2018 IL App (4th) 160246-U

NO. 4-16-0246

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED
August 13, 2018
Carla Bender
4th District Appellate
Court, IL

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
Plaintiff-Appellee,	)	Circuit Court of
v.	)	Sangamon County
FLORENCE A. D'ELIA,	)	No. 14CM1751
Defendant-Appellant.	)	
	)	Honorable
	)	Brian T. Otwell,
	)	Judge Presiding.

JUSTICE TURNER delivered the judgment of the court.
Presiding Justice Harris and Justice Knecht concurred in the judgment.

ORDER

¶ 1 *Held*: The State's evidence was sufficient to prove defendant guilty of obstructing a peace officer, and defendant was not denied a fair trial.

¶ 2 In November 2014, the State charged defendant, Florence A. D'Elia, with one count of obstructing a peace officer (720 ILCS 5/31-1(a) (West 2014)). After a February 2016 trial, the jury found defendant guilty of the charge. Defendant filed a posttrial motion. At a joint April 2016 hearing, the Sangamon County circuit court denied defendant's posttrial motion and sentenced her to one year of conditional discharge.

¶ 3 Defendant appeals, asserting (1) the State's evidence was insufficient to prove her guilty beyond a reasonable doubt of obstructing a peace officer, and (2) she was denied a fair trial by improper remarks by the prosecutor during closing arguments. We affirm.

¶ 4 I. BACKGROUND

¶ 5 The State's November 2014 complaint alleged that, on October 21, 2014, defendant committed the offense of obstructing a peace officer, in that she knowingly obstructed the performance of Deputy Terry Roderick of an authorized act within his official capacity, being the investigation of a disturbance, by closing a door on Deputy Roderick's hand and thereby blocking Deputy Roderick's entry into the residence. In December 2015, the State amended its complaint to remove the language regarding defendant closing the door on Deputy Roderick's hand and preventing his entry and replaced it with language stating defendant ignored Deputy Roderick's verbal commands. The State later amended the complaint again by changing the date from October 21, 2014, to October 20, 2014.

¶ 6 In February 2016, the circuit court held defendant's jury trial. The State presented the testimony of Deputy Roderick. Defendant testified on her own behalf and presented the testimony of her son, Matthew D'Elia. Defendant also presented the written agreement between Matthew and his former girlfriend, Angela Martin, and three pictures of the boxes defendant had packed. The State recalled Deputy Roderick on rebuttal. The evidence relevant to the issues on appeal is set forth below.

¶ 7 Deputy Roderick testified that, around 11:30 a.m. on October 20, 2014, he was on patrol in Illiopolis, Illinois. He was wearing his Sangamon County sheriff's department issued uniform and was driving his department issued squad car that had lights on top and stated "Sheriff" on the side. While on patrol, he responded to a disturbance call at 208 Fifth Street in Illiopolis. The alleged disturbance was between defendant and Martin. Defendant and Martin had engaged in a verbal fight, and defendant had thrown a wedding dress. Defendant did not want Martin in the residence.

¶ 8 Deputy Roderick entered the residence to speak with defendant and get her side of the story. He needed the door to the residence to stay open to keep the scene and everyone involved safe. Keeping the door open allowed Deputy Roderick to keep an eye on the people outside in case they tried to come in or leave. His backup was coming from Springfield, Illinois, which was a "good 20 miles" away. Deputy Roderick explained defendant's actions as follows:

> "She was very agitated. She did not want the door to stay open. I gave her four or five verbal commands to leave the door open, that I needed the door open. I was only about 2-foot in the doorway trying to hold onto the door with my right hand. She used her body to try to slam the door closed. While I had my hand holding onto the door, my fingers got caught between the door and the door frame as she was trying to close the door again. And at that time, I had told her to turn around, that she was going to be placed under arrest for obstructing a peace officer, and I started to do arrest procedures."

Deputy Roderick explained maybe three or four minutes elapsed between the time he arrived on the scene and entered the residence. When he entered he immediately tried to keep the door open and gave defendant multiple orders to keep the door open over a span of one to two minutes. He did not know the relationship between defendant and Martin. After he arrived and started his investigation, Deputy Roderick determined the home was the residence of Matthew and Martin. Martin's driver's license listed the address as her residence. He was not aware Matthew and Martin had broken up two days before and she was to remove her belongings from the residence. He believed defendant had some things packed up on the front porch. Defendant did not relate information about the boxes to him because she was very irate and screaming. Deputy Roderick believed defendant tried to close the door because she did not want another person to

enter the residence.

