2018 IL App (1st) 151752-U
No. 1-15-1752
Order filed February 13, 2018

First Division

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IN THE
APPELLATE COURT OF ILLINOIS
FIRST DISTRICT

PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Circuit Court of
	)	Cook County, Criminal Division.
Plaintiff-Appellee,	)	
	)	No. 13 CR 420
v.	)	
	)	Honorable Sharon M. Sullivan,
CHRISTOPHER CROCKRUM,	)	Judge presiding.
	)	
Defendant-Appellant.	)	

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

ORDER

¶ 1 *Held*: Defendant's conviction for armed habitual criminal affirmed where the evidence was sufficient to establish that defendant was the same person named in the certified copies of prior conviction used to establish an element of the charged offense, despite a variance in the spelling of the name; and any error in the admission of an audio recording was harmless.

¶ 2 Following a bench trial, defendant Christopher Crockrum was convicted of armed habitual criminal (720 ILCS 5/24-1.7(a) (West 2012)) for knowingly possessing a handgun while having been previously convicted of two qualifying offenses. He was sentenced to eight years' imprisonment. On appeal, he contends the State failed to prove his prior convictions beyond a

reasonable doubt because the certified copies of conviction provided to the trial court used a different spelling of his name. He further argues that his conviction should be reversed because the court erred in admitting an audio recording of the officers describing their chase of defendant via radio. We affirm.

¶ 3 Defendant was charged with armed habitual criminal for being in possession of a handgun after having been twice convicted of manufacturing or delivering cocaine. He also went to trial on five counts of aggravated unlawful use of a weapon, two counts of unlawful use of a weapon, and one count of resisting or obstruction of a peace officer.

¶ 4 Chicago police sergeant Joseph Sullivan testified that, on the night of December 4, 2012, he was driving with his partner, Officer Patel. He observed defendant as a passenger in a car, and recognized him from prior encounters. The vehicle committed a traffic violation and the two officers curbed it. As the officers approached the vehicle on foot, it sped away. The officers returned to their car and radioed the situation into dispatch. Sullivan gave defendant's name "as being the passenger" and the make, model, color, and license plate of defendant's car out over the radio, and requested additional units. During the pursuit, Sullivan saw an arm come out of the passenger-side window and throw out what he "believed to be a gun." He relayed to dispatch that an item was thrown out the window approximately at Leland Avenue and Magnolia Avenue. The item "careened" off Sullivan's car. The officers continued the chase and ultimately curbed the vehicle and arrested defendant.

¶ 5 Chicago police officer White testified that he and his partner, Officer McNamara, heard Sullivan over the radio discussing the chase. They saw the passenger side of the vehicle drive past them with Sullivan's car chasing it. White identified defendant as the passenger at trial. As

White and his partner were following behind Sullivan's car on Leland, between Racine and Magnolia, White saw a metal object bounce off Sullivan's car, go over the car, and land on the street. He "immediately" told his partner to stop the vehicle, ran to the location, and observed a metal semiautomatic weapon with a loaded magazine and a round next to it on the street. White did not see anyone else on the street before he approached the gun. He waited for an evidence technician to come inventory the weapon, but after an hour and a half inventoried it himself. He identified the gun, magazine, and bullets at trial.

¶ 6 During both officers' testimony, over defendant's objections, the court allowed the State to play an audio recording of the radio dispatch where the officers were calling in their actions during their pursuit of defendant's vehicle. Defense counsel repeatedly objected that the recording was hearsay and a prior consistent statement while the State argued the recording was not being offered for the truth of the matter asserted, but rather "to lay the context of the foundation [of] who is [a] part of these radio transmissions for foundational purposes." The court permitted the recordings to be played for the officers to "identify the voices" and because it was an "audio [recording] of what transpired."

¶ 7 Both Sullivan and White identified the voices heard on the recording, which was admitted into evidence over defendant's objections. On the recording Sullivan is heard communicating where he was driving during the pursuit of defendant's car and that something was thrown from the car. White is heard informing dispatch that he recovered a firearm.

¶ 8 At the close of the State's case, two certified copies of convictions were offered into evidence. One was for a 2005 Class X manufacture and delivery of cocaine conviction in case number 05 CR 0060701 with the named defendant as "Christophe Crockrom." The second was

for a 2002 manufacture and delivery of cocaine conviction in case number 00 CR 134002 with the named defendant as "Christophe Crockrum." The State's Attorney informed the court that he had shown defense counsel the certified copies and requested they be introduced into evidence. Defense counsel responded he "didn't object" and the court admitted the certified copies for "purposes of the elements of the particular offenses." Defendant made a motion for directed finding, which was denied.

¶ 9 The court found defendant not guilty of resisting a peace officer, but guilty of all remaining counts. It merged all the convictions into the armed habitual criminal count and sentenced defendant to eight years' imprisonment on that count. The court denied defendant's motion to reconsider sentence and defendant timely appealed.

