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2018 IL App (3d) 170524-U

Order filed November 2, 2018

IN THE

APPELLATE COURT OF ILLINOIS

THIRD DISTRICT

2018

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Circuit Court of the 13th Judicial Circuit, La Salle County, Illinois,
Plaintiff-Appellee,	)	
v.	)	Appeal No. 3-17-0524 Circuit No. 15-CF-229
CODY L. SMITH,	)	Honorable Cynthia M. Raccuglia,
Defendant-Appellant.	)	Judge, Presiding.

JUSTICE WRIGHT delivered the judgment of the court.
Justices Holdridge and Schmidt concurred in the judgment.

ORDER

¶ 1 *Held*: The admission of other-crimes evidence at defendant's bench trial did not deprive defendant of his right to a trial by jury. The evidence presented at trial did not establish entrapment.

¶ 2 Following a bench trial, the trial court found defendant guilty of three counts of solicitation of murder for hire. On appeal, defendant contends the trial court's erroneous pretrial ruling to allow the admission of other-crimes evidence forced defendant to waive his right to a

jury trial, thereby depriving defendant of his right to a trial by jury. Defendant further argues that the State failed to prove the absence of entrapment beyond a reasonable doubt.

¶ 3 I. BACKGROUND

¶ 4 On May 2, 2016, the State charged defendant with an additional three counts of solicitation of murder for hire pursuant to section 8-1.2(a) of the Criminal Code of 2012 in La Salle County case No. 15-CF-229. 720 ILCS 5/8-1.2(a) (West 2014). The targets of the solicitation of murder offenses were three witnesses involved in the pending prosecution of defendant for predatory criminal sexual assault of a child, namely, Tiffany Michalski, Joseph Cartwright, and Lacie Roberts.

¶ 5 On July 22, 2016, the State filed a motion seeking to introduce evidence pertaining to the predatory criminal sexual assault offense. The prosecution argued the other-crimes evidence was relevant to establish defendant's motive for soliciting the murders of Michalski, Cartwright, and Roberts. Specifically, the State was seeking to introduce the videotaped interview of defendant implicating himself in the predatory criminal sexual assault of a child.

¶ 6 On September 1, 2016, the court ruled that defendant's videotaped interview would be admissible during the jury trial. However, the court required the parties to redact portions of the interview that were more prejudicial than probative. Specifically, the court stated:

> "we are not going to get into the sex thoughts and like and what [defendant] was thinking and whether he thought of this young girl."
>
> ***
>
> Here's is what I'm going to allow and I'm going to have the two of you work on this. And if you can't — now again, when I say work on this, while I'm asking the defense to work on it, I'm not in any way forcing — you're — I know and I will continue to say

whatever you do, it's not by agreement. I just want you to know that. Okay. And if I have to rule — I know exactly what I want, but I'm not going to take the time to do the tape and say this, that, and this. I know the two areas I want in the tape. I want the beginning. Not I want. I don't want it. I don't want any of it. I would prefer that the tape — I shouldn't say it that way. I would prefer that it not be in this trial. But again, the law is the law. And by the way, I'm not bending the law. I'm ruling on the exception to the law. And the law is — because there has been some suggestion this court is bending the law. No. It's an exception to the law. And I'm going to allow the beginning, the admission, until we get up to him starting to say what did you — when did you think about — and there's a whole discussion about sex. That's out.

The next part I'm going to allow in is when the police officer says to him so what do you think should happen to you? And the rest of that.

But I want out all this discussion about sex and what he thinks about sex, what he thought about her. That is totally not supported and it's going to be — and sure, it's relevant, but it's more prejudicial.

Now, I want you to edit it that you think fits my ruling, and I want you to look at it."

¶ 7 On February 24, 2017, the following conversation took place between defense counsel, the court, and defendant:

"MR. MUELLER: I will Your Honor. I've reviewed the transcripts in regard to this hearing. I did not file a motion to reconsider or anything like that. I think you've taken everything in to consideration. I want to make clear for the record that our position

is that the video as it is edited is far more prejudicial than it is probative. I assume you've taken that in to consideration.

