

2018 IL App (1st) 153216-U  
Nos. 1-15-3216 & 1-16-0121 (CONSOLIDATED)  
Order filed December 13, 2018

Fourth Division

**NOTICE:** This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST DISTRICT

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THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 13 CR 1434
	)	
DEON REECE,	)	Honorable
	)	James M. Obbish,
Defendant-Appellant.	)	Judge, presiding.

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PRESIDING JUSTICE McBRIDE delivered the judgment of the court.  
Justices Gordon and Reyes concurred in the judgment.

**ORDER**

¶ 1 *Held:* We affirm defendant's convictions for second degree murder and aggravated battery with a firearm over his contention that the State failed to prove beyond a reasonable doubt that he did not act in self defense.

¶ 2 Following a bench trial, defendant Deon Reece was convicted of second degree murder (720 ILCS 5/9-2 (West 2012)) and aggravated battery with a firearm (720 ILCS 5/12-3.05(e)(1) (West 2012)). He was sentenced to two consecutive terms of 15 years' imprisonment. On appeal,

he argues that his convictions should be reversed because he acted in self-defense and his belief in self-defense was reasonable. We affirm.

¶ 3 On September 15, 2012, Jerrell Butler and Tyrone Butler<sup>1</sup> were shot. Jerrell died as a result of his injuries. In connection with the shooting, defendant was charged by indictment with 29 counts, including, among other things, first degree murder and aggravated battery with a firearm. Prior to trial, the State nol-prossed all but three counts: two counts of first degree murder (counts 9 and 10) and one count of aggravated battery with a firearm (count 29). Counts 9 and 10 alleged, respectively, that defendant intended to kill Jerrell or knew there was a strong possibility that death would result. Count 29 alleged that defendant knowingly discharged a firearm and caused injury to Tyrone. Defendant waived his right to a jury and the case proceeded to a bench trial.

¶ 4 Tyrone Butler testified that, on the evening of September 14, 2012, there was a gathering in the 900 block of North Drake Avenue in celebration of his birthday. The party guests included Erica Robinson, and Roderick Johnson, who lived on the block and grew up with Tyrone. About midnight, Jerrell, Tyrone's first cousin, arrived in his van. Also in the van was defendant, with whom Tyrone had "grown up." When defendant exited Jerrell's van, he greeted Tyrone and wished him a happy birthday. Defendant then walked to the driver's side, where Jerrell was exiting the van, and shoved Jerrell. Tyrone became angry and shoved defendant in the chest. Tyrone and defendant started to argue. Other party guests, who were standing nearby, intervened and separated them.

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<sup>1</sup> Because Jerrell and Tyrone share the same last name we refer to both parties by their first name.

¶ 5 Jerrell parked his van and then stood outside of his apartment building waiting for his girlfriend. Defendant attempted to walk toward Jerrell and Tyrone intervened. Tyrone shoved defendant again and told him to “stop walking up on [his] cousin.” Tyrone and defendant were again separated. Tyrone walked away and went to the opposite curb where he had left his drink. Tyrone then heard Jerrell say “he’s got a banger” and heard two gunshots. After the second gunshot, Tyrone was knocked to the ground, felt a burning in his right arm, and heard three or four more shots. Shortly after the shooting, he learned that Jerrell had run through a gangway. Tyrone went to the gangway and found Jerrell lying in front of it. An ambulance arrived and transported Tyrone to the hospital. The bullet that struck Tyrone’s arm traveled to his neck. Doctors did not remove the bullet from Tyrone’s neck because they were afraid it would result in paralysis. Tyrone testified that he did not have a gun that night, nor did he ever see Jerrell with a gun. He acknowledged that he has three felony convictions: two for drug related offenses and one for aggravated battery of a police officer. He also acknowledged that he had a pending case for armed habitual criminal and aggravated battery of a police officer. Tyrone testified that he had not received special consideration in exchange for his testimony and that he understood that his testimony would not impact his pending case.

