

NOTICE
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2018 IL App (4th) 160112-U

NO. 4-16-0112

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED
September 11, 2018
Carla Bender
4th District Appellate
Court, IL

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the
Plaintiff-Appellee,)	Circuit Court of
v.)	Champaign County
EMMANUEL D. CHOUNARD,)	No. 15CM420
Defendant-Appellant.)	
)	Honorable
)	Michael Q. Jones,
)	Judge Presiding.

PRESIDING JUSTICE HARRIS delivered the judgment of the court. Justices Knecht and Cavanagh concurred in the judgment.

ORDER

¶ 1 *Held:* The prosecutor did not engage in misconduct which deprived defendant of his right to a fair trial.

¶ 2 A jury found defendant, Emmanuel D. Chounard, guilty of resisting or obstructing a peace officer 720 ILCS 5/31-1(a) (West 2014). The trial court sentenced him to 30 days in jail. Defendant appeals, arguing that the prosecutor engaged in misconduct which deprived him of his right to a fair trial. We affirm.

¶ 3 I. BACKGROUND

¶ 4 In May 2015, the State charged defendant with resisting or obstructing a police officer (720 ILCS 5/31-1(a) (West 2014)) based upon allegations that defendant repeatedly disobeyed commands to step out of his hotel room during the investigation of a domestic

violence complaint.

¶ 5 On December 1, 2015, prior to the start of defendant's trial, the State moved *in limine* to admit evidence that two females were discovered in defendant's hotel room when police officers investigated the complaint of domestic violence. The State explained that it expected to elicit testimony regarding the ages of the females as well as the fact that there was an outstanding warrant for the arrest of one female. The State argued the evidence bore on defendant's motive. Over defendant's objection, the trial court granted the motion *in limine*, stating, "[T]his would be admissible testimony for a minimum of explaining why the police came there and why they investigated."

¶ 6 That same day, defendant's jury trial commenced. During opening statements, the prosecutor informed the jury that it would hear testimony from police officers that defendant ignored repeated commands to exit his hotel room. The prosecutor further stated as follows:

“[A]fter [defendant] was removed from the room and could no longer interfere[,] the police did search the room and were able to turn on the lights and discover that that room was connected to another room, [r]oom 317, and they were able to find in fact that two young females were hiding in closets in various parts of these hotel rooms. One 18 year old who had a warrant out for her arrest from Macon County and another girl hiding in another closet who was aged 17.”

Defense counsel did not object during the prosecutor's opening statement.

¶ 7 The State presented the testimony of three police officers from the Urbana Police Department. Officer Jared Hurley testified that, on the evening of May 3, 2015, he was dispatched to defendant's hotel room after an anonymous caller reported overhearing someone in

defendant's room saying, "I'm going to break your neck and maybe slap you in the face." At the time, Officer Hurley was in a squad car with Officer Elizabeth Alfonso, and they arrived at defendant's hotel room approximately two or three minutes after receiving the dispatch call. Officer Ronald Timmons was also dispatched to defendant's hotel room. Officer Hurley testified that they were wearing police uniforms at the time.

¶ 8 Officer Hurley testified that he knocked on the door of defendant's hotel room. A male responded, asking who was there. Officer Hurley identified himself as a police officer and asked defendant to open the door. According to Officer Hurley, the male, later identified as defendant, stated that he would not open the door because he had a "reasonable expectation of privacy in his hotel room." During this exchange, defendant's door remained "closed and latched." The officers advised defendant that they would retrieve a key to his room, to which defendant responded, "go ahead and go get a key." Officer Alfonso went to retrieve a key to defendant's room, and she returned with the hotel owner. Officer Hurley announced that he was going to enter the room. The hotel owner inserted the key to open the door to defendant's room, the officers opened the door, and the owner immediately left.

¶ 9 Officers Hurley and Timmons entered defendant's hotel room and stood in the "threshold of the room" while Officer Alfonso stood behind them. A shirtless male "stepped out from around the bathroom area" in front of Officer Hurley and asked the officers what they were doing there. Defendant then approached the officers until he stood approximately five feet away from them. He repeated that he had a reasonable expectation of privacy in the hotel room. Officer Hurley testified that defendant's demeanor was "very aggressive" and "very angry." Officer Hurley asked defendant if anyone else was in the room, and defendant responded, "do

[you] see anybody[?]"