¶ 10 On appeal, defendant contends that his conviction for armed habitual criminal should be reversed because the State did not prove beyond a reasonable doubt that he was convicted of the qualifying felonies, which were elements of the offense. He asserts that the certified copies of conviction did not establish that element because they did not bear the name that he used in this case.

¶ 11 The State argues that defendant cannot contest the admission of the certified copies on appeal because defense counsel acquiesced in the admission of the certified copies by not objecting thereto. The State is correct as, "[u]nder the invited-error doctrine, a party cannot acquiesce to the manner in which the trial court proceeds and later claim on appeal that the trial court's actions constituted error." *People v. Cox*, 2017 IL App (1st) 151536, ¶ 73 (quoting *People v. Manning*, 2017 IL App (2nd) 140930, ¶ 16); *In re Detention of Swope*, 213 Ill. 2d 210, 217 (2004) ("Simply stated, a party cannot complain of error which that party induced the court

to make or to which that party consented."). But defendant is not claiming the court erred in admitting the certified copies. Rather, he argues the copies were insufficient to prove an element of the offense. Waiver cannot relieve the State of its burden to prove an element of the offense beyond a reasonable doubt. *People v. Woods*, 214 Ill. 2d 455, 470 (2005).

¶ 12 Where a criminal conviction is challenged based on sufficiency of the evidence, a reviewing court, considering all the evidence in the light most favorable to the prosecution, must determine whether any rational trier of fact could have found beyond a reasonable doubt the essential elements of the crime. *People v. Brown*, 2013 IL 114196, ¶ 48. A reviewing court will not substitute its judgment for that of the trier of fact on issues involving the weight of the evidence or the credibility of the witnesses. *People v. Cooper*, 194 Ill. 2d 419, 430-31 (2000).

¶ 13 To prove armed habitual criminal as charged here, the State had to prove defendant had knowingly or intentionally possessed the handgun after having been convicted of manufacturing or delivering 1-15 grams of cocaine under case number 00CR-1340 and manufacturing or delivering between 15-100 grams of cocaine under case number 05CR-607. Defendant challenges only the sufficiency of the evidence regarding his qualifying prior convictions.

¶ 14 To prove a defendant's prior conviction as an element of the offense, the State may offer a certified copy of the defendant's conviction. *People v. White*, 311 Ill. App. 3d 374, 380 (2000). If the name that appears on the certified record is the same as the name of the defendant on trial, a rebuttable presumption of identity arises. *People v. Moton*, 277 Ill. App. 3d 1010, 1012 (1996). Therefore, when the names are the same, the State can meet its burden of proof through the certified copy of conviction and need not produce additional evidence that the defendant is the

same person who was convicted in the prior case. See *People v. Smith*, 148 Ill. 2d 454, 465 (1992).

¶ 15 A defendant can present evidence to rebut that presumption of identity. *Moton*, 277 Ill. App. 3d at 1012. If the presumption is rebutted, the State must provide other evidence to substantiate that the defendant is the person named in the record of conviction. *Id.* However, where the presumption is not rebutted, a defendant is not prejudiced by a finding that the certified copy meets the State's burden of proof. *Id*.

¶ 16 Defendant argues that because the spelling of the first name on both certified copies of conviction was not identical to defendant's spelling of his first name, the State was required to offer additional evidence to establish that "Christophe Crockrum" as listed on the copies, was defendant Christopher Crockrum. We note that the certified copy of conviction in 05 CR 607 also has a different spelling of the last name: "Crockrom" versus "Crockrum." Defendant does not raise this discrepancy. Nevertheless, taking all misspellings into account, we find the certified copies of conviction sufficient to establish defendant's qualifying felonies beyond a reasonable doubt.

¶ 17 We find *People v. Coleman*, 409 Ill. App. 3d 869, 873 (2011), persuasive. In *Coleman*, as here, the defendant was convicted of, *inter alia*, armed habitual criminal. The State provided a certified copy of a prior conviction for "Jessie Coleman;" the defendant's name was "Jesse Coleman." *Id.* at 875. In affirming defendant's conviction, this court found the variance between the two first names did not "defeat the initial presumption of identity." *Id.* at 876. The court noted that, at trial, the defendant did not object to the admission of the certified copy of conviction or argue that the variant of defendant's name rendered the conviction insufficient to

prove an element of the armed habitual criminal charge. Further, he never asserted at trial or on appeal that he did not commit the crime reflected in the certified record or that he was not the defendant in that case. *Id*. at 876. The court found that these factors and the variance between "Jesse" and "Jessie" did not defeat the initial presumption of identity and the defendant presented no evidence to rebut the presumption. *Id*.

¶ 18 As in *Coleman*, defendant did not object to the admission of the certified copies of convictions at trial or argue there that the variations of name were insufficient to prove the element of armed habitual criminal. Nor has he argued that he was not the defendant who committed the crimes listed on the certified copies. Further, the single letter discrepancy between the first name "Christopher" and "Christophe" in no way defeats the initial presumption of identity where defendant's last name is so unusual. For this same reason, the single letter discrepancy in his last name does not defeat the initial presumption of identity. We therefore find the State met its burden to prove the prior convictions.