¶ 6 On cross-examination, Tyrone stated that, prior to testifying, prosecutors told him that he did not need to “worry” about his pending case. Tyrone denied that he initially told officers that an unknown person on a bicycle shot him. He acknowledged that detectives attempted to speak with him while he was at the hospital and that he refused. Tyrone did not tell police or prosecutors that he heard Jerrell say “he has a banger.” He explained that he understood “banger” to mean “gun.” Tyrone admitted that he pushed defendant two or three times and that defendant

was crying during their argument. He testified that he is approximately 6'1" and 230 pounds and that Jerrell was 5'8" and 184 pounds. Tyrone agreed that he was bigger than defendant. Tyrone testified that he and defendant were in the Four Corner Hustlers Vice Lords "a long time ago," but denied that defendant sold drugs on his behalf. Tyrone also denied threatening to harm or kill defendant if he sold drugs on the block again. Tyrone further denied that he beat a man named "Red" unconscious. He acknowledged that he testified before the grand jury that defendant pushed Jerrell, he and defendant argued, Jerrell went inside his house and returned, then Tyrone heard multiple gunshots.

¶ 7 Roderick Johnson testified that he had lived on the 900 block of North Drake Avenue for all of his life. Johnson explained that Tyrone, Jerrell, and Robinson were lifelong acquaintances who also lived on the block. Johnson described defendant, whom he identified in court, as a "friend" who came around the neighborhood from time to time.

¶ 8 On the evening of September 14, 2012, Johnson attended a celebration for Tyrone's birthday that included defendant, Jerrell, and Robinson. The gathering took place in the area outside of Johnson's apartment building. At approximately 1 a.m., on September 15, 2012, Johnson saw defendant, Jerrell, and Tyrone begin to argue. Johnson noticed a "little aggressiveness" between the men and intervened in an attempt "to keep the peace." Johnson explained that he was standing between Jerrell and Tyrone on one side and defendant on the other. He described them as being "separated" and estimated that they were an arm's length away on "both sides." Johnson saw that defendant had a gun in his pants and that his hand was grasping the handle. Upon seeing the gun, Johnson ceased intervening in the argument, walked across the street to his car, and then drove away from the area. Ten minutes later, Johnson

realized that he had forgotten something and returned to his apartment building. As Johnson arrived, he heard gunshots and “ducked down” in his car. When the gunshots stopped, Johnson exited his car and walked toward his apartment building. There, he saw Tyrone lying on the ground, bleeding from a gunshot wound. Johnson also saw Jerrell lying face down in the gangway. Johnson ran inside and dialed 9-1-1.

¶ 9 When officers arrived at the scene, Johnson was arrested for hitting an officer with a chair because he believed the officer had been disrespectful. At the police station, Johnson viewed a photo array and identified defendant as the person he saw with a gun. Johnson also went to the police station on December 29, 2012, where he identified defendant from a physical lineup as the person he saw holding a gun that night. Johnson testified that he did not see Jerrell or Tyrone with a weapon that night.

¶ 10 On cross-examination, Johnson testified that defendant, Jerrell, and Tyrone were “in each other’s faces” and that they were shoving each other “back and forth.” During the argument, Johnson heard defendant tell Tyrone that defendant “wasn’t on that.” Johnson acknowledged that, on September 16, 2012, he spoke with an assistant State’s Attorney and a Chicago police detective. Johnson provided them with his version of events, which they typed out and had him sign. Johnson admitted that he signed the statement after he had the opportunity to read it and make changes if he desired. When shown the statement by defense counsel, Johnson denied saying several things contained within the statement. Specifically, Johnson denied saying that he became more aggressive about trying to calm everyone down after he saw the gun. Johnson also denied saying that, after he saw the gun, Tyrone pushed him out of the way, which caused him to stumble and fall with his back to the three arguing men. He further denied saying that he then

heard a gunshot while laying on the ground, which was followed by three more gunshots in succession.