¶ 10 Officer Hurley told defendant they were there to investigate a domestic violence complaint. In a loud voice, defendant continued to state that he had a reasonable expectation of privacy in the hotel room. Officer Hurley testified that he was not able to search the room to find other occupants or look for signs of violence while he interacted with defendant. He explained that defendant was "commanded multiple times" to step into the hallway, but defendant refused "every single time."

¶ 11 Officer Hurley testified that defendant was ultimately placed under arrest for resisting and obstructing a peace officer. After defendant was arrested, Officer Hurley searched the hotel room with Officer Alfonso. Officer Hurley stated that defendant's hotel room (room 318) adjoined another hotel room (room 317) where two females were discovered hiding in a closet. Officer Hurley testified as follows:

"MR. CROEGAERT [(The State):] And did you then try to search the room?

A. Yes. Officer Alfonso and I then conducted our search. We located that [r]oom 318 also leads to [r]oom 317 which is a suite basically, the two separate rooms.

Q. Did you find any occupants?

A. I did. I found an 18[-]year[-]old female.

MR. ZOPF [(Defense Counsel):] Judge, I'm going to object to the relevance of this. They've already covered the aspect which he's charged with. Anything after the fact is irrelevant.

THE COURT[:] Objection is sustained.

* * *

[(A sidebar conference transpired.)]

THE COURT: Objection is sustained.

MR. CROEGAERT [(The State):] Judge, I have no more questions for this witness.”

¶ 12 Next, Officer Ronald Timmons testified for the State. He stated that on May 3, 2015, he was dispatched to defendant’s hotel room after learning that an anonymous caller reported a verbal argument during which someone from defendant’s hotel room yelled, “I’m going to break your jaw[.] I’m going to break your neck.” Officer Timmons stated that he went to room 318 to “[m]ake sure nobody [was] hurt and in need of help.” After knocking on the door and announcing the reason for requesting entry, Officer Timmons explained defendant “made it clear that he was not going to open the door” and maintained that he had a “reasonable expectation of privacy in the hotel room ***.”

¶ 13 After the hotel owner unlocked the door to defendant’s room, Officer Timmons stepped inside “within a foot or two” to keep the door from “slam[ming] in [his] face.” At that point, defendant “started yelling” at the “top of his lungs” telling the officers to “get out.” Defendant was also “shouting *** statute numbers *** and trying to say that he knows the law and that we can’t come in ***.” When Officer Timmons asked whether anyone else was in the room, defendant asked if the officers saw “anybody else” there. Officer Timmons then requested that defendant step outside the hotel room. Defendant refused.

¶ 14 Officer Timmons testified that he was unable to search the hotel room to see if

there were other occupants because his attention was focused on defendant, who was “ranting and raving.” Officer Timmons “again attempted to get [defendant’s] cooperation[,]” but there was nothing they could do to “assuage [defendant’s] concerns.” Officer Timmons explained that defendant was then arrested. He stated that he could not hear any noises coming from inside the hotel room while defendant was being handcuffed because defendant continued “screaming in [his] ears from not very far away.” Officer Timmons took defendant to a squad car while Officers Hurley and Alfonso searched the room for other occupants. Officer Timmons explained that defendant “continued his tirade” while defendant was transferred to the squad car.

¶ 15 The State also presented the testimony of Officer Alfonso, who testified similarly to Officers Hurley and Timmons. Officer Alfonso stated that she was dispatched to defendant’s hotel room after receiving an anonymous domestic violence report. She testified that defendant would not permit the officers to enter his hotel room when they knocked and requested entry. Officer Alfonso then left to ask the hotel owner for a key to defendant’s room. She testified that the hotel room was dark when they entered. Defendant was “shouting,” saying that the officers had “no right” to be in his hotel room. Officers Timmons and Hurley asked if anyone else was in the room and attempted to explain that they needed to check on the welfare of any other occupants.