THE COURT: Yes, I have.

MR. MUELLER: The video as we've seen it is what you are allowing the State to introduce?

THE COURT: Right.

MR. MUELLER: And taking that in to consideration, Your Honor, I anticipate that my client is going to waive and ask for a bench trial. Maybe I can step aside for one minute so that I can confirm that and then we'll re-approach.

THE COURT: Absolutely.

MR. MUELLER: Your Honor, at this time the defendant is asking to waive his right to a jury trial and ask to be tried by a judge sitting alone.

THE COURT: Is that your request, [defendant]?

[DEFENDANT]: Yes.

THE COURT: And are you making that request voluntarily?

[DEFENDANT]: Yes, I am."

Additionally, defendant signed a written jury waiver. On March 7, 2017, defendant's bench trial began. Defendant asserted the defense of entrapment.[1]

¶ 8 The State first called Curt Martin (Curt)[2], a detective for the La Salle Police Department. Curt testified that in May 2015, Michalski reported defendant sexually assaulted her two-year-old daughter. Curt explained that Cartwright and Roberts were also witnesses involved in the sexual assault case.

[1]On December 6, 2016, defendant formally raised the affirmative defense of entrapment.

[2]Because two Detective Martins exist in the record, we will refer to Curt Martin as "Curt" and Jason Martin as "Martin."

¶ 9 According to Curt, on June 9, 2015, Curt and other law enforcement officers conducted a videotaped interview of defendant at the La Salle Police Department. The court allowed the State's request to admit the videotaped interview into evidence as People's exhibit No. 1. Defendant told Curt he was homeless at the time of the interview.

¶ 10 The State called Roberts to testify. Roberts indicated that she was friends with Michalski and was familiar with the victim involved in the sexual assault case. Roberts also knew defendant and stated that she met defendant at a homeless shelter in 2014. Roberts testified that she expected to be called as a trial witness in that case. On cross-examination, Roberts noted that defendant was a little slower than the average person.

¶ 11 The State called Jason Martin, a detective for the La Salle County Sherriff's office to testify. Martin testified that, in April 2016, Martin received information indicating that defendant was looking to have witnesses in that case murdered. Martin began his investigation on April 6, 2016, by listening to a recorded phone call that took place between defendant and his mother on that date. During this phone call defendant confidently stated that he would be released by the next court date and made a reference about witnesses not showing up.[3]

¶ 12 Two days later, Martin interviewed Darren Farris, an inmate incarcerated in the same jail "pod" with defendant. Farris provided Martin with details about defendant's plot to have the witnesses in the sexual assault case murdered. Farris showed Martin a written list of three people defendant wanted killed, including their names, addresses, and phone numbers. Farris told Martin that the list was written by defendant.

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[3]The State admitted a video recording of this conversation as People's exhibit No. 2.

¶ 13 Farris agreed to cooperate in an investigation, and consented to a court-ordered eavesdrop, also known as an "overhear." On April 26, 2016[4], a recorded conversation took place between defendant and Farris. Farris advised defendant that Farris could not carry out the murders because Farris was incarcerated. Defendant expressed frustration that "the job" was not getting done.

¶ 14 On April 27, 2016, Farris placed a staged phone call to an officer posing as the hit man. After Farris handed the phone to defendant, defendant spoke with the hit man and arranged an in-person meeting. One day before the prearranged meeting between defendant and the purported hit man, Farris told defendant Michalski had been killed by the hit man. To perpetuate this narrative, officers coordinated with Michalski. Michalski agreed to allow the officer to take a photograph depicting Michalski deceased and with a visible gunshot wound.

¶ 15 The in-person meeting between defendant and the hit man took place on May 1, 2016. A recorded conversation between defendant and the hit man took place in the visiting room. During the meeting, defendant viewed a photograph of a "deceased" Michalski and a second photograph of defendant's mother and stepfather. After showing the photographs to defendant, the purported hit man told defendant he would be visiting defendant's mother and stepfather if defendant did not pay for the purported hit man's services.

