2019 IL App (1st) 160426-U

No. 1-16-0426

Order filed on August 27, 2019.

Second Division

IN THE

APPELLATE COURT OF ILLINOIS

FIRST DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 13 CR 1206
	)	
KEITH ANTHONY,	)	The Honorable
	)	James B. Linn,
Defendant-Appellant.	)	Judge Presiding.

PRESIDING JUSTICE LAVIN delivered the judgment of the court.
Justices Pucinski and Hyman concurred in the judgment.

ORDER

¶ 1 *Held*: The trial court did not consider hearsay in a witness's prior signed, handwritten statement as substantive evidence. The admission of the prior statement did not violate the confrontation clause where the witness testified at trial and voluntarily answered all questions that were asked of him.

¶ 2 Following a bench trial, defendant Keith Anthony was convicted of the first degree murder of Jaleen Armstrong, the attempt murder of Quawon Stokes, and the aggravated

discharge of a firearm at Charles Golden. The trial court sentenced defendant to 40 years in prison for murder, 26 years for attempt murder, and 10 years for aggravated discharge of a firearm. The murder and attempt murder sentences ran consecutively with each other and concurrently to the sentence for aggravated discharge of a firearm. Defendant now appeals, arguing that (1) the trial court erroneously admitted portions of Golden's handwritten statement to a prosecutor that contained hearsay regarding prior shootings between Stokes and co-defendant Juan Robinson,[1] and (2) the admission of Golden's prior statements in general denied defendant his right to confront adverse witnesses. We affirm.

¶ 3 Defendant and Robinson were each charged by indictment with the first degree murder of Armstrong (720 ILCS 5/9-1(a)(1)-(3) (West 2012)), the attempt murders of Golden and Stokes (720 ILCS 5/8-4(a) (West 2012); 720 ILCS 5/9-1(a)(1) (West 2012)), and the aggravated discharge of firearm toward Golden and Stokes (720 ILCS 5/24-1.2(a)(2) (West 2012)).

¶ 4 Prior to trial, the State filed a motion *in limine* seeking to introduce evidence of a preexisting conflict between Stokes and Robinson for the purpose of showing Robinson's intent and motive to kill Stokes. Specifically, the State sought to introduce testimony that Stokes robbed a man called T-Bone at a dice game several days before the incident in the present case. T-Bone retaliated by retrieving a firearm from Robinson and shooting at Stokes. Later that day, Stokes responded by shooting out the windows of Robinson's house while Robinson's girlfriend was home. Stokes and Robinson engaged in a shootout in the street on the following day. The trial court granted the State's motion over the defense's objection, stating that the animus between Stokes and Robinson was relevant and "put[s] everything in a context."

[1]Robinson and defendant were tried jointly. Robinson is not a party to this appeal.

¶ 5 At trial, Golden testified that he and his friends Armstrong, Stokes, Tymel Dunlap, Ryan Clark, and Jeffrey Spencer smoked marijuana together on the afternoon of April 6, 2012. They then decided to confront a man called "Big Jerald," with whom Spencer had a prior disagreement. The group went out on foot, but before they could find Big Jerald, two men opened fire at them near the corner of 81st Street and Maryland Avenue. Golden did not recognize the shooters and was unable to see their faces. He denied that defendant and Robinson, both of whom he knew, were the gunmen. However, upon observing the gunmen, Stokes said "that looks like Suicide," which was Robinson's nickname. Stokes ran, and Golden and Armstrong took cover behind a school bus parked on the south side of 81st. The gunmen fired approximately 20 shots and fled. Golden carried Armstrong, who had been shot in the leg, to the nearby Paradise Supermarket. An ambulance arrived and took Armstrong to the hospital.

¶ 6 Golden acknowledged meeting with police and prosecutors on multiple occasions after the shooting, but he did not recall going to the police station on April 11, 2012. When presented with two advisory forms and two photo arrays from that date, Golden testified that he signed the documents and identified the photographs of defendant and Robinson, but denied telling police that they were the shooters.

¶ 7 Golden also testified that he did not remember giving a signed, handwritten statement to Assistant State's Attorney Holly Kremin in September 2012. When presented with the handwritten statement, Golden acknowledged that he had signed it on each page. He later began to acknowledge telling Kremin that he and Armstrong were childhood friends, but Robinson's counsel objected on the basis that the handwritten statement was "not admissible under 115-10" because it contained subjects outside of Golden's personal knowledge. The court overruled the

objection, and defendant's counsel joined Robinson's counsel in a continuing objection to the admission of Golden's handwritten statement.