¶ 9 Matthew testified he was the sole owner of the residence at 208 Fifth Street. Martin was not on the deed. The residence had a front and a back door, as well as an alarm system. The garage was detached from the home.

¶ 10 According to Matthew, he and Martin broke up on October 18, 2014. Before then, Martin's brother, Luke Hall, had tried to beat up Matthew. When he and Martin broke up, Matthew wrote up an agreement, under which Martin was to have her things removed from the property by October 19, 2014, and to not return to the property. Both Matthew and Martin signed the written agreement, which defendant presented as her exhibit No. 2. On October 19, 2014, Martin only removed a stereo from the property. Matthew contacted defendant to help him pack up Martin's belongings.

¶ 11 Matthew further testified defendant came over to his residence around 7:30 a.m. on October 20, 2014. She took Matthew's son to school and returned to the residence at 8 a.m. Before leaving for work, Matthew gave defendant the written agreement and told her not to let Martin in the residence. He also asked defendant to pack up Martin's things and put them in the garage. Around 10 a.m., Matthew received a telephone call from defendant, stating Martin had showed up at his residence earlier than expected. Matthew instructed defendant to hit the panic button on the alarm system if she felt threatened. While on the telephone with defendant, Matthew heard Martin and defendant exchange words. Martin wanted into the home to get her wedding dress, and Matthew instructed defendant not to let her inside. During the telephone call, Matthew could hear the panic alarm going off.

¶ 12 Defendant testified Martin was expected at Matthew's residence at 1 p.m. on October 20, 2014. While she was packing up Martin's things in the kitchen, defendant observed

Martin enter the residence's garage. Defendant exited the residence to witness Martin taking her things, and Martin came out of the garage and started yelling about a wedding dress. Martin then tried to push her way into the house through the back door. Defendant got back inside the residence and locked the back door. She then went to the front window and observed Hall sitting in a taxi cab along with the cab driver. After talking with Matthew on the telephone, defendant got the wedding dress and took it outside to Martin. Martin refused to take the dress and hit defendant through the dress. Hall then started yelling about how defendant hit Martin. Defendant laid the wedding dress in the taxi cab and went inside the residence. She activated the panic alarm because Martin wanted in the home, Hall was present, and they were accusing her of doing things she had not done. Defendant testified Martin was drunk and belligerent.

¶ 13 According to defendant, she allowed Deputy Roderick into the residence and closed the door. She did not lock it. Deputy Roderick asked about the noise, and she told him it was a panic alarm. He asked her to turn it off, and she did so. According to defendant, as soon as she turned off the alarm, Martin started coming through the front door. Defendant ran to the front door and pushed on the door. She was not strong enough to keep it shut and lock it. Defendant testified Officer Roderick was five to six feet away from defendant. He told her to leave the door open and not to lock it. Defendant responded she was not to let Martin in the home. He told her to leave the door open a couple of times, and she continued to try to shut the door. Deputy Roderick then came over in between the door and defendant and grabbed the door. Defendant quit pushing on the door but continued to block the door with her body. Martin kept hitting defendant with the door, which made Deputy Roderick mad. Deputy Roderick then told defendant he was going to have to arrest her. Defendant denied knowingly attempting to obstruct Deputy Roderick. She did not follow Deputy Roderick's orders because she was trying to keep Mar-

tin out of the residence. Defendant testified the amount of time from when Deputy Roderick entered the residence until her arrest was under a minute and a half. Defendant admitted Deputy Roderick was wearing his uniform and she knew he was a peace officer there to address the disturbance. She also admitted she knew Martin and Hall had accused her of battery.

¶ 14 On rebuttal, Deputy Roderick testified Martin was not trying to enter the residence. Martin was standing out by the taxi cab, approximately 20 to 30 feet away from the front door. After Deputy Roderick gave his verbal command not to close the door, defendant shut the door on his hand. He was able to get his hand free and place her under arrest. Deputy Roderick was still able to see everyone outside.