¶ 16 The State called Michalski to testify. Michalski testified that she met defendant through her friend, Roberts. In May 2015, Michalski learned that a sexual incident may have taken place between defendant and her daughter. Michalski reported the incident to the police and made a statement. Michalski was a witness in the case.

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[4]The State admitted the April 26, 2016, recording as People's exhibit No. 4, and the recording was played in open court.

¶ 17 The State called Garen Demery, a deputy with the Peoria County Sherriff's Office, to testify. In April 2016, the Peoria County Sheriff's Office requested Demery go to La Salle County to act in an undercover capacity and pose as a hit man. Demery was advised that defendant had agreed to pay Farris $5000 to carry out the murders of Michalski, Cartwright, and Roberts. On April 27, 2016, Demery received a call from Farris, then defendant came onto the phone. Demery asked defendant if defendant had a job for him and if there were some people defendant wanted Demery to "visit." Defendant then provided Demery with the names and addresses of the people he wanted "visited." Defendant agreed to pay Demery for visiting these people and agreed to put Demery on the visitor's list. Demery told defendant that "once the job was done, there was no going back." Demery made this statement so that defendant "would understand the permanence of these visits to these people," and to provide defendant with "a way out" or an opportunity for defendant to say he did not want to proceed.[5]

¶ 18 On May 1, 2016, Demery met with defendant at the jail and displayed a photograph of Michalski who had been "done up" by a makeup artist to appear as if she had been shot once in the chest and once in the head. Demery also displayed a photograph of defendant's parents to defendant. Demery showed defendant the photograph of the "deceased" Michalski. Demery asked defendant "if this is what he wanted done to the other two and he nodded that it was." Demery told defendant that he was going to visit the next two if that was "cool" with defendant and defendant said "yes." Demery then told defendant he would need $2000 more to visit everybody. Defendant agreed. Demery told defendant that if Demery did not receive this money, defendant's family would be next. Demery then showed defendant the picture of defendant's family.[6]

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[5]The State admitted the recording of this conversation into evidence as People's exhibit No. 5.
[6]The State admitted the recording of this conversation into evidence as People's exhibit No. 10.

¶ 19 The State called Darren Farris to testify. At the time of his testimony, Farris was in the custody of the La Salle County Jail for the offense of failure to register as a sex offender. Farris had an extensive criminal history, including aggravated criminal sexual abuse, forgery, obstructing justice, manufacture/delivery of a look-alike substance, deceptive practice, another forgery, and possession of a stolen vehicle. After his most recent arrest, Farris was placed in "H pod" which housed 11 to 15 people. Farris met defendant in "H pod." Farris was roughly 20 years older than defendant.

¶ 20 Farris testified that he played Monopoly with defendant on multiple occasions. During one of their monopoly games, defendant told Farris he was incarcerated for touching a young lady with his finger and indicated that he did not want the witnesses to come to court. Defendant told Farris that he would ask his mom to bond Farris out because he had something he needed Farris to do. Defendant said he needed Farris to get rid of someone, kill them. Farris told defendant he would think about it and that they would talk about it more.

¶ 21 Farris testified that he played along with defendant's request and told defendant he would need the names and addresses of the individuals defendant wished to be killed. Defendant wrote out the names and addresses of the people he wanted murdered in front of Farris, gave the list to Farris, and told Farris those were the individuals he wanted Farris to "handle." With regard to Michalski, defendant told Farris to "kill that bitch." Farris misplaced the list and asked defendant to write out a duplicate list, which defendant wrote on an envelope in front of Farris. Farris denied saying anything to suggest killing witnesses in defendant's case.