¶ 11 Johnson acknowledged that on September 27, 2012, he testified before a grand jury. Johnson denied giving an answer to the grand jury describing how Tyrone had shoved him and made him lose his “footing a little bit.” Johnson acknowledged that he told the grand jury that he “stumbled a little bit” because of Tyrone’s shove, but insisted that he did not fall down. Johnson admitted that he told the grand jury that, after Tyrone shoved him, he got into his car and heard four gunshots.

¶ 12 On redirect-examination, Johnson testified that he told the assistant State’s Attorney that he had left the area and returned later that night, but she did not include it in the report. He also testified that he was still drunk from the previous night when he spoke with the assistant State’s Attorney.

¶ 13 Erica Robinson testified that she grew up on the 900 block of North Drake, where her grandmother still lives. Robinson estimated that she had known Tyrone and Jerrell for approximately 20 years. Robinson described defendant as an acquaintance whom she had known for 10 to 12 years. On September 14, 2014, she was in front of an apartment on the 900 block of North Drake at a gathering in celebration of Tyrone’s birthday. Robinson estimated that there were between 15 and 20 people present, including Jerrell, Tyrone, and defendant. At some point late in the evening, Robinson saw Tyrone and defendant arguing in the middle of the street. Robinson saw Tyrone repeatedly push defendant. Robinson, along with Johnson and Rene Esco, tried to separate Tyrone and defendant. Tyrone pushed both Robinson and Esco when they tried to intervene. Robinson recalled defendant repeatedly telling Tyrone that he did not want to argue.

Robinson saw Jerrell on the porch of his apartment waiting for his girlfriend to use the washroom. Shortly thereafter, Robinson saw defendant, standing on the west side of North Drake, shooting a gun across the street toward the east side of North Drake. Robinson hid behind a car and called the police. Robinson estimated that she heard between four and six gunshots.

¶ 14 When the gunshots stopped, Robinson saw defendant running northbound. Tyrone was lying on the grass nearby and Robinson, noticing that Tyrone was bleeding, helped him walk to the porch. The next day, Robinson was shown a photo array at the police station and identified defendant as the individual “who shot Tyrone and Jerrell.” On December 28, 2012, Robinson identified defendant from a physical lineup and again told police that he was the individual “who shot Tyrone and Jerrell.” Robinson testified that she did not see anyone else with a weapon on that evening. She also testified that she never saw Jerrell arguing with defendant.

¶ 15 On cross-examination, Robinson testified that she heard defendant tell Tyrone, “Bro, this is me. I’m out here making sure y’all cool. I ain’t on that.” She also heard defendant say “are y’all serious. Is this what y’all on?” Robinson denied seeing anyone spit on defendant. She also denied seeing Jerrell push defendant. She acknowledged that defendant was crying immediately before the shooting and that Tyrone pushed her when she tried to intervene. When asked if she knew Tyrone to be violent, she answered “kinda.”

¶ 16 Carla Rodriguez, a Chicago police evidence technician, testified that, at approximately 2 a.m., on September 15, 2012, she arrived at the 900 block of North Drake. There, a detective walked her through the scene and asked her to mark pieces of evidence. Rodriguez marked the following evidence: blood at 924 North Drake; a cell phone, a plastic cup, a tan vest, and a Jose

Cuervo bottle on the parkway of 925 North Drake; blood on the sidewalk, in the front yard, and in the gangway of 929 North Drake; and a plastic cup near Jerrell's body in the gangway.

¶ 17 Chicago police sergeant Brian Holy testified that he supervised the detectives assigned to investigate the shooting of Tyrone and Jerrell. Holy also assisted in the investigation. During the investigation, he learned that defendant, whom he identified in open court, was the suspected shooter. Four days after the shooting, defendant was located in Memphis, Tennessee. Holy and Detective Gregory Andras arrived in Memphis on September 19, 2012, to question defendant about the shootings. Defendant was arrested for a violation of parole and an unlawful flight to avoid a prosecution warrant. Holy was present in the station on December 28, 2012, when defendant was arrested for shooting Jerrell and Tyrone.

