2019 IL App (1st) 160802-U

FIRST DIVISION
April 22, 2019

No. 1-16-0802

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 14 CR 08140
	)	
GERALD ROBINSON,	)	Honorable
	)	James B. Linn,
Defendant-Appellant.	)	Judge Presiding.

PRESIDING JUSTICE MIKVA delivered the judgment of the court.
Justices Griffin and Walker concurred in the judgment.

O R D E R

¶ 1 *Held*: The evidence was sufficient to convict defendant of aggravated battery with a firearm based on the shooting victim's eyewitness identification. Defendant was not denied a fair trial based on prosecution's opening statement, closing argument or eliciting prior identifications of the eyewitness. We order that defendant's mittimus be corrected to reflect the trial court's oral pronouncement acquitting him of all but one count.

¶ 2 Defendant Gerald Robinson was convicted after a bench trial of aggravated battery with a firearm and sentenced to a total of eight years in prison. On appeal, Mr. Robinson argues that the evidence against him was insufficient to convict him because the eyewitness identification was unreliable and he had a reasonable alibi. Alternatively, he argues that he was denied a fair trial

when the State elicited prior identifications from the sole eyewitness and made prejudicial remarks in its opening statement and closing argument. Mr. Robinson also argues, and the State concedes, that his mittimus must be corrected. For the following reasons, we affirm his conviction and order that his mittimus be corrected to conform to the trial court's oral pronouncement.

¶ 3 I. BACKGOUND

¶ 4 Mr. Robinson was charged with 12 counts of attempted first degree murder, two counts of aggravated battery, and two counts of aggravated discharge of a firearm, stemming from a shooting that occurred on April 7, 2014, near a convenience store on 63rd Street and Maplewood Avenue, in Chicago. Savannah Redding was the sole eyewitness to testify to the shooting. At one court date the State said that it had called witnesses off, explaining "Initially, there was a couple that I haven't made contact with that were subpoenaed for the last court date, but they're all kids so it's dealing with legal guardians of these kids to bring them in. I called them off. So I didn't have any complainants here today."

¶ 5 Karisma Johnson appeared at a pre-trial hearing pursuant to the State's subpoena and, when she indicated she did not wish to testify, the trial court admonished her that she must return for the trial date.

¶ 6 The case was continued for trial to September 21, 2015, at which time the State made the following remark in its opening statement:

> "The evidence will show that Savannah Redding, in addition to identifying the defendant in a show-up, identified him subsequently in a photo array, as well as during a videotaped statement, as well as to the grand jury.
>
> The evidence will also show that two other witnesses, Karisma Johnson, and

Jermaine Watson also identified the defendant in photo arrays."

Ms. Redding was the only eye witness to testify at trial.

¶ 7 At trial, Ms. Redding testified that she was walking to a convenience store near 63rd Street with Nireu Crosby, Karisma Johnson, and Jermaine Watson to purchase some chips. When she left the store with Ms. Johnson, Ms. Redding testified that she headed toward Mr. Crosby and Mr. Watson, who were on the corner of Maplewood Avenue. All four began walking north on Maplewood Avenue, with their backs to 63rd Street, with Mr. Crosby and Mr. Watson in the street and Ms. Redding and Ms. Johnson on the sidewalk. According to Ms. Redding, when she got to the corner of 62nd Street, she turned around and saw Mr. Robinson, whom she knew from the neighborhood and Facebook as "Little Gerald," across the street.

¶ 8 Ms. Redding testified that Mr. Robinson was wearing a black hoodie with blue jeans. Mr. Robinson came towards Ms. Redding, walking into the middle of the intersection of 63rd Street and Maplewood Avenue. According to Ms. Redding, Mr. Watson then said: "he finna up" and "he got a gun." Ms. Redding believed Mr. Watson was talking about Mr. Robinson. About a minute later, Mr. Robinson was "six to seven feet" away from her when she saw him pull out a gun and fire in her direction. She saw the muzzle flash and after hearing shots fired, she ran through an alley and came out on Campbell Avenue. While running, Ms. Redding felt a gunshot in her left foot. Police arrived about three minutes after the shots were fired. When police questioned Ms. Redding, she told them that "Little Gerald" shot her.