¶ 22 Farris was upset by defendant's request and reached out to psychiatrist Dani Avalon. Farris did not think a psychiatrist could "cut a deal" for him in his criminal case and was not looking to get a deal. After the meeting with Avalon, Farris wrote a letter to Jeremiah Adams in

the State's Attorney's Office. The letter indicated that Farris was willing to testify against defendant if Farris received some help on his case. A few days after Farris wrote the letter, he was escorted to the sheriff's department where he met with his public defender and Martin.[7]

¶ 23 On April 26, 2016, Farris participated in an "overhear" with defendant. Farris and defendant were escorted to an isolated cell. On that date, defendant told Farris to kill Michalski's boyfriend if he was present. In the recording, defendant agreed to pay Farris $5000 to do the job. As they were getting ready for bed that night, Farris pretended to be talking to the hit man on the telephone. Thereafter, Farris told defendant that Michalski had been killed. Defendant was excited.

¶ 24 The next day, defendant met with the purported hit man. When defendant returned to the cell, he was happy and told Farris he saw a picture of Michalski dead. Defendant told Farris that if he did not pay, the hit man would kill his parents. Defendant told Farris that defendant would be out of jail on August 19, 2016.

¶ 25 On cross-examination, Farris admitted he had been convicted of crimes of dishonesty more than 10 times. Farris stated that this was the second time he had "turned" the State's evidence. Farris explained the first time he used the same procedure by initiating contact with the State's Attorney's Office. In the first situation, Farris helped law enforcement set up a drug deal while he was out on electronic home monitoring. Farris stated that he did not expect to get a better deal on this particular case for helping law enforcement prosecute defendant.

¶ 26 The court took judicial notice of Farris's criminal record. At the conclusion of the State's evidence, the trial court denied defense counsel's motion for a directed finding.

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[7]On approximately July 11, 2016, Farris was released from jail and placed on electronic home monitoring. Farris was arrested while on home confinement for felony retail theft and returned to jail.

¶ 27 The defense called Dr. Jean Clore, a clinical psychologist, who testified as an expert witness. Dr. Clore conducted a fitness evaluation of defendant prior to trial. Dr. Clore interviewed defendant at the La Salle County Jail. Dr. Clore conducted testing of defendant including a brief cognitive or intellectual assessment called the Shipley-2. Defendant scored 63, which was "in the low average range." Dr. Clore learned that defendant was in special education classes during school. Defendant's jail records indicated that he had previously been diagnosed with a depressive disorder and that defendant may have a mild intellectual disability. Dr. Clore diagnosed defendant with major depressive disorder recurrent and intellectual disability mild. A mild intellectual disability manifests itself by someone being a slower learner, having poor memory, having impaired judgment or being immature for their age. People with mild intellectual disabilities tend to be a little more gullible and might fall for things that someone of average intelligence may not. Defendant was depressed and placed on suicide watch while in jail.

¶ 28 Defendant testified on his own behalf. Defendant stated that he was in special education classes and dropped out of high school during his junior year at the age of 18. Defendant was homeless prior to being arrested. His last employment involved pushing carts at Walmart.

¶ 29 Defendant testified that he did not approach anyone about hurting three individuals. According to defendant, Farris told defendant that Farris knew some people who "have been killing for a while and he can get this over with before my next court date." Defendant responded "no." Defendant claimed he tried to alert the deputy, corporal, a couple of sergeants, and the superintendent by writing request slips and letters about the situation but no one responded.

¶ 30 Over the next couple of weeks, Farris asked defendant every day if defendant wanted the witnesses not to show up at his court date. According to defendant, Farris continually asked

defendant about defendant's case. Defendant told the court that he moved within the jail because of the constant conversations.

¶ 31 Defendant eventually told Farris he did not want the witnesses, Michalski, Cartwright, and Roberts, to appear on his trial date for the sexual assault case. Farris told defendant that if these three people did not show up as witnesses, defendant's case would be dismissed. Defendant testified that he did not suggest paying anybody to commit a murder. Defendant did not have any money and the $5000 payment was Farris's idea. When defendant told Farris he wanted to back out of the murder-for-hire plot, Farris stated that it was too late and that one of them was already taken care of.

¶ 32 Defendant had a visit with the alleged hit man. After seeing the picture of Michalski, defendant thought it was too late to back out. According to defendant, when he returned to his jail pod, defendant was both shocked and upset. Shortly thereafter, defendant was interviewed by law enforcement and realized he had been set up.