¶ 18 The parties stipulated that, if called, Dr. Ponni Arunkumar, an expert in forensic pathology with the Cook County Medical Examiner's Office, would testify that she performed an autopsy on Jerrell. Arunkumar discovered two gunshot wounds, neither of which were fired from close range. The first wound was to the back of Jerrell's head and the second wound was to his chest. Arunkumar concluded that Jerrell died of multiple gunshot wounds to the body and the manner of death was homicide. The State then rested.

¶ 19 Kimyona Taylor, an investigator for the Cook County Public Defender, testified that, on May 27, 2014, she interviewed Johnson. During the interview, Johnson told Taylor that Tyrone and Jerrell were being threatening toward defendant. Johnson also told Taylor that he believed either Tyrone or Jerrell spit on defendant. On October 2, 2014, Taylor interviewed Robinson, who also told her that Tyrone and Jerrell pushed defendant and that one of them spit on defendant. On cross-examination, Taylor acknowledged that she did not take notes during her

interviews with Johnson and Robinson, nor did she record the interviews. She also acknowledged that neither Johnson nor Robinson wrote or signed any statements regarding their interviews.

¶ 20 The parties stipulated to Johnson's signed statement transcribed by the assistant State's Attorney and a transcript of Johnson's grand jury testimony for purposes of impeachment. The parties also stipulated that, if called, Chicago police officer Brian Kroll would testify that, on September 14, 2012, he responded to a shooting in the 900 block of North Drake. He interviewed Tyrone, who told him that an unknown black male on a bicycle shot him. The parties further stipulated that, if called, Chicago police detective William Fiedler would testify that he and his partner attempted to interview Tyrone at his residence about the shooting and Tyrone was unwilling to accompany detectives to the police station. Tyrone stated that he was willing to respond to a grand jury subpoena.

¶ 21 Defense counsel also called witnesses, pursuant to *People v. Lynch*, 104 Ill. 2d 194 (1984), who testified about Tyrone and Jerrell's history of violence and aggression.

¶ 22 Chicago police sergeant Richard Moravec testified that, on February 12, 1998, he was on duty near the 900 block of North Drake when he encountered Tyrone. Although Moravec could not recall what initiated the interaction, he ultimately placed Tyrone under arrest. Tyrone resisted Moravec and his partner when they attempted to place him into custody. As a result of Tyrone's "fighting" and "pulling," Moravec dislocated his left shoulder. On cross-examination, Moravec confirmed that Tyrone was 17 years of age at the time of the incident and did not use any weapons.

¶ 23 Shana Lory testified that she and Tyrone have a child together. Lory could not recall whether the police were called on April 26, 2004, regarding a possible assault on her by Tyrone. Lory denied that she was still in a romantic relationship with Tyrone. She acknowledged that Tyrone still visits their son. She also acknowledged that, while waiting in the court room to testify, she sat next to Jerrell's twin brother.

¶ 24 Chicago police officer Miguel Torres testified that he and his partner prepared the police reports for an incident on April 26, 2004, involving Lory and Tyrone. Torres testified that he had no independent recollection of that incident. According to the police report, Torres and his partner were on routine patrol when Lory approached them and reported that she had been assaulted. Lory told the officers that, during an argument, Tyrone became enraged. She attempted to flee and Tyrone pursued her. Tyrone grabbed her by the hair and dragged her back to their vehicle. He told her not to run away from him and then struck her several times. He told her that he would kill her and then kill himself. The report indicated that Lory had sustained a swollen lip with a cut inside, a bruised and swollen face about the right side, swelling on the left arm, and complained of back pain. Lory also told the officers that Tyrone had "battered her" twice during their two year relationship. Tyrone was placed into custody and given his *Miranda* warnings. Tyrone was asked why he "beat" the victim, to which he replied "no reason, Officer."