¶ 16 Officer Alfonso testified that defendant was “angry and hostile” and “squared up to all of the officers in the room.” She explained that she had a “[T]aser[,]” and she “turned the safety off *** since [she] wasn’t sure what would be happening in the next few moments.” Officer Alfonso stated that, on a “use of force scale” of 1 through 5, defendant was at the lowest level of the scale because he only used “verbal resistance.” However, she called for “additional

units” because “things were escalating,” there was “shouting,” and the officers “didn’t know if other people were in the room or not.” She testified that defendant was subsequently arrested, and at that point, the officers were able to search his hotel room. Officer Alfonso described the search of the hotel room as follows:

“MR. CROEGAERT [(The State):] At that point were you able to enter and search the room?

A. Yes.

Q. Did you discover that [r]oom 318 was connected to another room?

A. Yes.

MR. ZOPF [(Defense Counsel):] Objection. That’s irrelevant, [Y]our Honor.

THE COURT[:] Where are we going here? Same place as before?

MR. CROEGAERT [(The State):] Not quite, [Y]our Honor.

THE COURT[:] Well, you may answer.

A. Yes.

MR. CROEGAERT [(The State):] Did you find any other occupants to [r]oom 318?

A. There were two females.

MR. ZOPF [(Defense Counsel):] Objection, [Y]our Honor. 318. She’s already testified that it was clear.

THE COURT[:] Okay. The [d]efendant is accused of resisting or obstructing a peace officer. What subsequently turned out to be true or untrue

isn't really relevant to your decision. You will get the definition of resisting or obstructing a peace officer. Part of it is going to *** have to do with whether a police officer was engaged in the execution of their lawful official duties. It turned out to be true later. [It] [d]oesn't change whether or not[,] when the police officers did what they did[,] it was within the lawful execution of their duties. Objection is sustained. Ask another question.

MR. CROEGAERT [(The State):] I'm—I'm not sure what question I might ask about what occurred next, [Y]our honor. *** What occurred next?

A. We checked both rooms since they were adjoining.

MR. ZOPF [(Defense Counsel):] Objection, [Y]our Honor. We're only talking about [r]oom 318 here. Anything else is beyond the charge, not relevant and prejudicial.

THE COURT[:] Objection is sustained.

MR. CROEGAERT [(The State):] What happened next in [r]oom 318?

A. After—after [the] females were located, we spoke with them and got their identification.

MR. ZOPF [(Defense Counsel):] Judge, this *** did not occur in [r]oom 318. She's testified to that.

THE COURT[:] Is that an objection, Mr. Zopf?

MR. ZOPF [(Defense Counsel):] Objection, [Y]our Honor.

THE COURT[:] Thank you. The objection is sustained. The jury will disregard.”

¶ 17 On cross-examination, Officer Alfonso again testified about the two females. The following colloquy ensued:

“MR. ZOPF [(Defense Counsel):] And there was nobody in [r]oom 318, correct?

A. We didn’t know at that time whether or not.

Q. But there was never anybody found in [r]oom 318, correct?

A. Officer Hurley had found the two females. I’m not sure what you call—

Q. —[n]o[,] I’m not talking—

A. —a closet.

* * *

Q. Only as to [r]oom 318 did an officer find anyone else in there besides the registered guests?

A. I’m not sure Officer Hurley had found the females. I’m not sure which closets they were in.”

¶ 18 Before defendant testified, the trial judge cautioned the attorneys that questions regarding the officers’ search—and who the officers found inside the hotel room—would be allowed if defendant suggested that “nothing” was found in the hotel room. The trial judge stated as follows:

“THE COURT[:] The record should reflect the jury has left the courtroom and [the State] ha[s] rested. *** I’ve heard some things that concern me so I’m going to make some remarks here. I have sustained objections that had the effect

of prohibiting the State from introducing evidence as to things they found after the fact that might or might not justify their decision in hindsight to ask [defendant] to step out into the hall. I did so because if the police had found absolutely nothing to support an anonymous call, *** it wouldn't be relevant to whether or not the [d]efendant committed the offense of resisting or obstructing a peace officer. Similarly[,] had the police found somebody, *** [for] example, with a broken neck[,] it wouldn't be relevant to whether or not the [d]efendant committed the offense of resisting or obstructing a peace officer. It would be evidence after the fact and [it] *** would be highly prejudicial proof of another crime.