¶ 15 During closing arguments, the prosecutor stated the following: "So let's look at some of the facts that support that [defendant], in fact, knowingly impeded this investigation. One, [defendant] herself acknowledged that people were accusing her of battery. So obviously, the officer is there. He's talking to Ms. Martin, and he's wanting to find out information from Ms. D'Elia, the defendant." Later, the prosecutor began his rebuttal argument by stating the following: "I just want to respond to a couple of points that defense counsel brought up. And I think one of the most important ones is defense counsel said nothing of any investigation occurred inside, as if Deputy Roderick was not continuing his investigation by going to the door. I find this outrageous, ladies and gentlemen." Near the end of the rebuttal argument, the prosecutor stated the following: "Now, defense counsel wants to highlight that Ms. Martin was trying to get inside. Well, you heard testimony from Deputy Roderick. Where was Ms. Martin when all of this was going down? 20, 30 feet outside of the home. That doesn't sound like she's trying to get inside to me." Defense counsel did not object to aforementioned remarks in closing argument.

¶ 16 The jury found defendant guilty of obstructing a peace officer. Defendant filed a posttrial motion, asserting the circuit court erred by allowing into evidence related to defendant shutting the door on Deputy Roderick's hand and denying defendant's motion for a directed verdict. At a joint hearing on April 1, 2016, the circuit court denied defendant's posttrial motion and sentenced defendant to one year of conditional discharge and 100 hours of public service, as agreed to by the parties.

¶ 17 On April 5, 2016, defendant filed a timely notice of appeal in compliance with Illinois Supreme Court Rule 606 (eff. Dec. 11, 2014) appealing only her sentence. On April 28, 2016, defendant filed a timely amended notice of appeal under Illinois Supreme Court Rules 606(d) (eff. Dec. 11, 2014) and 303(b)(5) (eff. Jan. 1, 2015) that appealed both defendant's conviction and sentence. Accordingly, this court has jurisdiction of defendant's conviction and sentence under Illinois Supreme Court Rule 603 (eff. Feb. 6, 2013).

¶ 18 II. ANALYSIS

¶ 19 A. Sufficiency of the Evidence

¶ 20 Defendant first asserts the State failed to prove her guilty beyond a reasonable doubt of obstructing a peace officer because (1) it did not present any evidence defendant impeded or hindered Deputy Roderick in any way and (2) defendant did not do so knowingly, as she sought to prevent Martin from entering and not to obstruct Deputy Roderick. The State disagrees, arguing defendant's physical acts knowingly created an obstacle that impeded and hindered Deputy Roderick's investigation.

¶ 21 Our supreme court has explained the review of a defendant's challenge to the sufficiency of the evidence as follows:

> "In reviewing the sufficiency of the evidence in a criminal case, our in-

quiry 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 offense beyond a reasonable doubt. [Citation.] All reasonable inferences from the evidence must be drawn in favor of the prosecution. [Citation.] This standard of review does not allow the reviewing court to substitute its judgment for that of the fact finder on questions involving the weight of the evidence or the credibility of the witnesses. [Citation.] [I]n weighing evidence, the trier of fact is not required to disregard inferences which flow normally from the evidence before it, nor need it search out all possible explanations consistent with innocence and raise them to a level of reasonable doubt. [Citation.] This court will not reverse a criminal conviction unless the evidence is so unreasonable, improbable, or so unsatisfactory as to justify a reasonable doubt of the defendant's guilt. [Citation." (Internal quotation marks omitted.) *People v. Hardman*, 2017 IL 121453, ¶ 37.

¶ 22 A person commits the offense of obstructing a peace officer when he or she knowingly obstructs a peace officer in the performance of any authorized act within the peace officer's official capacity. 720 ILCS 5/31-1(a) (West 2014). Our supreme court has held "[t]he legislative focus of section 31-1(a) is on the tendency of the conduct to interpose an obstacle that impedes or hinders the officer in the performance of his authorized duties." *People v. Baskerville*, 2012 IL 111056, ¶ 23, 963 N.E.2d 898. " 'Hinder' means to make slow or difficult the course or progress of [citation], and 'impede' means to interfere with or get in the way of the progress of [citation]." (Internal quotation marks omitted.) *Baskerville*, 2012 IL 111056, ¶ 19.