¶ 25 Laneisha McNease, Jerrell's former girlfriend, testified that, on April 7, 2009, she and Jerrell had a verbal altercation that turned physical. The police were called and, when they arrived, McNease had pinned Jerrell to the ground. McNease could not recall how the altercation became physical, nor could she recall if Jerrell bit her cheek. The couple continued to date for a short time after the incident and then broke up. On cross-examination, McNease testified that she

did not go to the hospital following the incident, nor did she file an order of protection against Jerrell. She admitted that she dropped the charges against Jerrell because she did not “need it.”

¶ 26 The parties stipulated, for the limited purpose of establishing *Lynch* material, that Chicago police officer Brendan Roberts, if called, would testify that, on April 26, 2013, he curbed a vehicle driven by Tyrone for striking a parked car and leaving the scene. Tyrone exited the vehicle and fled on foot. Roberts gave chase and, after a brief pursuit, Tyrone “squared up” with his fists in the air. Tyrone drew his right hand back as if to strike Roberts, who then executed an emergency takedown of Tyrone. Tyrone continued to resist, punching Roberts in the face. Additional officers arrived and assisted Roberts in placing Tyrone into custody. The parties also stipulated to Tyrone’s prior convictions, including two convictions for aggravated battery of a police officer.

¶ 27 Defendant testified that he and Tyrone, whom he had known for 20 years, had sold drugs together in the past. On September 13, 2012, defendant was sitting on Robinson’s grandmother’s porch located on the 900 block of North Drake Avenue when Tyrone approached him. Tyrone informed defendant that Mikey, and “several other guys” who were new in the neighborhood, took issue with defendant selling drugs on North Drake. Tyrone told defendant to stay away from North Drake or Mikey was going to kill him. Defendant believed that Tyrone was siding with Mikey and was also planning to kill him. Defendant feared for his safety and left the area.

¶ 28 Defendant, who was residing with his girlfriend as a condition of his parole, returned to her home. The couple got into an argument and she kicked him out of the house. Because defendant could not travel to Rockford where his family is located, he returned to the 900 block of North Drake. When defendant arrived there, he observed Tyrone “jumping on” Red, a

neighborhood homeless man who washed people's cars. Defendant observed Tyrone hitting Red over the head with Red's car washing instrument. Defendant testified that Tyrone continued to hit Red after Red was knocked unconscious. Defendant again left the area.

¶ 29 Defendant returned to the 900 block of North Drake during the early morning hours of September 15, 2012. There was a large gathering on the block to celebrate Tyrone's birthday. Defendant had a loaded .38 revolver in his pocket because he wanted to protect himself from Tyrone and his friends. Defendant did not initially speak with Tyrone or Jerrell, instead talking with Johnson and Johnson's friends. Police officers drove by the area and defendant, who was armed and in violation of his parole, walked further down the block to avoid the police. Eventually, Jerrell called and asked defendant to accompany him while Jerrell drove his brother and his brother's girlfriend to another location. Defendant agreed. Defendant sat in the back seat of Jerrell's van and spent most of the drive on the phone talking to his girlfriend. Jerrell took issue with defendant talking on the phone for the entire ride and the two men exchanged words. When they returned to the party, Jerrell pulled the van up to Tyrone and told him that defendant was "tripping." Tyrone opened the van's sliding door and asked defendant what was up with him and Jerrell. Defendant told Tyrone that Jerrell was "tripping." Defendant moved toward the front of the van to speak with Jerrell, who was seated in the driver's seat. Tyrone reached into the van and grabbed defendant's arm. Defendant pulled away from Tyrone and, as he did so, his hand accidentally struck Jerrell in the back of the head.

¶ 30 Jerrell became angry and accused defendant of hitting him on the head. Defendant exited the van and told Jerrell that it was an accident. Tyrone, who was outside of defendant's peripheral vision, struck defendant in the left ear with the palm of his hand. Jerrell ran away,

leaving defendant with Tyrone, who moved toward defendant and pushed him. Defendant backed away from Tyrone and told him that he did not want to fight. Defendant began to cry and told Tyrone that he had “love” for him and Jerrell. Tyrone continued to push and swing at defendant, but defendant did not swing back because he was afraid of escalating the altercation. Johnson and Robinson then intervened.