Having said that, I'm not *** going to allow argument that *** [officers] found nothing untoward in [r]oom [318] just because I didn't let [the State] bring in evidence of what they found in the adjoining room because now the suggestion might be implanted with the jury that [defendant's] umbrage was well[-]taken since there was nothing untoward within the walls of [room 318.] [S]o be advised if you want to make an offer of proof when the time comes so be it, but I haven't let [the State] go into what they found after the fact because it does not affect whether or not the [d]efendant is guilty of resisting or obstructing a peace officer[,] and I'm not going to let the [d]efendant try to suggest *** [room 318] was perfectly fine, [so] take that into account, ladies and gentlemen. I'm not going to let that argument either."

¶ 19

Defendant testified next on his own behalf. Defendant stated that, prior to his

arrest in May 2015, he had been a resident at the Landmark Hotel for approximately 2 1/2 months. In the early morning hours on May 3, 2015, he awoke when he heard a knock on the door. Defendant explained that, after the officers announced themselves, they asked if they could enter. Defendant stated that he had a “reasonable expectation of privacy ***.” The officers explained to him that they were there to investigate the report of a domestic disturbance. Defendant explained that the officers “again asked if they could come in, and [he] told them no, [he] ha[d] a reasonable expectation of privacy ***.” The officers then informed defendant that they would retrieve a key from the owner. Defendant testified that he “told the officers that’s what they would have to do.”

¶ 20 After the officers obtained a key and the door was opened, the officers again explained they were there to investigate a report of a domestic disturbance. They asked defendant if anyone else was in the room. Defendant testified that he “told them no.” An officer said they were there for safety reasons and asked again if anyone else was in the hotel room. Defendant testified that he responded, “do you see anybody?” An officer asked to search the room, and defendant said, “no.”

¶ 21 The officers then explained that they did not need permission to enter defendant’s hotel room. Defendant asked them, “well if that’s the case why haven’t you come in already.” According to defendant, one of the officers stated, “well my foot is already halfway in your door.” Defendant responded, “fuck your foot.” An officer said, “well we can do this the easy way or the hard way[,]” and defendant replied, “we’re going to do this the legal way ***.” Defendant stated, “if you can tell me[,] after viewing the room[,] what *** law you believe I’ve broken[,] then by law I have to let you come in and search my room[,] but you see there’s nothing going

on here so no I don't have to let you come in my room." Defendant testified that one of the officers asked him to "come into the hallway[,]” and defendant said, “no *** we can talk just like this.” The officer said, “we're going to ask you one more time if you'll come out into the hallway[,]” and defendant replied, “no.”

¶ 22 Defendant further testified that one of the officers “reached out to grab [his] arm” and defendant “snatched [his arm] back” and said, “no, *** you don't have any right to touch me ***.” At that point, one of the officers “grabbed” him and took him into the hallway. The officers then proceeded to search his room. Defendant denied “knowingly” attempting to obstruct the officers. When asked whether he “squared up on the officers,” defendant testified that he “make[s] it a habit of standing firm, head up, shoulders back.” He explained that it was a “military type squared up.”

¶ 23 On cross-examination, the State questioned defendant regarding the individuals discovered in the adjoining hotel room:

“MR. CROEGAERT [(The State):] And you *** said that you told [the officers] there was nobody in your hotel room, is that right?

A. Yes.

Q. Was there anyone else in your hotel room?

A. No.

Q. There was no other person in your room?

A. In room 318? No.

Q. Is your room connected to another room or was it at that time?

A. Yes.

Q. Through an open unlocked door?

MR. ZOPF [(Defense Counsel):] Object to the relevance, [Y]our Honor.

THE COURT[:] Objection is overruled.

A. I—I don't know if the *** door was unlocked.

THE COURT[:] This is appropriate cross[-]examination. You may answer.

MR. CROEGAERT [(The State):] And so you never had any interaction with anyone from [r]oom 317 that day?