¶ 9 Ms. Redding testified on direct examination that she identified Mr. Robinson, either in person or from a photo array, as the shooter on four separate occasions. About 10 minutes after she was shot, officers physically brought Mr. Robinson to Ms. Redding where she identified him as the shooter before going to the hospital for treatment. After leaving the hospital that same day,

Ms. Redding went to the police station where she again identified Mr. Robinson as the shooter in a photo array. Later that night, Ms. Redding met with an assistant state's attorney at the police station and agreed to a videotaped interview. During the interview, Ms. Redding again identified Mr. Robinson as the shooter in a photo array. She also identified him from a photo array as the shooter at the grand jury hearing on April 30, 2014.

¶ 10 Officers Daniel Goetz and Jesus Vera both testified at trial that they were on duty in separate cars the day of the shooting and both responded, with their partners, to the message of "shots fired, person shot." Officer Goetz was on patrol in the west 63rd Street vicinity when he heard a flash message that described the shooter as a young, black man in a black hoodie who fled northbound on foot on Maplewood Avenue. When Officer Goetz approached 62nd Street roughly one minute later, he saw a person who matched the description. At trial, Officer Goetz identified Mr. Robinson as that person. Officer Goetz testified that Mr. Robinson was running, "cutting across 62nd Street," before briskly walking westbound after seeing the police car. When Officer Goetz approached Mr. Robinson, without prompting, Mr. Robinson put his hands up and said, "I don't have no gun." Officer Goetz detained Mr. Robinson and took him to where Ms. Redding was so that she could identify him. Officer Goetz did not find any weapons in the area. Officer Vera's testimony was that he found two shell casings in the middle of 63rd Street near Maplewood Avenue.

¶ 11 Officer Stephen Balcerzak was the evidence technician that actually collected the two shell casings. Officer Balcerzak acknowledged on cross-examination that one of those casings was flattened and looked as if it had been run over by a car. Officer Balcerzak also performed a gunshot residue test on Mr. Robinson. The shell casings and gun residue test kit were inventoried and sent to the Illinois State Police for testing and analysis.

¶ 12 Ellen Chapman, an Illinois State Police forensic scientist, explained that in testing for gun residue, she was looking for tricomponent particles comprised of lead, barium, and antimony. She testified that gun residue can remain on one's hands for hours if not washed off, and one who has not shot the weapon but simply picks it up can get residue on his or her hands. Ms. Chapman examined the results of the gunshot residue test in this case. Mr. Robinson's right hand tested negative for tricomponent particles but his left hand tested positive. Ms. Chapman concluded that Mr. Robinson discharged a firearm or came in contact with a gunshot residue related item with his left hand. On cross-examination, Ms. Chapman acknowledged that fireworks have some of the same elements as those in gunshot residue, but that the tricomponent particles have "not been seen in just fireworks," despite having what she called "consistent particles," or "particles that are lead by itself, lead antimony are the combinations." Ms. Chapman acknowledged that she has never tested anyone who said they used fireworks.

¶ 13 The parties stipulated that Caryn Tucker, if called, would be qualified as a firearms identification expert and would have testified that she received the inventory containing the two, casings recovered and that her testing indicated both casings were fired from the same firearm.

¶ 14 The State rested without ever calling Karisma Johnson or Jermaine Watson. In the midst of trial the State indicated to the court that there was a witness "in Iowa," that it had contacted and wanted to call but that it was "difficult to tell," if that person was cooperating. At the end of the State's case, the trial court denied Mr. Robinson's motion for a directed finding.

¶ 15 Gerald Robinson testified on his own behalf as the defense's only witness. According to Mr. Robinson, on April 7, 2014, he and two friends were near 63rd Street and Campbell Avenue at roughly 3 p.m. They had just come from the park on 60th Street and Rockwell Avenue, where they commemorated a friend's death date by lighting fireworks and releasing balloons. After

leaving the park, Mr. Robinson and his friends headed to the store and were on 62nd Street and Maplewood when a group of "20 or 30 people" came northbound from 63rd Street and started "gang banging" towards them. Mr. Robinson and his friends turned around and then heard three or four gunshots. Mr. Robinson testified that he did not fire any of the shots and did not have a gun on him that day.

¶ 16 After the shots were fired, Mr. Robinson and his friends split up. He testified that he headed towards Rockwell Avenue, while his friends continued on Maplewood Avenue. Mr. Robinson testified that he saw police coming his way, and they stopped him on 62nd Street and exited their vehicle holding their firearms in their holsters. Mr. Robinson put his hands up and told them he "didn't do nothing" and "didn't want to be the one." He denied ever telling the officers that he did not have a gun on him.