¶ 31 Robinson held defendant and told him to go home, while Johnson held Tyrone. Jerrell returned and ran toward defendant. Jerrell told defendant that defendant “should have been trying to talk at first.” Johnson grabbed Jerrell and stopped him from getting to defendant, who was standing on the opposite side of the street as Tyrone and Jerrell. Tyrone told defendant to “go get your gun” and to never come back to the block. Defendant again stated that he did not have anything against Tyrone or Jerrell. Defendant then saw Jerrell, who was still being held back by Johnson, “making gestures” and grabbing at his right pocket. Defendant believed that Jerrell was reaching for a gun. Defendant said “no” and Johnson let go of Jerrell. Defendant saw Jerrell turn toward him. Defendant testified that he believed that Jerrell had a gun and was going to shoot him. Defendant retrieved his gun from his pocket and fired two shots toward Jerrell. Tyrone then ran toward defendant and defendant shot at Tyrone “until he fell.” Defendant testified that he fired a total of five shots. He waited at the scene for 10 minutes before leaving. Defendant testified that he left because “associates” of the men who wanted to harm him arrived on the scene.

¶ 32 On cross-examination, defendant conceded that during the conversation on September 12, 2012, Tyrone did not say that he was going to kill him, only that Mikey would kill him if he sold drugs on the block. Defendant did not see Jerrell with a gun in his hands at any point during the

evening. After the shooting, defendant threw the gun into a trash can and stayed at a friend's house that night. He later learned that Jerrell had been killed and that the police wanted to speak with him. Defendant did not call the police to report the shooting. He fled to Memphis where he spoke with Holy and another detective about the shooting. Defendant admitted that he did not tell Holy that he saw Jerrell reach for what he believed was a gun. Defendant insisted that he told Sergeant Fielder, who interviewed him with Holy in Memphis, where the gun was located. Defendant denied that Detective Hall was the other officer who interviewed him with Holy.

¶ 33 On redirect-examination, defendant testified that he told Holy that Jerrell and Tyrone “jumped” him. Holy responded by telling defendant that he was lying. Holy then told defendant that he was “going to get 50 years” for the shooting and asked defendant to give him information that he could use to help him.

¶ 34 On recross-examination, defendant admitted telling Holy that he did not have a gun that night and did not remember what happened because he suffered from “spells” of memory loss. On redirect-examination, defendant testified that Holy was “forceful” with him and so he became “evasive” with his answers. Defendant explained that he told Holy “whatever he wanted to hear” because Holy refused to listen to his version of events. Defendant believed that Holy had come to Memphis to “send [him] back to jail.”

¶ 35 In rebuttal, Holy testified that he and Detective Hall interviewed defendant in Memphis. Holy confirmed that defendant told him that he did not remember what happened on the night of the shooting. Holy denied that defendant told him or Hall where the gun was located.

¶ 36 On cross-examination, Holy acknowledged that, although he brought a video camera with him to Memphis, he did not use it to record defendant's interview. Holy also acknowledged that

he did not take notes during defendant's interview. On redirect-examination, Holy testified that he did not use the video camera because it was not required by Tennessee law.

¶ 37 The State introduced certified copies of defendant's three felony convictions for impeachment purposes.

¶ 38 The court found defendant guilty of second degree murder and aggravated battery with a firearm. In doing so, the court stated that there was "enough evidence to demonstrate that [defendant] believed that in fact it was self-defense," but the court concluded that defendant's belief was unreasonable.

¶ 39 The court denied defendant's motion for a new trial and the matter proceeded to sentencing. At sentencing, the court merged the two murder charges, count 9 and count 10, into count 10. After hearing arguments in aggravation and mitigation, the court sentenced defendant to consecutive 15-year terms for second degree murder and aggravated battery with a firearm.

¶ 40 On appeal, defendant argues that the State failed to prove beyond a reasonable doubt that he did not act in self-defense.