¶ 23 1. *Hindered or Impeded*

¶ 24 In this case, the State's evidence was sufficient to show defendant actually impeded and hindered Deputy Roderick's investigation of the disturbance call. Deputy Roderick was alone at the scene with backup 20 miles away. After talking with Martin, Deputy Roderick sought to get defendant's version of what was going on. Since he was alone, Deputy Roderick wanted to talk with defendant with the door to the residence open, so he could see Martin and the others while talking with defendant. Deputy Roderick explained it was for everyone's safety. Deputy Roderick was holding the door with his right hand and gave defendant four or five verbal commands to leave the door open. Deputy Roderick told defendant that he needed to keep the door open. Despite the numerous commands, she continued to use her body to try to shut the door and ended up catching Deputy Roderick's fingers in the door. At that time, Deputy Roderick placed her under arrest. Defendant's refusal to comply with the officer's commands interfered with and got in the way of Deputy Roderick securing the scene so he could complete his investigation. Both defendant and Deputy Roderick testified Deputy Roderick never saw the agreement between Matthew and Martin, indicating his investigation was impeded by defendant's actions.

¶ 25 In support of her argument her actions did not materially obstruct Deputy Roderick's investigation, defendant cites *Baskerville*, 2012 IL 111056, *People v. Taylor*, 2012 IL App (2d) 110222, 972 N.E.2d 753, and *People v. Berardi*, 407 Ill. App. 3d 575, 948 N.E.2d 98 (2011). Those cases are distinguishable. Both *Baskerville* and *Taylor* involved the defendant giving false information to a peace officer. *Taylor*, 2012 IL App (2d) 110222, ¶ 17. In *Taylor*, 2012 IL App (2d) 110222, ¶ 17, the false information given by the defendant did not deter or significantly delay the defendant's arrest. *Taylor*, 2012 IL App (2d) 110222, ¶ 17. In *Basker-*

ville, 2012 IL 111056, ¶¶ 34-35, the defendant's statement his wife was not home did not hamper or impede the officer's investigation because the defendant consented to a search of the home. This case did not involve defendant giving false information, and defendant's actions did interfere with Deputy Roderick securing the scene and completing his investigation. Moreover, we note "[n]either *Baskerville* nor *Taylor* categorically held that the degree of obstruction is measured only by the amount of time necessary for a peace officer to overcome the defendant's conduct." *People v. Shenault*, 2014 IL App (2d) 130211, ¶ 22, 25 N.E.3d 703. While the encounter between Deputy Roderick and defendant was brief, defendant interfered with Deputy Roderick's investigation of the disturbance call.

¶ 26 In *Berardi*, 407 Ill. App. 3d at 582, 948 N.E.2d at 103, the State alleged the defendant resisted the officer's effort to secure the private office space. The defendant repeated his authority to be in the private office space multiple times in response to the officer's request for him to leave. *Berardi*, 407 Ill. App. 3d at 582, 948 N.E.2d at 103. When the officer stated the defendant would be arrested if he did not leave, defendant stated he would have to be arrested. *Berardi*, 407 Ill. App. 3d at 582, 948 N.E.2d at 103. The reviewing court noted the obstructing statute did not prohibit a person from arguing with a police officer about the validity of police action. *Berardi*, 407 Ill. App. 3d at 582, 948 N.E.2d at 103. It also noted the defendant's almost immediate acquiescence to the police officer's authority when the defendant realized his protestations about the validity of the officer's request were fruitless indicated the defendant was not attempting to simply hinder the officer's performance of his duties. *Berardi*, 407 Ill. App. 3d at 582, 948 N.E.2d at 103. In this case, defendant did not verbally dispute Deputy Roderick's authority to keep the door open and did not acquiesce to his authority.

¶ 27 2. *Knowledge*

¶ 28 The offense of obstructing a peace officer requires the mental state of knowledge. *People v. Kotlinski*, 2011 IL App (2d) 101251, ¶ 53, 959 N.E.2d 1230. The obstruction statute defines the offense in terms of a particular result, and a person acts knowingly when he or she is consciously aware such result is practically certain to be caused by his or her conduct. *Kotlinski*, 2011 IL App (2d) 101251, ¶ 54. In criminal cases, a defendant's knowledge is subjective. *Kotlinski*, 2011 IL App (2d) 101251, ¶ 54.