¶ 17 Mr. Robinson testified to knowing Savannah Redding from Facebook and the area. He also had seen Karisma Johnson before and knew Jermaine Watson from Facebook, but he did not know Erving Crosby. He further testified that he is right-handed. Mr. Robinson consistently denied being the shooter in this case.

¶ 18 During closing argument, the State briefly referenced testimony from multiple witnesses to discredit Mr. Robinson's alibi. The Court interrupted the State to ask exactly how many eyewitness identifications were made, and the State acknowledged that only Ms. Redding identified Mr. Robinson. Because this part of the closing argument is one of Mr. Robinson's claims on appeal, we discuss this exchange in more detail in our analysis below.

¶ 19 The trial court found Mr. Robinson guilty of aggravated battery with a firearm. The court found Ms. Redding credible, specifically noting that "[t]he police came and she immediately said it was Little Gerald. She knew who it was. She doesn't know him personally. She knew him by

name. And she named him moments from being shot." As for Mr. Robinson's fireworks explanation, the court found "[h]e had gunshot residue on his hand and I do not believe his explanation about letting off firecrackers to explain the gunshot residue." The court saw no "distinction, whether it was his left hand or right hand with the gunshot residue" because "[p]eople often use two hands when firing a gun. It can be found on either hand."

¶ 20 Mr. Robinson was acquitted of the first 12 counts for attempted first degree murder, found guilty of aggravated battery in count 13, and acquitted of Count 14, which was aggravated battery of Nireu Crosby, and also acquitted of Counts 15, and 16, which charged him with aggravated discharge of a weapon in the direction of Karisma Johnson and Jermaine Watson, respectively. The court said: "I will give [him] the benefit of the doubt and discharge him as to Counts 14, 15, and 16."

¶ 21 At the sentencing hearing, the trial court stated, "so the [sentence] for aggravated battery with a firearm will be eight years in the penitentiary. For aggravated discharge, also eight—on all counts, eight years in the penitentiary. Everything runs concurrently." Mr. Robinson was credited for 689 days of presentence incarceration. The mittimus reflects convictions for counts 13 through 16, each with eight-year sentences. This appeal followed.

¶ 22 II. JURISDICTION

¶ 23 Mr. Robinson was sentenced on February 24, 2016 and filed his notice of appeal that same day. We have jurisdiction pursuant to article VI, section 6, of the Illinois Constitution and Illinois Supreme Court Rules 603 and 606, governing appeals from final judgments of conviction in criminal cases. Ill. Const. 1970, art. VI § 6; Ill. S. Ct. Rs. 603, 606 (eff. Feb. 6, 2013).

¶ 24 III. ANALYSIS

¶ 25 A. Sufficiency of the Evidence

¶ 26 When reviewing the sufficiency of the evidence, we ask whether the evidence was sufficient to justify any rational trier of fact finding the essential elements of the crime beyond a reasonable doubt, when viewing the evidence in the light most favorable to the prosecution. *Jackson v. Virginia*, 443 U.S. 307, 334 (1979); *People v. Wheeler*, 226 Ill. 2d 92, 114 (2007). Although neither conclusive nor binding, we give factual findings at trial great weight. *People v. Cunningham*, 212 Ill. 2d 274, 280 (2004). A conviction will be reversed only when the evidence is so unreasonable, improbable, or unsatisfactory that it justifies reasonable doubt of defendant's guilt. *Wheeler* 226 Ill. 2d at 115; *People v. Smith*, 185 Ill. 2d 532, 542 (1999).

¶ 27 On appeal, Mr. Robinson suggests three reasons that the evidence was not sufficient to affirm his conviction: (1) Ms. Redding gave conflicting testimony and her identification failed the "*Biggers*" test, (2) there was no physical evidence linking Mr. Robinson to the offense, and (3) he had a reasonable alibi. We take each argument in turn.

¶ 28 The testimony of a single eyewitness is sufficient to convict if the testimony is both positive and credible. *People v. Siguenza-Brito*, 235 Ill. 2d 213, 228 (2009). The "*Biggers*" test, on which Mr. Robinson relies, sets out the following factors: (1) the witness's opportunity to view the defendant at the time of the crime; (2) the witness's degree of attention; (3) the accuracy of the witness's pre-identification description of the individual; (4) the level of certainty demonstrated by the witness at the confrontation; and (5) the length of time between the commission of the crime and the confrontation. *Neil v. Biggers*, 409 U.S. 188, 199-200 (1972).