¶ 41 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 have found the essential elements of the crime 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 from the record must be allowed in favor of the State. *People v. Lloyd*, 2013 IL 113510, ¶ 42. It is the responsibility of the trier of fact to resolve conflicts in the testimony, to weigh evidence, and to draw reasonable inferences from the facts. *Brown*, 2013 IL 114196, ¶ 48. We will not substitute our judgment for

that of the trier of fact on issues involving the weight of the evidence or the credibility of the witnesses. *Brown*, 2013 IL 114196, ¶ 48. A defendant's conviction will not be overturned unless the evidence is so unreasonable, improbable, or unsatisfactory that there remains a reasonable doubt of the defendant's guilt. *Id.*

¶ 42 In this case, defendant was charged with first degree murder and aggravated battery with a firearm. Defendant raised the affirmative defense of self-defense and was ultimately convicted of second degree murder and aggravated battery with a firearm. A person commits the offense of second degree murder when he commits the offense of first degree murder and one of the enumerated mitigating factors is present, such as an unreasonable belief in self defense. 720 ILCS 5/9-2(a) (West 2012). To establish that defendant committed first degree murder, the State needed to prove beyond a reasonable doubt that defendant, without legal justification, shot Jerrell to death, and he either intended to kill or do great bodily harm to Jerrell, or knew that such acts would cause Jerrell to suffer great bodily harm or death. 720 ILCS 5/9-1(a)(1) (West 2012). To establish that defendant committed aggravated battery with a firearm, the State had to prove that he battered Tyrone while personally discharging a firearm. (720 ILCS 5/12-3.05(e)(1) (West 2012).

¶ 43 Defendant does not dispute that he shot Jerrell and Tyrone. Rather, he contends that the State failed to prove beyond a reasonable doubt that he did not act in self-defense *i.e.* that the shooting was legally justified.

¶ 44 Self-defense is a lawful justification to defendant's charged offenses. *People v. Jeffries*, 164 Ill.2d 104, 127 (1995); see also 720 ILCS 5/7-1 (West 2012). To raise the issue, defendant was required to present some evidence that: (1) unlawful force was threatened against him; (2)

he was not the aggressor; (3) the danger of harm against him was imminent; (4) the use of force was necessary; (5) he actually and subjectively believed a danger existed that required the use of the force applied; and (6) his beliefs were objectively reasonable. See *People v. Lee*, 213 Ill. 2d 218, 225 (2004). Once defendant has raised self-defense, the State has the burden of proving the defendant guilty beyond a reasonable doubt as to that issue together with all the other elements of the offense, which it can do by negating any one of the six elements. *People v. Jeffries*, 164 Ill. 2d 104, 127-28 (1995).

¶ 45 Here, the court found that the State negated the sixth element of self defense—that defendant’s belief was objectively reasonable. In this court, defendant maintains that he had a reasonable belief that the circumstances warranted the use of deadly force.

¶ 46 After viewing the evidence in the light most favorable to the State, we conclude that a rational trier of fact could have found that the State proved beyond a reasonable doubt that defendant did not act in self defense.

¶ 47 First, the record shows that defendant initiated the confrontation by striking Jerrell, which caused Tyrone, Jerrell’s cousin, to confront defendant. See 720 ILCS 5/7–4(c) (West 2012) (Use of force unjustified if defendant initially provoked the use of force against himself). Tyrone testified that defendant arrived at the party with Jerrell. After defendant exited Jerrell’s van, he greeted Tyrone and then walked to the driver’s side, where Jerrell was exiting the van, and shoved Jerrell.

¶ 48 Even if the court believed that Tyrone or Jerrell was the initial aggressor, as defendant testified, the question still remains whether defendant’s resort to the force was reasonable under the circumstances, and whether the amount of force used by defendant was commensurate with

the force encountered. *People v. Harmon*, 2015 IL App (1st) 122345, ¶ 61; see 720 ILCS 5/7-1(a) (West 2012) (An individual is “justified in the use of force which is intended or likely to cause death or great bodily harm only if he reasonably believes that such force is necessary to prevent imminent death or great bodily harm to himself or another, or the commission of a forcible felony.”). Here, the evidence showed that defendant fired at Jerrell and Tyrone following a dispute that consisted of the men shoving each other. The record also shows that Jerrell and Tyrone were not armed and that defendant was the only person with a gun. Given this, a rational trier of fact could find that defendant’s use of force was disproportionate to the force he encountered.