¶ 29 Usually, knowledge is proved by circumstantial evidence. *Kotlinski*, 2011 IL App (2d) 101251, ¶ 55. "The State must present sufficient evidence from which an inference of knowledge can be made, and any such inference must be based on established facts and not pyramided on intervening inferences." *Kotlinski*, 2011 IL App (2d) 101251, ¶ 55. In *Kotlinski*, 2011 IL App (2d) 101251, ¶ 57, the reviewing court found the State failed to prove knowledge because any inference the defendant knew his act of getting out of the car was practically certain to result in the interruption of the police officer's investigation of the defendant's wife had to be pyramided on another inference—the defendant knew the officer was still administering a field sobriety test to the defendant's wife. The evidence showed the defendant only got out of his car when the police officer removed the defendant's wife from the defendant's sight to the squad car, which was 25 feet away. *Kotlinski*, 2011 IL App (2d) 101251, ¶ 57.

¶ 30 Here, defendant knew Deputy Roderick (1) was in the residence to investigate the disturbance call involving her and Martin, (2) was holding the door, (3) told her he needed the door to stay open, (4) ordered her not to close the door multiple times, and (5) had not yet completed his investigation. Thus, unlike in *Kotlinksi*, defendant was aware of what was going on and knew Deputy Roderick was trying to conduct an investigation. Under the facts of this case,

an inference of knowledge does not have to be pyramided on another inference. Additionally, the jury did not have to believe defendant's testimony of her innocent intent of just trying to keep Martin out of the residence, especially in light of Deputy Roderick's testimony Martin was 20 or 30 feet away from the front door. Based on the aforementioned facts, the jury could have found defendant knew that, by ignoring Deputy Roderick's commands, she was practically certain to impede, or slow the progress of, Deputy Roderick's investigation of the disturbance call.

¶ 31 B. Fair Trial

¶ 32 Defendant also contends she was denied a fair trial based on statements made by the prosecutor during closing arguments. Specifically, she contends the prosecutor (1) misstated the evidence and (2) gave his own personal opinion of defendant's credibility. She also asserts the prosecutor expressed his own view of the evidence at the end of the rebuttal argument. Defendant acknowledges she has forfeited her contention by failing to object at trial and raise the issue in a posttrial motion. Defendant requests we review this issue under the plain-error doctrine (see Ill. S. Ct. R. 615(a) (eff. Jan. 1, 1967)) or, in the alternative, she was denied effective assistance of counsel based on trial counsel's failure to object to the prosecutor's comments. The State contends no errors occurred.

¶ 33 The plain-error doctrine permits a reviewing court to consider unpreserved error under the following two scenarios:

> "(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 chal-

> lenged the integrity of the judicial process, regardless of the closeness of the evidence." *People v. Sargent*, 239 Ill. 2d 166, 189, 940 N.E.2d 1045, 1058 (2010).

We begin our plain-error analysis by first determining whether any error occurred at all. *Sargent*, 239 Ill. 2d at 189, 940 N.E.2d at 1059. If error did occur, this court then considers whether either of the two prongs of the plain-error doctrine has been satisfied. *Sargent*, 239 Ill. 2d at 189-90, 940 N.E.2d at 1059. Under both prongs, the defendant bears the burden of persuasion. *Sargent*, 239 Ill. 2d at 190, 940 N.E.2d at 1059.

¶ 34 "Prosecutors are afforded wide latitude in closing argument." *People v. Wheeler*, 226 Ill. 2d 92, 123, 871 N.E.2d 728, 745 (2007). When determining if comments made during closing argument constitute misconduct, a reviewing court "asks whether or not the comments engender substantial prejudice against a defendant such that it is impossible to say whether or not a verdict of guilt resulted from them." *Wheeler*, 226 Ill. 2d at 123, 871 N.E.2d at 745. In answering that question, we must view closing arguments in their entirety, and the challenged remarks must be viewed in context. *Wheeler*, 226 Ill. 2d at 122, 871 N.E.2d at 745.

¶ 35 1. *Misstatement of the Evidence*

¶ 36 While prosecutors have wide latitude in closing arguments, their comments must be based on evidence admitted at trial or on any reasonable inferences therefrom. *People v. Williams*, 333 Ill. App. 3d 204, 214, 775 N.E.2d 104, 112-13 (2002). "A fact not based upon evidence in the case may not properly be argued to the jury ***." (Internal quotation marks omitted.) *Williams*, 333 Ill. App. 3d at 214, 775 N.E.2d at 113 (quoting *People v. Whitlow*, 89 Ill. 2d 322, 341, 433 N.E.2d 629, 637-38 (1982)).