¶ 33 The State called Jason Edgcomb, the La Salle County Jail Superintendent, in rebuttal. Edgcomb testified that between March 2016, and May 1, 2016, defendant did not submit any complaints claiming defendant was being intimidated. Defendant did not address any plot to have someone killed.

¶ 34 The trial court found defendant guilty of three counts of solicitation for murder. As part of the court's guilty finding, the court stated "the only evidence supporting the case of entrapment has come from [defendant], and the tapes and the best evidence totally contradict his testimony here in open court." On July 3, 2017, defendant filed a motion for a new trial arguing that the trial court erred by introducing defendant's videotaped statement, and erred in ruling that the State had proven defendant guilty beyond a reasonable doubt. On July 21, 2017, the trial

court denied defendant's motion for a new trial and sentenced defendant to 30 years in the Illinois Department of Corrections. On August 16, 2017, defendant filed a timely notice of appeal.

¶ 35 II. ANALYSIS

¶ 36 On appeal, defendant first assigns error to the trial court's decision to allow the introduction of other-crimes evidence in the form of defendant's videotaped interview.[8] Defendant posits that but for the trial court's ruling, defendant would have maintained his right to a jury trial, thus, the trial court violated his right to a jury trial.

¶ 37 The State argues that the videotaped interview was both relevant and highly probative on the issue of motive. Alternatively, the State argues that even if the video was improperly admitted, it is presumed that the trial court considered the other-crimes evidence only for the limited purpose of motive only and was not overpersuaded by the contents of the videotape.

¶ 38 In Illinois, a criminal defendant's constitutional right to a trial by jury also includes the right to waive a jury trial. *People v. Bannister*, 232 Ill. 2d 52, 65 (2008). Section 103-6 of the Code of Criminal Procedure of 1963 provides: "Every person accused of an offense shall have the right to a trial by jury unless *** understandingly waived by defendant in open court." 725 ILCS 5/103-6 (West 2014); See *People v. Turner,* 375 Ill. App. 3d 1101, 1108 (2007). As the facts are not in dispute, this issue presents a question of law to be reviewed *de novo. Id.*

¶ 39 It is impossible to know whether defendant would have presented his defense to a jury under any circumstances due to the nature of the accusations against him. However, even assuming that the trial court's evidentiary ruling played any role in defendant's decision to waive his right to a jury trial, defendant's argument that his conviction should be set aside on this basis

[8]For clarification, we again note that the other-crimes evidence in this case originates from count I of La Salle County case No. 15-CF-229.

is wholly unsupported by case law. Defendant's position on appeal ignores long-standing precedent that a court's ruling cannot *directly* deprive a defendant of the constitutional right to a jury trial where the record demonstrates that defendant understandably and voluntarily waived his constitutional right both verbally and in writing. *People v. Kratovil*, 351 Ill. App. 3d 1023, 1034-35 (2004); see also *People v. DeBerry*, 375 Ill. App. 3d 822, 827 (2007) (holding that the trial court's failure to rule on a motion *in limine* prior to the defendant testifying did not deprive defendant of his constitutional right to testify where defendant still had the option to testify or not testify).

¶ 40 Here, defense counsel informed the court that defendant was waiving his right to a jury trial. When the court asked if this was defendant's request, defendant replied "Yes." When the court also asked if defendant was making the jury waiver request voluntarily, defendant replied "Yes, I am." Additionally, defendant signed a written jury waiver form that is contained in the record.

¶ 41 These uncontradicted facts of record show that defendant executed an understanding waiver in this case. Thus, we hold that defendant's decision to have a trial before a judge did not directly compromise his corresponding right to a jury trial.