¶ 8 The State continued to question Golden about the content of his written statement, and he acknowledged telling Kremin that he had known Robinson, his "best friend," for about 12 years, and defendant, Robinson's cousin, for about 6 months. However, he did not recall telling Kremin that Stokes robbed T-Bone at a dice game or that there were other shootings in retaliation. Robinson's counsel again objected "to all of this" questioning because Golden lacked personal knowledge of the events between Stokes and Robinson. In overruling the objection, the trial court stated that it would not consider "the stuff [Golden] heard on the streets" for the truth of the matter asserted, but rather as evidence of "what his state of mind was about what he was watching" during the shooting on April 6, 2012. Golden ultimately acknowledged giving Kremin an account of the April 6 shooting that was consistent with his trial testimony. However, he did not remember identifying defendant and Robinson as the offenders.

¶ 9 Golden also initially claimed that he did not recall testifying before a grand jury in connection with the April 6 shooting. He denied telling the grand jury that defendant and Robinson were the gunmen. Later in his testimony, Golden acknowledged viewing several exhibits, including a copy of his handwritten statement, during his grand jury testimony. On cross-examination, defendant's counsel asked Golden only whether he identified defendant to police. Golden replied that he did not.

¶ 10 Stokes testified that he knew Robinson from the neighborhood, and recalled having "some issues" with him and not "getting along" with him in April 2012. However, Stokes denied that Robinson shot at him on April 2, 2012. On April 6, 2012, Stokes was walking with Armstrong, Golden, and others near 81st and Maryland. Stokes heard "a nice amount" of

gunshots, but did not see anybody with a firearm because he immediately ran home. He denied seeing defendant or Robinson, both of whom he knew from the neighborhood, and did not remember any other details about the shooting.

¶ 11 Stokes acknowledged viewing two photo arrays at the police station on April 9, 2012, but he did not remember whose photographs he identified. The State presented him with two advisory forms and two photo arrays bearing his signature. Stokes did not recall viewing the arrays, but acknowledged that he had signed his name next to defendant's and Robinson's photographs. Stokes viewed a physical lineup at the police station on April 11, 2012, but he did not remember identifying anybody in the lineup.

¶ 12 Stokes also acknowledged appearing before the grand jury, but he did not recall any of his testimony except stating that he was with Armstrong, Golden, Dunlap, Clark, and Spencer on the day of the shooting.

¶ 13 On cross-examination by defendant's counsel, Stokes testified that "you could say" that he had a "disagreement" with Robinson, but he did not have a "beef" with defendant.

¶ 14 Assistant State's Attorney Jamie Santini testified that he elicited Stokes's grand jury testimony in September 2012. Santini identified a copy of the transcript, which the State entered into evidence. According to the transcript, which is in record on appeal, Stokes told the grand jury that he was walking with Armstrong, Golden, Dunlap, Clark, and Spencer when Spencer stated, "There goes Suicide," whom Stokes knew to be Robinson. Stokes looked across the street and saw Robinson approaching them with a firearm. "Everybody scattered," and Stokes ran toward the north side of 81st. Golden and Armstrong took cover behind a school bus parked on the south side of the street. As Stokes ran north, he saw defendant shooting at him from a nearby alley. Defendant was not wearing a mask and nothing was blocking Stokes's view. Stokes turned

around and ran south, ducking behind a vehicle parked a "couple spaces" behind the school bus on 81st. Defendant fired at the bus while Robinson fired at Stokes. Stokes eventually ran further south, and once Robinson ceased firing at him, he turned around and saw defendant and Robinson shooting at the bus. Golden said, "Suicide, bro, it's us." Armstrong fell to the ground by the rear of the bus.

¶ 15 Stokes also told the grand jury that he spoke to Detectives Donovan Jackson and Gregory Buie on April 9, 2012. He agreed that he told the detectives essentially "the same thing" that he had just told the grand jury. Stokes also identified defendant and Robinson in separate photo arrays. Later that day, Stokes gave a similar statement to Assistant State's Attorney Michael O'Malley. On April 11, 2012, Stokes returned to the police station and identified Robinson in a physical lineup.