¶ 19 Defendant cites several cases for the proposition that, when the name on a certified copy of conviction does not match defendant's name, the presumption of identity does not apply. We find these cases distinguishable, as each involved a common name and greater variances than at issue here. See *People v. Brown*, 325 Ill. App. 3d 733 (2001) (additional proof of identity required where the defendant was charged as "John Brown," a "very common" name, while the certified copy of conviction was for "John E. Brown" and defendant had argued the discrepancy at trial); *People v. White*, 311 Ill. App. 3d 374 (2000) (presumption did not apply where the defendant was charged as "Derrick S. White" and copy of conviction listed "Derick U.S. White"); *People v. Moton*, 277 Ill. App. 3d 1010 (1996) (presumption did not apply where the

defendant was charged as "William Moton" and conviction listed his name as "William B. Morton" and State did not prove use of an alias). See *Coleman*, 409 Ill. App. 3d at 876 (similarly distinguishing *Brown* and *Moton*).[1] After reviewing the evidence in the light most favorable to the State, we conclude that the trier of fact could have found that defendant was the same person named in the certified copies of conviction. The evidence was, therefore, sufficient to establish defendant's prior convictions as an element of the charged offense.

¶ 20 Defendant next argues he was denied a fair trial because the court allowed the State to improperly bolster the officers' testimony with hearsay consisting of their prior consistent statements in the audio recording of their radio narrative of the chase. We disagree.

¶ 21 Prior consistent statements of a witness are inadmissible for the purpose of corroborating trial testimony as this evidence unfairly enhances the credibility of the witness by the mere repetition of the witness's account. *People v. Donegan*, 2012 IL App (1st) 102325, ¶ 52; *People v. Cuadrano*, 214 Ill. 2d 79, 90 (2005). A trial court ruling on the admission of a witness' prior statement is reviewed for an abuse of discretion. *People v. Wiggins*, 2015 IL App (1st) 133033, ¶ 36. Barring two exceptions not applicable here, a court abuses its discretion by admitting a prior consistent statement as substantive evidence. *Id*.

¶ 22 However, a purely evidentiary error, such as the erroneous admission of the officers' prior consistent statements alleged here, is harmless where there is no reasonable probability that the trier of fact would have acquitted the defendant absent the error. *People v. Stull*, 2014 IL App

[1] The court in *Coleman* also examined defendant's criminal history report and noted that, although the report was not substantive evidence, it showed the name used on the certified record of conviction was an alias used by the defendant multiple times, with four convictions under that name. *Coleman*, 409 Ill. App. 3d at 876. Here, defendant's criminal history report presented during sentencing shows aliases under assorted variations of defendant's last name (Crockrum, Crockrom, Cockrum, and Crockron), as well as use of an entirely different last name.

(4th) 120704, ¶ 104. When determining whether an error was harmless the court must consider: (1) whether the error might have contributed to the conviction; (2) whether other evidence is overwhelming in support of the conviction; and (3) whether the erroneously admitted evidence is cumulative or duplicates properly admitted evidence. *People v. Patterson*, 217 Ill. 2d 407, 428 (2005). "Under the standard of review applicable to purely evidentiary errors, the erroneous admission of prior consistent statements would seldom warrant reversal." *Stull*, 2014 IL App (4th) 120704, ¶ 105. We find any error in the admission of the audio recording harmless.

¶ 23 Even if improperly admitted, the recording did not contribute to defendant's conviction because, without it, the evidence overwhelmingly supported the conviction; the audio recording was merely duplicative of the officers' testimony. Both Sergeant Sullivan and Officer White testified that defendant was the passenger in the car they were pursuing. Sullivan testified that he saw an arm come out of the passenger-side window of defendant's car during the chase and throw out what he "believed to be a gun," which bounced off Sullivan's own car. White testified that he was behind Sullivan's car chasing defendant's car, saw a metal object bounce off Sullivan's car, "immediately" had his partner stop the car, ran to the item, and discovered a gun with a loaded clip and bullet next to it.

¶ 24 The officers' testimony, standing alone, was sufficient to show that defendant was in the passenger seat from which the loaded gun was thrown and he was, therefore, in possession of the recovered firearm. The court found the officers credible, and the testimony of even a single witness, if positive and credible, is sufficient to sustain a conviction. *People v. Siguenza-Brito*, 235 Ill. 2d 213, 228 (2009). As held above, the evidence also was sufficient to show defendant had two prior qualifying convictions at the time of the incident. Thus, taken with the evidence of

the prior convictions, the officers' testimony was sufficient to convict defendant of armed habitual criminal. The audio recording was merely duplicative of the officers' testimony regarding the pursuit of defendant and recovery of the firearm and did not contribute to the conviction. Thus, even if the recording was improperly admitted, the error was harmless.

¶ 25 For the foregoing reasons, we affirm the ruling of the lower court.

¶ 26 Affirmed.