¶ 37 Here, defendant challenges the prosecutor's remark defendant acknowledged

people were accusing her of battery. Defendant claims that argument misstated what Deputy Roderick knew when he spoke to defendant in her house. However, the prosecutor made that remark in explaining the evidence supporting the assertion defendant knowingly impeded Deputy Roderick's investigation. Thus, the focus of the prosecutor's argument was on what defendant knew and not what Deputy Roderick knew. During cross-examination, defendant acknowledged she knew Hall had accused her of hitting Martin and admitted she had been accused of battery. Thus, defendant knew a possibility existed the officer was investigating her for a battery as part of the disturbance call. Accordingly, we find the prosecutor's remark was not a misstatement of the evidence.

¶ 38 2. *Witness Credibility*

¶ 39 Prosecutors cannot personally vouch for the credibility of a government witness nor can they use the credibility of the state's attorney's office to bolster a witness's testimony. *People v. Williams*, 2015 IL App (1st) 122745, ¶ 12, 30 N.E.3d 511. "However, a prosecutor may comment on a witness' credibility (*People v. Richardson*, 123 Ill. 2d 322, 356, 528 N.E.2d 612, 625 (1988)), and challenge a defendant's credibility and defense theory when such remarks are based on facts in evidence or reasonable inferences drawn therefrom. *People v. Hudson*, 157 Ill. 2d 401, 444, 626 N.E.2d 161, 179 (1993)." *People v. Pope*, 284 Ill. App. 3d 695, 706, 672 N.E.2d 1321, 1328 (1996).

¶ 40 Defendant first asserts the prosecutor vouched for Deputy Roderick's investigation and vouched defendant's testimony was incredible by stating he found it "outrageous" that "defense counsel said nothing of any investigation occurred inside, as if Deputy Roderick was not continuing his investigation by going to the door." The prosecutor's comment was clearly aimed at defense counsel's theory and not a comment on witness credibility. Defendant cites no

authority one can pyramid inferences to prove a prosecutor's statement was an improper comment on witness credibility. Thus, we find no error.

¶ 41 Last, defendant contends the prosecutor's following remarks were improper: "Now, defense counsel wants to highlight that Ms. Martin was trying to get inside. Well, you heard from Deputy Roderick. Where was Ms. Martin when all of this was going down? 20, 30 feet outside of the home. That doesn't sound like she's trying to get inside to me." In support of his argument, defendant cites language from *People v. Shief*, 312 Ill. App. 3d 673, 678, 728 N.E.2d 638, 643 (2000), that states the following: "a prosecutor may not *** express personal opinions about the case." However, the next sentence in the *Shief* decision provides the following: "The prosecutor may comment on a witness's credibility only if the remarks are based on fair inferences from the evidence." *Shief*, 312 Ill. App. 3d at 678, 728 N.E.2d at 643. Here, Deputy Roderick testified Martin was 20 or 30 feet from the door by the taxi cab when he was telling defendant to keep the door open. Thus, the prosecutor's remark was based on the evidence. Moreover, a prosecutor's use of "I think" or "I believe" or similar words does not necessarily result in an error. See *People v. Brown*, 253 Ill. App. 3d 165, 176, 624 N.E.2d 1378, 1387 (1993). This court has found the following prosecutor's remarks proper: " 'If ever there was a situation where a person was detained, I think it was demonstrated by the testimony of Theresa Taylor. *** I think it could be reasonably inferred from the evidence, she feared for herself and the safety of her young child, and yet she was not allowed to remove herself from that situation.' " *People v. Baker*, 195 Ill. App. 3d 785, 787, 552 N.E.2d 421, 423 (1990), overruled on other grounds by *People v. Love*, 177 Ill. 2d 550, 564, 687 N.E.2d 32, 38-39 (1997). Thus, the prosecutor's use of "to me" does not make the remarks erroneous. We find the prosecutor's remarks were a fair inference from the evidence presented.

¶ 42 Since we have found no error, we need not address the application of the plain-error doctrine. Moreover, since the prosecutor's remarks were not improper, defendant cannot establish ineffective assistance of counsel based on counsel's failure to object to the remarks.

¶ 43 III. CONCLUSION

¶ 44 For the reasons stated, we affirm the Sangamon County circuit 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.