¶ 16 Santini next identified a copy of the grand jury testimony he elicited from Golden in September 2012, which the State entered into evidence. According to the transcript, Golden testified that the "beef" between Stokes and Robinson began in early April 2012 when Stokes robbed T-Bone at a dice game. About an hour after the robbery, T-Bone retrieved a firearm from Robinson and shot at, but missed, Stokes. Stokes retaliated by shooting through the windows of Robinson's house while Robinson's girlfriend was home. Golden was not present for any of these incidents, but was present the next morning when Stokes and Robinson engaged in a shootout on the street.

¶ 17 On April 6, 2012, Golden walked with Armstrong, Stokes, Dunlap, Clark, and Spencer to 81st and Maryland while on their way to confront Big Jerald. As they turned onto 81st, Stokes stated, "that look[s] like Suicide." Golden looked and saw defendant and Robinson with firearms in their hands. He had an unobstructed view of defendant's face from about 20 feet away. Most

of the group ran, but Golden and Armstrong remained still. Golden raised his hands and said, "bro, it's me," but defendant and Robinson opened fire. Golden and Armstrong took cover behind a school bus parked on 81st. Defendant and Robinson fired approximately 20 shots and fled. As they ran, Golden shouted, "Juan you bogus." After the shooting, Golden carried Armstrong to the front of Paradise Supermarket. An ambulance arrived and took Armstrong to the hospital.

¶ 18 Golden provided the responding officers with his contact information, and spoke to Jackson at the police station on April 11, 2012. On that date, Golden identified defendant as one of the shooters, but did not implicate Robinson because he was Golden's "friend." Golden next spoke to detectives on September 17, 2012, the day of his grand jury testimony. This time, he named Robinson as the second shooter and identified him in a photo array. Later that day, Golden spoke to Kremin and Jackson, and agreed to have his account memorialized in a handwritten statement. Golden told them that Robinson and defendant were the gunmen.

¶ 19 Jackson testified that he interviewed Stokes at the police station on April 9, 2012. Stokes identified defendant and Robinson as the shooters in photo arrays. On April 11, 2012, Jackson interviewed Golden, who identified defendant as one of the gunmen in a photo array. Jackson spoke to Golden again in September 2012. This time, Golden identified Robinson as the other shooter. Jackson was present later that day when Kremin interviewed Golden and memorialized his statements in a handwritten document. Jackson identified the handwritten statement in court, and the State asked him to read it aloud. Before he was able to do so, Robinson's counsel objected on the basis that Golden had already testified that he did not recall some of the events recounted in the statement. The State responded that "the whole thing should come in" because Golden testified that he did not remember giving the statement at all. The court overruled the

objection, finding that the State had "laid the foundation [under section] 115-10" to introduce parts of the statement that Golden denied or did not remember. The court acknowledged that Golden testified consistently with some of the contents at trial, but allowed the State to introduce the entire statement so that "it flows naturally and is in context."

¶ 20 Jackson proceeded to read the handwritten statement aloud. Therein, Golden stated he had known Robinson, his "best friend," for about 12 years at the time of the shooting and had known defendant, Robinson's cousin, for about 6 months. On April 1, 2012 Stokes robbed T-Bone at gunpoint during a dice game. Golden did not attend the dice game, but had "heard" about it. The following day, T-Bone obtained a gun from Robinson and shot at Stokes on the street. Hours later, Stokes went to Robinson's house and shot out the windows while Robinson's girlfriend was at home. The day after that, Stokes and Robinson "had a shootout" near the intersection of 82nd Street and Maryland.

¶ 21 Golden's statement also gave an account of the April 6 shooting that is virtually identical to the one in his grand jury testimony. Notably, Golden stated that defendant fired at him and his friends from 20 to 25 feet away, and Robinson did the same from about 12 feet away. Defendant and Robinson fled after firing 20 to 25 shots. Golden initially withheld Robinson's identity from the police because he did not want to "snitch on" his "best friend," but he later decided to identify Robinson "before he flees from police or kills someone else."

¶ 22 Spencer testified that he was walking with the group near 81st and Maryland when he received a phone call. He positioned himself three or four feet behind the others because he did not want them to hear his conversation. As he was talking on the phone, he heard gunshots and immediately fled the area.

¶ 23 Loretta McQueen, who was Robinson's girlfriend of two years at the time of the shooting, testified that Stokes and Robinson were former friends who had a falling out over a dice game. Robinson's counsel objected. The court overruled the objection, but noted that it would not consider testimony about the dice game "for the truth of the matter asserted." McQueen then testified to an incident in which Stokes "shot [her] windows out" and "tried to blow [her] head off" while she was in her home. On April 6, 2012, McQueen went to a restaurant near 81st and Maryland. As she left, she saw Golden holding Armstrong in the parking lot of the nearby Paradise Supermarket. She approached, but was unable to speak to them because the police were keeping people away.