A. Yes.

Q. And who was that?

A. Two females.”

¶ 24 During closing arguments, the State argued that the officers were responding to an emergency and “need[ed] [to] urgently *** clear the room to check *** whether someone actually [was] the *** victim of violence.” The State went on to say, “Imagine if someone is discovered in the bathroom or elsewhere in the room and that person is in distress[,] and now there are two officers *** in a room with this [d]efendant and two people. *** That’s why his remaining in the room and disobeying that lawful command to simply exit *** is *** obstruct[ion.]” Defense counsel did not object during the State’s closing argument.

¶ 25 Following deliberations, the jury found defendant guilty of the charged offense.

¶ 26 Defendant filed a posttrial motion arguing that his “constitutional rights of privacy” had been violated during his arrest. The trial court denied defendant’s posttrial motion.

¶ 27 In January 2016, the trial court sentenced defendant to 30 days in jail.

¶ 28 This appeal followed.

¶ 29 II. ANALYSIS

¶ 30 Defendant argues on appeal that the prosecutor engaged in misconduct which deprived him of his right to a fair trial.

¶ 31 A. Prosecutorial Misconduct

¶ 32 Though defendant raised objections at trial to the prosecutor's remarks regarding the two females discovered in the adjoining hotel room, he failed to raise the claim of prosecutorial misconduct in a posttrial motion. Thus, defendant has forfeited the issue. *People v. Smith*, 2016 IL 119659, ¶ 38, 76 N.E.3d 1251. He maintains, however, that his forfeiture may be excused under the plain error doctrine. A reviewing court may consider an unpreserved error in the following circumstances:

“ ‘(1) a clear or obvious error occurred and the evidence is so closely balanced that the error alone threatened to tip the scales of justice against the defendant, regardless of the seriousness of the error, or (2) a clear or obvious error occurred and that error is so serious that it affected the fairness of the defendant's trial and challenged the integrity of the judicial process, regardless of the closeness of the evidence.’ ” *People v. Thompson*, 238 Ill. 2d 598, 613, 939 N.E.2d 403, 413 (2010) (quoting *People v. Piatkowski*, 225 Ill. 2d 551, 565, 870 N.E.2d 403, 410-11 (2007)).

On review, “[t]he ultimate question of whether a forfeited claim is reviewable as plain error is a question of law that is reviewed *de novo*.” *People v. Johnson*, 238 Ill. 2d 478, 485, 939 N.E.2d 475, 480 (2010).

¶ 33 The federal and state constitutions guarantee criminal defendants a fair and impartial trial. U.S. Const., amend. XIV, § 1; Ill. Const. 1970, art. 1, § 2. To determine “whether a defendant's right to a fair trial has been compromised, we must decide whether the integrity, reputation, and fairness of the judicial process [have] been compromised.” *People v. Bowens*, 407 Ill. App. 3d 1094, 1111, 943 N.E.2d 1249, 1266 (2011). “[A] pattern of intentional prosecutorial misconduct may so seriously undermine the integrity of judicial proceedings as to support reversal ***.” *People v. Johnson*, 208 Ill. 2d 53, 64, 803 N.E.2d 405, 412 (2003). Reviewing courts “ask whether a substantial right has been affected to such a degree that we cannot confidently state that defendant's trial was fundamentally fair.” *People v. Blue*, 189 Ill. 2d 99, 138, 724 N.E.2d 920, 940-41 (2000).

¶ 34 Here, defendant claims second-prong plain error—error so serious that he was denied a fair hearing—as a result of prosecutorial misconduct where the prosecutor elicited testimony and made remarks about two females found hiding in the adjoining hotel room when such evidence was irrelevant. We note at the outset that, although defendant claims the prosecutor engaged in misconduct by eliciting or commenting on irrelevant evidence, he makes no claim on appeal that the trial court erred in admitting this evidence. In other words, defendant does not claim on appeal that the court erred in admitting evidence of the two females—only that the prosecutor’s comments or questions regarding this evidence amounted to misconduct. Defendant points to alleged improper remarks during the prosecutor’s opening statement and closing argument, as well as alleged improper questions during witness examinations. After examining the record, we cannot say that the actions of the prosecutor here amounted to clear or obvious error or denied defendant a fair trial. *Thompson*, 238 Ill. 2d at 613. Thus, we find no

plain error.