¶ 42 Furthermore, the premise behind the potential exclusion of other-crimes evidence is based on the belief that such evidence may overly influence a jury, acting as the trier of fact, to convict a defendant based on the fact that defendant is a bad person who deserves punishment. *People v. Donoho*, 204 Ill. 2d 159, 170 (2003). In light of this generally held belief, it stands to reason that the risk of the improper persuasion of a jury is greatly reduced in a bench trial, where the other-crimes evidence is introduced for a limited purpose, and the presumption is that the trial court considered it only for that purpose. *People v. Nash*, 2013 IL App (1st) 113366, ¶ 24;

See also *People v. Jaynes*, 2014 IL App (5th) 120048, ¶ 55. Here, the trial court's ruling was interlocutory. As trials progress, interlocutory rulings may be subject to change.

¶ 43 In this case, when it came time to introduce the edited videotape into evidence, the trier of fact was the judge, rather than a jury. Thus, when evaluating whether the introduction of the videotaped interview unfairly prejudiced the trier of fact, we measure prejudice based on what actually happened at trial, not on what prejudice defendant may have sustained had his trial been before a jury. The record on appeal is devoid of any evidence that the trial judge shirked her obligation to properly consider this evidence for the very limited purpose of establishing motive. Based on this trial judge's experience, we presume the seasoned trial judge was not overpersuaded by the details of the confession. It is unnecessary to speculate on whether jurors may have been able to view the video with the same degree of neutrality.

¶ 44 Moreover, as noted by a panel member during oral arguments, the same judge viewed the entire videotape before making her ruling to edit portions of the videotape that could have been unfairly prejudicial when considered by jurors. Carrying defendant's argument to a logical extreme, even if the trial judge had excluded the entire videotape, this particular trial judge would have been improperly and irreparably biased against this defendant. Defendant's position on appeal is not persuasive. For these reasons, we hold that any potential error committed by the trial court when admitting defendant's videotaped interview was harmless.

¶ 45 Next, defendant argues the State failed to prove defendant committed solicitation of murder for hire beyond a reasonable doubt due to the presence of entrapment. To clarify, "[a] defendant who raises entrapment as an affirmative defense necessarily admits to committing the crime, albeit because of improper governmental inducement." See also *People v. Arndt*, 351 Ill. App. 3d 505, 515 (2004); *People v. Rivas*, 302 Ill. App. 3d 421, 432 (1998). Thus, instead of

arguing that defendant did not commit solicitation of murder for hire, defendant argues he established the defense of entrapment. Defendant contends that once he established slight evidence of entrapment, the State failed to prove the absence of entrapment beyond a reasonable doubt.

¶ 46 When a challenge to the sufficiency of the evidence is at issue, the relevant question before a court of review is whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. *People v. Collins*, 106 Ill. 2d 237, 261 (1985). During a bench trial, the trial judge is tasked with determining witness credibility, weighing the evidence and any inferences to be derived from the evidence, and resolving conflicts in the evidence. *People v. Brown*, 2017 IL App (1st) 142877, ¶ 39. "It is the duty of the court in a bench trial to determine the credibility of the witnesses and the weight to be given their testimony, and unless the evidence is so improbable or unsatisfactory as to leave a reasonable doubt of defendant's guilt, the finding of the court will not be disturbed." *People v. Wilson*, 34 Ill. App. 3d 389, 392 (1975).

¶ 47 Section 8-1.2 of the Criminal Code of 2012 provides that:

> "A person commits the offense of solicitation of murder for hire when, with the intent that the offense of first degree murder be committed, he or she procures another to commit that offense pursuant to any contract, agreement, understanding, command, or request for money or anything of value." 720 ILCS 5/8-1.2(a) (West 2016).

¶ 48 In conjunction with defendant's entrapment argument, section 7-12 of the Criminal Code of 2012 provides that:

> "A person is not guilty of an offense if his or her conduct is incited or induced by a public officer or employee, or agent of either, for the purpose of obtaining evidence for

the prosecution of that person. However, this Section is inapplicable if the person was pre-disposed to commit the offense and the public officer or employee, or agent of either, merely affords to that person the opportunity or facility for committing an offense." 720 ILCS 5/7-12 (West 2016).