¶ 24 Evidence technician Victor Rivera testified that he processed the scene hours after the shooting and took photographs that he identified in court. Many of the photographs show the school bus parked on 81st, approximately one car length in front of a white vehicle with a bullet hole in the hood. Other photographs identified by Rivera show blood spatter near the front of the bus and a trail of blood from the bus to the parking lot of Paradise Supermarket. Additionally, Rivera recovered and inventoried eight 40-caliber shell casings in the street near the rear of the bus, and one 9-millimeter shell casing in an alley across the street from the bus.

¶ 25 Ashley Tirnanic testified that her friend, Larron Brookins, arrived at her apartment near Madison, Wisconsin, at approximately 1 a.m. on April 16, 2012. Brookins asked to stay the night, and Tirnanic let him sleep on her couch. When she awoke later that morning, Brookins asked to borrow the keys to her vehicle in order to retrieve some clothes he stored in the trunk the previous week. She and Brookins then drove to a local Arby's to pick up defendant and his girlfriend, neither of whom Tirnanic had ever met. Tirnanic remained in the driver's seat while Brookins moved some carseats from the backseat to the trunk to make room for defendant and

his girlfriend. Tirnanic then dropped off Brookins, defendant, and his girlfriend at a local apartment complex. Tirnanic was pulled over on the way home and gave police consent to search her vehicle. Officers found a firearm in the trunk. Tirnanic had never seen the weapon and did not know why it was in her vehicle.

¶ 26 The State entered a stipulation that Madison police officer Caleb Bedford would testify that he pulled over and searched Tirnanic's vehicle on April 16, 2012. Bedford found a .40-caliber handgun, a magazine, and 15 live rounds that were concealed in a bag of clothing in the trunk. An investigator photographed and took possession of the items. Another Madison officer arrested defendant at a local apartment complex later that day.

¶ 27 The State also entered a stipulation that an expert in fingerprint identification tested the firearm, magazine, and ammunition, but did not find any fingerprints suitable for comparison. However, an expert in firearm and toolmark identification examined the firearm and determined that it fired all eight of the .40-caliber shell casings Rivera recovered from the crime scene. Lastly, the State entered a stipulation that an assistant Cook County medical examiner performed a postmortem examination of Armstrong's body and determined that he was killed by a bullet that entered his right buttock, went through his femoral artery, and exited through his right thigh.

¶ 28 In closing, the State argued in part that Stokes, not Armstrong, was the "intended target that day," and that Armstrong was simply an "unlucky person in this whole ordeal." The State did not mention the dice game robbery or any of the prior shootings involving Stokes and Robinson, but submitted that Stokes and Golden did not identify Robinson at trial because he was their "former friend." Defendant's counsel argued that the physical evidence did not corroborate Stokes's and Golden's prior statements, and that Stokes was not credible because he "is known to carry a gun," "previously had shot at Mr. Robinson," and "had shot at Mr.

Robinson's home." Counsel also noted that Golden "in his own statement indicated that [Stokes] had discharged [a] weapon at least two times, one towards Mr. Robinson and again towards Mr. Robinson's house."

¶ 29 After the arguments, the court asked, "When was Quawon Stokes shot at originally?" The prosecutor responded that it was on April 1, 2012. The court then called a brief recess to examine its notes before announcing its judgment. Upon returning, the court found defendant guilty of murdering Armstrong, attempting to murder Stokes, and discharging a firearm at Golden. However, the court also found defendant not guilty of attempting to murder Golden, stating that neither Golden nor Armstrong was a target of the shooting. The court denied defendant's posttrial motion, which did not challenge the admission of any prior statements on either hearsay or confrontation clause grounds. Following a hearing, the court sentenced defendant to 40 years for murder and 26 years for attempt murder, which ran consecutively, and 10 years for aggravated discharge of a firearm, which ran concurrently to the other two sentences.