¶ 29 Mr. Robinson argues that, under the *Biggers* test, Ms. Redding did not have ample opportunity to observe him as the shooter because her back was to the street once shots were

fired and the incident happened within seconds of her leaving the store. Mr. Robinson also insists that Ms. Redding's degree of attention was compromised since she was headed to the store for snacks and was not necessarily paying attention to her surroundings. Moreover, the shooting occurred soon after Ms. Redding left the store and she fled the scene, so her attention was compromised. Mr. Robinson also argues that Ms. Redding gave only a general description of Mr. Robinson and that her trial testimony was tentative and elicited only through leading, yes-or-no questions and that she seemed to be unsure of which direction she was walking after leaving the store. However, we think the evidence clearly demonstrates that this identification meets the *Biggers* criteria.

¶ 30 Ms. Redding knew Mr. Robinson from around the neighborhood and immediately and consistently identified him as "Little Gerald." She saw him when she left the store, in broad daylight, and at close range. Ms. Redding was able to testify to the approximate distance between herself and Mr. Robinson at the time of the shooting. She also recalled Mr. Robinson pulling out a gun, shooting it, and seeing the muzzle flash. All of this demonstrates that Ms. Redding's attention was focused on Mr. Robinson and the shooting.

¶ 31 Moreover, Ms. Redding's description of Mr. Robinson was accurate. He was wearing blue jeans and a black hoodie on the day of the shooting. Ms. Robinson gave the same identification of Mr. Robinson on multiple occasions, including almost immediately after she was shot. The length of the time between the crime and confrontation was minimal. Under *Biggers*, Ms. Redding's identification was more than sufficient.

¶ 32 Mr. Robinson's reliance on *People v. Hernandez*, 312 Ill. App 3d 1032, 1037 (2000) is misplaced. The *Hernandez* court held that the witness's identification was not reliable because his description of the shooter varied greatly and he admitted that he was "unsure" about the

identification. *Id*. at 1036. In this case, Ms. Redding's description of Mr. Robinson never wavered and the circumstances—broad daylight, close range, and previous knowledge of Mr. Robinson—all contributed to her positive identification of him as the shooter.

¶ 33 Mr. Robinson also argues that the lack of physical evidence and presence of what he refers to as a reasonable "alibi," require reversal. Mr. Robinson points out that no gun was ever recovered and that the recovered shell casings had no connection to this case as they could have been there for weeks or longer. Moreover, Mr. Robinson offered an alternative reason for why he was in the neighborhood, was running, and why his left hand tested positive for gunshot residue.

¶ 34 The State had no burden to produce the firearm in question to link Mr. Robinson to this crime, when Ms. Redding's testimony was deemed credible. *People v. Herron*, 2012 IL App (1st) 090663, ¶ 23. In reference to what Mr. Robinson calls his "alibi," it was up to the trial court to determine whether Mr. Robinson's alternative explanation was credible. *Siguenza-Brito*, 235 Ill. 2d at 228. The evidence was sufficient to support Mr. Robinson's conviction and the trial court was not required to accept Mr. Robinson's alternative explanation.

¶ 35 B. Fair Trial Claims

¶ 36 In the alternative, Mr. Robinson raises several claims of trial error that he argues warrant a new trial. The State responds that Mr. Robinson failed to properly preserve any of these claims. Mr. Robinson replies that they each rise to the level of plain error.

¶ 37 Generally a defendant must contemporaneously object and then cite the trial errors in a posttrial motion to preserve a claim of trial error for review. *People v. Enoch*, 122 Ill. 2d 176, 186 (1988). If not properly preserved, the issue is forfeited, but may be reviewed under the plain error doctrine. *People v. Thompson*, 238 Ill. 2d 598, 613 (2010). A reviewing court may consider an otherwise-forfeited issue under the first prong of the plain-error doctrine when "a clear or

obvious error occurs 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." *People v. Piatkowski*, 225 Ill. 2d 551, 565 (2007). Or, under the second prong, an issue may be reviewed when "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." *Id*. The first step of plain error review is to determine whether there is an error at all. *Thompson*, 238 Ill. 2d at 613. Because we find that none of the issues Mr. Robinson raises were trial errors, there is no need to determine whether they rise to the level of plain error.