¶ 49 Moreover, the record further shows that Tyrone and defendant were separated and standing on opposite sides of the street when defendant first shot Jerrell, negating his claim that his belief in self defense was objectively reasonable. Arunkumar’s autopsy report concluded that Jerrell was not shot at close range. Robinson and Tyrone testified that Jerrell was not involved in the dispute and stood in front of his apartment building waiting for his girlfriend. Robinson testified that she saw defendant, who was standing on the west side of North Drake, fire his gun toward the east side of the street. Rodriguez, an evidence technician, observed that Jerrell’s body was located in the gangway at 929 North Drake. Likewise, Tyrone testified that he turned his back to defendant and walked across the street to grab his drink when he heard Jerrell say “he has a banger” and then heard multiple gunshots. Rodriguez also testified that she observed a Jose Cuervo bottle, blood, and a plastic cup at 925 North Drake.

¶ 50 Finally, defendant admitted that he discarded the weapon and fled to Memphis the day after the shooting, despite knowing that Jerrell had been killed and that the police were looking

for him. Such evidence can be used as circumstantial evidence to infer defendant's guilt. See *People v. Lewis*, 165 Ill. 2d 305, 349 (1995) ("The fact of flight, when considered in connection with all other evidence in a case, is a circumstance which may be considered by the [trier of fact] as tending to prove guilt. The inference of guilt which may be drawn from flight depends upon the knowledge of the suspect that the offense has been committed and that he is or may be suspected."); *People v. Wilburn*, 263 Ill. App. 3d 170, 178-79 (1994) (finding that the defendant's flight from the scene, instruction to his friend not to say anything, and his disposal of the murder weapon belied her claim that she acted in self-defense).

¶ 51 Given this evidence, and the reasonable inferences therefrom, a reasonable trier of fact could conclude that defendant's use of deadly force was not objectively reasonable and thus the State negated his claim of self-defense.

¶ 52 Defendant nevertheless argues that the evidence was insufficient to prove that he did not act in self defense because: he was not the initial aggressor; if he was the initial aggressor, he had sufficiently removed himself from the altercation; Tyrone's and Johnson's testimony was incredible and impeached; and Jerrell and Tyrone had a history of violence.

¶ 53 Defendant's arguments are, essentially, asking us to reweigh the evidence in his favor and substitute our judgment for that of the trier of fact. This we cannot do. See *People v. Collins*, 214 Ill. 2d 206, 217 (2005) ("In reviewing the evidence, it is not the function of th[is] court to retry the defendant, nor will we substitute our judgment for that of the trier of fact."). The court heard from multiple witnesses, including defendant, regarding what transpired. The court also heard about Jerrell and Tyrone's history of violence. In announcing its ruling, the court found that defendant was unreasonable in his belief that the use of deadly force was necessary. It is the

responsibility of the trier of fact to resolve conflicts in the testimony, weigh the evidence, and draw reasonable inferences from the facts. *People v. Gray*, 2017 IL 120958, ¶ 35. A reviewing court will not reverse a conviction simply because defendant claims that a witness was not credible. See *People v. Evans*, 209 Ill. 2d 194, 211-12 (2004). Moreover, discrepancies in testimony affect only its weight and the trier of fact is charged with deciding how such flaws impact the credibility of the whole. *Gray*, 2017 IL 120958, ¶ 47. After reviewing the record, we cannot say that the evidence is so unreasonable, improbable, or unsatisfactory that there remains a reasonable doubt of the defendant's guilt.

¶ 54 For these reasons, we affirm the judgment of the circuit court of Cook County.

¶ 55 Affirmed.