¶ 35 Defendant's first cited example of prosecutorial misconduct occurred during the prosecutor's opening statement. Specifically, defendant points to the prosecutor's comment that "two young females" were discovered in the adjoining room, one with a "warrant out for her arrest" and the other "aged 17." These remarks do not evidence misconduct. As stated, before the trial began, the court granted the State's motion *in limine* allowing this very evidence. In light of the court's express ruling, defendant's contention with respect to the State's opening statement lacks merit.

¶ 36 Next, defendant argues that, during the State's direct examination of Officer Hurley, the prosecutor improperly persisted in his questioning regarding the two females even after the court had sustained defense counsel's objections. The following exchange took place during Officer Hurley's direct examination:

"MR. CROEGAERT [(The State):] And did you then try to search the room?

A. Yes. Officer Alfonso and I then conducted our search. We located that [r]oom 318 also leads to [r]oom 317 which is a suite basically, the two separate rooms.

Q. Did you find any occupants?

A. I did. I found an 18[-]year[-]old female.

MR. ZOPF [(Defense Counsel):] Judge, I'm going to object to the relevance of this. They've already covered the aspect which he's charged with. Anything after the fact is irrelevant.

THE COURT[:] Objection is sustained.

* * *

[(A sidebar conference transpired.)]

THE COURT: Objection is sustained.

MR. CROEGAERT [(The State):] Judge, I have no more questions for this witness.”

Although the trial court sustained defense counsel’s objection regarding the two females found in the adjoining hotel room, the prosecutor did *not* ask additional questions of Officer Hurley after the court sustained the objection. Further, it cannot be argued that the question to which the objection was directed was not asked in good faith in light of the court’s *in limine* ruling. Thus, no misconduct occurred here.

¶ 37 Defendant also argues that the prosecutor engaged in misconduct when he questioned Officer Alfonso about the two females found in the adjoining hotel room after the court had sustained defense counsel’s objections. During the prosecutor’s direct examination of Officer Alfonso, the following colloquy ensued:

“MR. CROEGAERT [(The State):] At that point were you able to enter and search the room?

A. Yes.

Q. Did you discover that [r]oom 318 was connected to another room?

A. Yes.

MR. ZOPF [(Defense Counsel):] Objection. That’s irrelevant, [Y]our Honor.

THE COURT[:] Where are we going here? Same place as before?

MR. CROEGAERT [(The State):] Not quite, [Y]our Honor.

THE COURT[:] Well, you may answer.

A. Yes.

MR. CROEGAERT [(The State):] Did you find any other occupants to [r]oom 318?

A. There were two females.

MR. ZOPF [(Defense Counsel):] Objection, [Y]our Honor. 318. She's already testified that it was clear.

THE COURT[:] Okay. The [d]efendant is accused of resisting or obstructing a peace officer. What subsequently turned out to be true or untrue isn't really relevant to your decision. *** [It] [d]oesn't change whether or not[,] when the police officers did what they did[,] it was within the lawful execution of their duties. Objection is sustained. Ask another question.

MR. CROEGAERT [(The State):] I'm—I'm not sure what question I might ask about what occurred next, [Y]our honor. *** What occurred next?

A. We checked both rooms since they were adjoining.

MR. ZOPF [(Defense Counsel):] Objection, [Y]our Honor. We're only talking about [r]oom 318 here. Anything else is beyond the charge, not relevant and prejudicial.

THE COURT[:] Objection is sustained.

MR. CROEGAERT [(The State):] What happened next in [r]oom 318?

A. After—after [the] females were located, we spoke with them and got their identification.

MR. ZOPF [(Defense Counsel):] Judge, this *** did not occur in [r]oom 318. She's testified to that.

THE COURT[:] Is that an objection, Mr. Zopf?

MR. ZOPF [(Defense Counsel):] Objection, [Y]our Honor.

THE COURT[:] Thank you. The objection is sustained. The jury will disregard.”

