitigation evidence and argument on defendant's behalf and, as such, defendant's claim of ineffective assistance of counsel fails.

¶ 57 Next, defendant argues that the trial court considered improper factors during sentencing. Defendant forfeited review by failing to raise this issue in her post-sentencing motion. *People v. Walker*, 2012 IL App (1st) 083655, ¶ 29. Even choosing to address the issue on the merits, we find no error.

¶ 58 The Unified Code of Corrections provides that at the sentencing hearing, the court shall consider the evidence at trial as well as evidence offered by the parties in aggravation and mitigation. 730 ILCS 5/5-4-1(a)(1), (4) (West 2012). The trial court is allowed to make reasonable inferences from the evidence when sentencing defendant. *People v. Robinson*, 2015 IL App (1st) 130837, ¶ 92. The trial court's sentencing decisions are entitled to great deference and will not be disturbed on appeal absent an abuse of discretion. *Id.* ¶ 88.

¶ 59 First, defendant contends the court erred by finding that "we'll never know if [the victim] would have survived had a phone call been made [by defendant to 9-1-1 at the time of the accident]." Defendant contends the court's finding was in error, and should not have been considered in aggravation, where the video showed the fire department arriving at the scene

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within nine minutes of the accident, followed by paramedics arriving three minutes later. Defendant argues that since the fire department and paramedics arrived so quickly after the accident, her failure to immediately call 9-1-1 did not contribute to any delay in medical aid to the victim.

¶ 60 Initially, we note that the video, which is contained in the record on appeal, depicts the victim walking on Archer Avenue at 5:09 a.m., followed shortly thereafter by several vehicles¹, and then a fire truck at 5:19 a.m. and an ambulance at 5:22 a.m. The victim, the vehicles, the fire truck, and the ambulance all move off-screen. The video does not depict the actual accident or the provision of medical treatment to the victim; thus we do not know whether the fire engine and ambulance shown on the video were even responding to the victim's accident, or whether they were responding to a different medical emergency. In short, the video does not provide any degree of certainty as to when the accident occurred, or how soon thereafter medical aid was administered to the victim.

¶ 61 The testimony at trial was equally ambiguous regarding the precise timing of the accident and the provision of medical aid to the victim. Defendant testified to being choked by the victim at around 3 a.m. and then getting into her vehicle and immediately circling her neighborhood before striking the victim at Francisco and Archer Avenues, near her apartment building, and then driving away without calling 9-1-1. Defendant did not testify as to how long she drove around prior to striking the victim, nor did she testify to the precise time of impact. Mr. Alm testified to finding the victim in the street and calling 9-1-1 around 5 a.m. He did not testify as to how long it took for the ambulance to arrive. Thus, defendant's argument that

¹ Although Officer Galey testified that one of the vehicles was a red Mazda, we cannot discern the make of the vehicles from the video. Also, given the darkness of the video, we cannot determine whether any of the vehicles were red.

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medical aid was administered to the victim within 9-12 minutes of the accident is entirely speculative, as the record is unclear as to the timing of the accident and the rendering of medical aid. Given the uncertainty in the record as to the length of the delay in administering medical aid to the victim, we cannot say the trial court erred in finding that “we’ll never know” whether the victim would have survived if defendant had called 9-1-1 immediately after the accident.

¶ 62 Next, defendant argues the trial court erred in finding that her failure to call 9-1-1 deprived the victim’s family of being with him the first couple of days after the accident. Defendant contends the court’s finding was in error, and should not have been considered in aggravation, where defendant did not know the victim and would have been unable to help the police identify him so as to be able to notify his family of his whereabouts.

¶ 63 We find no error. The evidence at trial showed that Officer Sansone went to Mt. Sinai Hospital on October 11, 2011, (two days after the accident) because there was an unidentified man (the victim) in intensive care. After arriving at the hospital, Officer Sansone was able to identify the victim that same day via his tattoos via I-CLEAR. The trial court could reasonably infer from this evidence that had defendant called 9-1-1 on December 9, 2011, the victim could have been identified on that date via I-CLEAR, and his family notified. Accordingly, the trial court did not err in finding that defendant’s failure to call 9-1-1 immediately after the accident deprived the victim’s family of being with him for the first two days after the accident.

¶ 64 For all the foregoing reasons, we affirm the circuit court.

¶ 65 Affirmed.