¶ 30 On appeal, defendant argues the trial court erred by allowing the State to introduce the parts of Golden's handwritten statement regarding the prior animus between Stokes and Robinson. Specifically, defendant contends that Golden's statements about this "motive evidence" were inadmissible (1) as substantive evidence under section 115-10.1 of the Code of Criminal Procedure of 1963 (Code) (725 ILCS 5/115-10.1 (West 2014)), because Golden lacked personal knowledge of the events, and (2) as impeachment evidence because Golden's trial testimony "did not affirmatively damage the State's case." Defendant also contends that the admission of all of Golden's out-of-court statements violated the confrontation clause because, according to defendant, Golden was "unavailable" for cross-examination due to his inability to recall details about the statements.

¶ 31 We first address defendant's argument that Golden's statements about the feud between Stokes and Robinson were inadmissible under section 115-10.1 of the Code. Initially, as the State notes, defendant has forfeited this issue for appeal because he did not include it in his posttrial motion. See *People v. Cregan*, 2014 IL 113600, ¶ 24 ("To preserve an issue for review, a party ordinarily must raise it at trial and in a written posttrial motion."). Defendant argues that we may nevertheless review the issue for plain error. However, the plain error doctrine provides a "narrow and limited exception" to the general forfeiture rule, and applies only where a defendant can establish that a "clear or obvious" error occurred. *People v. Reese*, 2017 IL 120011, ¶ 72.

¶ 32 Hearsay, *i.e.*, an out-of-court statement offered to prove the truth of the matter asserted, is generally inadmissible at trial. *People v. Wilson*, 2012 IL App (1st) 101038, ¶ 38. However, section 115-10.1 of the Code provides an exception to the rule against hearsay whereby a witness's signed, out-of-court statement may be admitted as substantive evidence if (1) the prior statement is inconsistent with the witness's testimony at trial, (2) the witness is available for cross-examination about the statement, and (3) the witness had personal knowledge of the events described in the statement. 725 ILCS 5/115-10.1(a)-(c) (West 2014). A trial court's decision to admit prior statements under this hearsay exception will not be reversed absent an abuse of discretion (*People v. Ware*, 2019 IL App (1st) 160989, ¶ 34), which occurs only if the court's ruling was fanciful, arbitrary, or such that no reasonable person could agree with it (*People v. Wheeler*, 226 Ill. 92, 133 (2007)).

¶ 33 Here, defendant argues that the portions of Golden's handwritten statement that recount the prior conflicts between Stokes and Robinson were inadmissible as substantive evidence because Golden did not have personal knowledge of them. However, in overruling Robinson's

counsel's objection at trial, the court explicitly stated that it would not consider Golden's statements regarding what "he heard on the streets" about the animus between Stokes and Robinson for the truth of the matter asserted. Instead, the court stated that it would consider what Golden had heard only for the limited purpose of explaining his actions upon encountering Robinson on April 6, 2012. Thus, those portions of Golden's written statement were not admitted as substantive evidence under section 115-10.1 of the Code or for impeachment purposes. Accordingly, the fact that Golden did not have personal knowledge of the feud between Stokes and Robinson did not render his statements inadmissible.

¶ 34 Despite the court's ruling, defendant argues that the trial judge must have considered the challenged statements substantively because he (1) asked a question about the motive evidence after closing arguments, and (2) found him guilty of attempting to murder Stokes, but not Golden. We disagree. If the court in a bench trial admits evidence for a limited purpose, it is presumed to have considered it only for that purpose. *People v. Jackson*, 202 Ill. 2d 361, 369 (2002). This presumption is overcome only where the record affirmatively shows that the trial court used the evidence improperly. *People v. Jones*, 2017 IL App (1st) 143403, ¶ 36. Asking a question about the evidence does not affirmatively show that the court considered it for an improper purpose, and we cannot say that the judgment itself provides affirmative proof that the trial court erred in considering the statements at issue. Defendant also contends that the State "drew the court's attention to the hearsay evidence" in closing by arguing that Stokes was the intended target of the shooting. This comment from the State does nothing to overcome the presumption that the trial court properly considered the evidence as it said it would. We also note that the State's closing argument did not mention the dice game or subsequent shootings, and it was defendant's counsel who attempted to discredit Stokes by arguing that he "previously had

shot at Mr. Robinson" and "had shot at Mr. Robinson's home." Consequently, no error occurred and plain error review is unwarranted.