¶ 49 Accordingly, entrapment requires two elements: (1) that the State improperly induced defendant; and (2) that defendant was not otherwise predisposed to commit the offense. *People v. Glenn*, 363 Ill. App. 3d 170, 173 (2006). "Generally, predisposition is established by proof that the defendant was ready and willing to commit the crime without persuasion and before his or her initial exposure to government agents." *People v. Criss*, 307 Ill. App. 3d 888, 897 (1999). If the accused presents even slight evidence of entrapment, the State must, in turn, prove the absence of entrapment beyond a reasonable doubt. *Arndt*, 351 Ill. App. 3d at 515.

¶ 50 In this case, detective Martin established the evidentiary foundation for the admission of a recorded telephone call defendant made to his mother from the jail on April 6, 2016. In this recording, defendant confidently told his mother he would be released by the next court date and made statements such as "if they don't show up, it's over," "somebody knows someone and they're not too happy," "I can't say any more about that," "he'll be taking care of that out there," and "I'm hoping that she don't show up."

¶ 51 Two days later, on April 8, 2016, Farris first spoke to detective Martin. During this conversation with Martin, Farris indicated that defendant originally approached him about murdering the witnesses on March 19, 2016, just two days after Farris was incarcerated. Farris showed Martin a handwritten list, purportedly written by defendant, containing the names of three individuals. The handwritten list included names, addresses, and phone numbers of the intended murder victims.

¶ 52 The State presented the testimony of Farris. The trial court had the opportunity to assess Farris's credibility first hand. According to Farris, during a Monopoly game, defendant told Farris he was incarcerated for touching a young lady with his finger. Defendant told Farris that defendant did not want the witnesses to come to court. Defendant also told Farris that defendant would ask his mother to post bond for Farris because defendant had something defendant needed Farris to do for defendant. According to Farris, defendant said he needed Farris to get rid of someone by killing that person.

¶ 53 Farris played along with defendant's request and told defendant he would need the names and addresses of the individuals defendant wished to be killed. Defendant wrote out the names and addresses of the people he wanted murdered in front of Farris, gave the list to Farris, and told Farris those were the individuals he wanted Farris to "handle." With regard to Michalski, defendant told Farris to "kill that bitch." Farris denied saying anything to suggest killing witnesses in defendant's case.

¶ 54 Farris testified that he was upset by defendant's request and reached out to psychiatrist Dani Avalon. After the meeting with Avalon, Farris wrote a letter to Jeremiah Adams in the State's Attorney's Office offering to testify against defendant if Farris could receive some help on Farris' pending prosecution. A few days after Farris wrote the letter, he met with his public defender and detective Martin. Farris relayed the information about the case to Martin and showed Martin the envelopes with the witnesses' names on it. Only at this point did Farris agree to take part in a court-ordered "overhear."

¶ 55 Defendant argues that Farris was not a credible witness and was the only witness able to testify to the issue of entrapment. Defendant points out that defendant's testimony is directly

contrary to Farris's claim that Farris did not instigate the murder for hire plot, which was the pure initiative of defendant.

¶ 56 Defendant is correct that the testimony of a jailhouse informant must be viewed with caution. *People v. Belknap*, 2014 IL 117094, ¶ 36. However, it was the trial court's duty to determine the credibility of the witnesses and the weight to be given to their testimony. When the trial court found defendant guilty, the court stated that "the only evidence supporting the case of entrapment has come from [defendant], and the tapes and the best evidence totally contradict his testimony here in open court."

¶ 57 It is obvious that the trial court did not believe defendant's version of events and made a credibility determination that was clearly within the province of the trier of fact. We find no basis to discard the trial court's determinations of credibility and findings of fact. The testimony of the State's witnesses established that Ferris was not a government agent until defendant and his public defender met with the State's Attorney. Thus, defendant failed to demonstrate any evidence of entrapment. We conclude the State's evidence was sufficient to prove defendant guilty of solicitation of murder for hire beyond a reasonable doubt.

¶ 58 III. CONCLUSION

¶ 59 The judgment of the circuit court of La Salle County is affirmed.

¶ 60 Affirmed.