¶ 38 We fail to see how the above constitutes prosecutorial misconduct. The prosecutor asked Officer Alfonso whether room 318 was connected to another room. The trial court allowed the question. When the prosecutor asked, “[d]id you find any other occupants to [r]oom 318,” Officer Alfonso responded, “[t]here were two females.” The court sustained defense counsel’s objection. Then the prosecutor asked, “[w]hat occurred next?” After defense counsel objected and the court sustained the objection, the prosecutor again asked, “[w]hat happened next in [r]oom 318?” The prosecutor’s question was not improper, especially in light of the fact that he limited his question “[w]hat happened next” to “[r]oom 318.” We do not view the prosecutor’s question as even objectionable, let alone as misconduct. The question did not specifically prompt Officer Alfonso to respond about room 317 or the two females. Instead, Officer Alfonso volunteered the objectionable information. Merely asking “[w]hat happened next” on two occasions is not the equivalent of repeatedly asking the same question that is specifically designed to elicit objectionable testimony. Suffice it to say it does not constitute prosecutorial misconduct.

¶ 39 We take this opportunity to address two cases defendant cites in support of his claim. Both are easily distinguishable from the instant case. In *People v. Hovanec*, 40 Ill. App. 3d 15, 18, 351 N.E.2d 402, 405 (1976), the court found defendant was entitled to a new trial where the prosecutor persisted in asking a witness the *same* question at least *five* times after the trial court sustained defense counsel’s objections. Even after an admonishment by the court, the prosecutor said to the jury, “ ‘So, who has something to hide ***?’ ” *Id.* The court concluded that these were not “inadvertent” errors. *Id.* “They were severely prejudicial and far exceeded the bounds of proper conduct.” *Id.* Likewise, in *People v. Larry*, 218 Ill. App. 3d 658, 662, 578 N.E.2d 1069, 1072 (1991), the court found reversal was warranted where the prosecutor repeated “the *same* basic question, not once, but *six* times ***.” (Emphasis added.) Neither *Hovanec* nor *Larry* is supportive of defendant’s claim here.

¶ 40 Defendant further complains that, during the prosecution’s cross-examination of defendant, the trial court “inexplicably” overruled defense counsel’s objections to the testimony concerning the two females found in the adjoining hotel room. As we noted above, immediately prior to defendant’s testimony, the trial judge cautioned that any testimony regarding who the officers found in the hotel room would be allowed *if* defendant testified that “nothing untoward” was found in his hotel room. The trial judge explained that, if defendant testified that nothing was found, “the suggestion might be implanted with the jury that [defendant’s] umbrage was well[-]taken ***.” Despite this warning, during defendant’s direct examination, defense counsel elicited testimony that “there was nobody else in [defendant’s] room.” Then, on cross-examination, the court allowed the prosecutor to ask defendant the following questions regarding the two young women:

“Q. Was there anyone else in your hotel room?

A. No.

Q. There was no other person in your room?

A. In room 318? No.

Q. Is your room connected to another room or was it at that time?

A. Yes.

Q. Through an open unlocked door?

MR. ZOPF [(Defense Counsel):] Object to the relevance, [Y]our Honor.

THE COURT[:] Objection is overruled.

B. I—I don’t know if the *** door was unlocked.

THE COURT[:] This is appropriate cross[-]examination. You may answer.

MR. CROEGAERT [(The State):] And so you never had any interaction with anyone from [r]oom 317 that day?

A. Yes.

Q. And who was that?

A. Two females.”

First, we find no prosecutorial misconduct occurred in light of the fact that the trial court overruled defense counsel’s objection. Second, the trial judge specifically warned counsel that questions regarding the two females would be allowed if defendant testified that “nothing untoward” was found in his room. Defendant arguably opened the door to the line of questioning regarding the young women when he testified that there was nobody else in his room.

¶ 41 Defendant's remaining assertion of error concerns the prosecutor's closing argument, during which the prosecutor referenced "defendant and two people" found in the hotel room. However, by this point in the trial, the court had already ruled that the testimony regarding the two females would be allowed. We fail to see how the prosecutor's comment regarding evidence admitted at trial can be deemed misconduct.

¶ 42 Based on the above, we find no clear or obvious error or that defendant was denied a fair hearing. Defendant has failed to establish plain error. *Thompson*, 238 Ill. 2d at 613.

¶ 43 III. CONCLUSION

¶ 44 For the reasons stated, we affirm the trial court's judgment. As part of our judgment, we award the State its \$75 statutory assessment against defendant as costs of this appeal.

¶ 45 Affirmed.