¶ 35 Defendant next argues that the admission of Golden's prior statements violated his right to confront his accusers because Golden was "unavailable" for cross-examination due to his inability to remember the statements. Initially, we note that, like his hearsay argument, defendant did not include this claim in his posttrial motion. Unlike the hearsay argument, however, defendant has not forfeited the matter because constitutional issues that could be raised in postconviction petition are preserved without a posttrial motion so long as they were "properly raised at trial." *Cregan*, 2014 IL 113600, ¶¶ 16-18. Here, defendant objected to the admission of Golden's statements on confrontation clause grounds, and has thus preserved the issue. See *People v. Diggins*, 2016 IL App (1st) 142088, ¶ 12 (the defendant preserved a confrontation clause challenge by objecting in the trial court). Accordingly, we will address defendant's argument on the merits.

¶ 36 A criminal defendant has a constitutional right to confront the witnesses against him. U.S. Const. amends. VI, XIV; Ill. Const. 1970, art. I, § 8. Thus, the State may not introduce a witness's testimonial, out-of-court statement unless either (1) the witness is available for cross-examination at trial, or (2) the defendant had a prior opportunity to cross-examine the witness. *Crawford v. Washington*, 541 U.S. 36, 68 (2004). Merely testifying at trial does not make a witness *per se* available for cross-examination. See *In re Brandon P.*, 2014 IL 116653, ¶ 47 (child witness unavailable where she "could barely answer" preliminary questions and "completely froze" when the State began its direct examination). However, the admission of a witness's prior statements does not violate the confrontation clause when the witness testifies at trial and is "subject to full and effective cross-examination." *People v. Flores*, 128 Ill. 2d 66, 88

(1989). "[A] gap in the witness's recollection concerning the content of a prior statement does not necessarily preclude an opportunity for effective cross-examination." *Id.*; see also *U.S. v. Owens*, 484 U.S. 554, 559 (1988) (witness's prior identification of his assailant was admissible despite the witness's inability to remember the attack). Instead, witnesses are generally subject to full cross-examination so long as they are willing respond to questions under oath. *People v. Lewis*, 223 Ill. 2d 393, 404 (2006); *People v. Smith*, 2019 IL App (3d) 160631, ¶ 30. "[T]he key inquiry in determining whether the declarant is available for cross-examination is whether the declarant was present for cross-examination and answered all of the questions asked of him or her by defense counsel." *People v. Dabney*, 2017 IL App (3d) 140915, ¶ 19. Whether evidence was admitted in violation of the confrontation clause is a question of law that is reviewed *de novo*. *People v. Leach*, 2012 IL 11534, ¶ 64.

¶ 37 Here, the record shows that, although Golden testified that he did not remember identifying defendant and Robinson as the shooters, he willingly answered all questions that were asked of him. He did not refuse to answer any of the State's questions, and gave a direct answer to defense counsel's lone question on cross-examination. This is sufficient to satisfy the confrontation clause. See *People v. Campbell*, 2015 IL App (1st) 131196, ¶ 35 (witness was subject to cross despite testifying that she did not remember the substance of her grand jury testimony or prior statements to police); *People v. Watkins*, 368 Ill. App. 3d 927, 931 (2006) (witnesses who responded " 'I don't recall,' " " 'I don't remember,' " or " 'I can't remember' " to nearly every question were available for cross-examination).

¶ 38 The cases upon which defendant relies are distinguishable, as they all involve child witnesses who were unable to answer any substantive questions about the charged offenses. See *Brandon P.*, 2014 IL 116653, ¶ 47 (child victim "completely froze" when the State began its

direct examination); *In re Rolandis G.*, 232 Ill. 2d 13, 18 (2008) (child victim "resolutely refused to respond" apart from preliminary questions about himself); *People v. Learn*, 396 Ill. App. 3d 896-97 (2009) (alleged child victim began to cry after being asked each question and refused to discuss the substance of the allegations). Here, in contrast, Golden voluntarily answered all questions during his trial testimony. Although he stated that he could not recall certain details, he did not refuse to answer any question and gave a direct answer to defense counsel's sole question on cross-examination. Thus, the record shows that Golden was subject to a full cross-examination. See *People v. Major-Flisk*, 398 Ill. App. 3d. 491, 507-08 (2010) (finding the victim's prior statements admissible despite his lack of memory, and noting that defense counsel could have crossed-examined the victim, but instead "chose not to do so" in an attempt to "destroy the force of [the victim's] hearsay statements"). Accordingly, the admission of Golden's prior statements did not violate the confrontation clause.

¶ 39 For the foregoing reasons, the judgment of the circuit court is affirmed.

¶ 40 Affirmed.