¶ 38 1. Identification Statements

¶ 39 Mr. Robinson argues that Ms. Redding's identifications of him to the police prior to her trial testimony were inadmissible hearsay, and that the two permissible bases for allowing a prior consistent statement--a charge that the witness recently fabricated her testimony or has a motive to testify falsely—do not apply in this case.

¶ 40 The State responds that Ms. Redding appropriately testified pursuant to section 115-12 of the Code of Criminal Procedure (Code) (725 ILCS 5/115-12 (West 2016)). Section 115-12 of the Code creates an exception to the hearsay rule where "(a) the declarant testifies at the trial or hearing, and (b) the declarant is subject to cross-examination concerning the statement, and (c) the statement is one of identification of a person made after perceiving him." *Id.* Mr. Robinson offers no reply to the State's argument and we agree with the State that this rule applies and no error occurred.

¶ 41 2. Statements by Counsel

¶ 42 Mr. Robinson argues that he was denied a fair trial due to the State's opening statement and closing argument on two bases: (1) the State implied that multiple witnesses identified him

as the shooter, when only Ms. Redding testified; and (2) the State improperly bolstered Ms. Redding's credibility by arguing that Ms. Redding's crying evinced that she was scared, without offering supporting evidence.

¶ 43 We start with the fact that this was a bench trial. In a bench trial, "the trial judge is presumed to know the law, to apply it properly and to disregard all incompetent evidence." *People v. Koch*, 248 Ill. App. 3d 584, 591 (1993); see also *People v. Miller*, 30 Ill. 2d 110, 115 (1964) (finding reversal was not warranted in a bench trial where the prosecutor made an inaccurate statement during closing argument but it was unlikely to influence the final result and did not rise to the level of prejudice to the defendant).

¶ 44 During opening statements, the State is entitled to present what it expects the evidence to show, along with any reasonable inferences the factfinder may make from the evidence. *People v. Smith*, 141 Ill. 2d 40, 63 (1990). The State cannot, however, make statements that it knows it cannot support. *Id*. Closing arguments likewise must be confined to the evidence itself and any reasonable inferences to be drawn from it. *Id*. (citing *People v. Flax*, 255 Il. App. 3d 103, 108-09 (1993)). The challenged portion of closing arguments must be viewed in its entirety and within context. *Nicholas*, 218 Ill. 2d at 122. "[E]rrors in opening statements or closing argument must result in substantial prejudice such that the result would have been different absent the complained-of remark before reversal is required." *People v. Cloutier*, 156 Ill. 2d 483, 507 (1993).

¶ 45 Mr. Robinson cites to *Wheeler*, 226 Ill. 2d at 121, for the proposition that "[w]hether statements made by a prosecutor at closing argument are so egregious that they warrant a new trial is a legal issue that this court reviews *de novo*." *Id.* (citing *People v. Graham*, 206 Ill. 2d 465, 474 (2003)). The State cites to *People v. Blue*, 189 Ill. 2d 99, 128 (2000), in which the

supreme court applied an abuse of discretion standard of review. We need not resolve the exact standard for these allegedly improper statements because, under either standard, Mr. Robinson has failed to show the "substantial prejudice" to mandate a new trial. *Cloutier*, 156 Ill. at 507.

¶ 46 Mr. Robinson first draws our attention to the State's remarks during its opening statement that three eyewitness identifications would be proven by the evidence, along with its closing argument reference to the multiple witness testimony which suggested that more than one eyewitness testified. Mr. Robinson argues that because the multiple identifications were not proven by evidence the State substantially prejudiced Mr. Robinson and denied him a fair trial.

¶ 47 The State responds that it merely commented on what it anticipated the evidence would show in its opening statement; at that point, it did not know that the other eyewitnesses were not going to testify because it had subpoenaed the additional witnesses and attempted to remain in contact with them in order to have them testify. The purpose of an opening statement is to describe the evidence that the party expects will be revealed at trial. *People v. Roberts*, 100 Ill. App. 3d 469, 476 (1981). The State kept the court informed as to its efforts to obtain testimony from the other eyewitnesses. In fact, another eyewitness—Karisma Johnson—appeared under subpoena at an earlier hearing and was admonished that she must appear to testify at trial. There is nothing in the record that suggests that the State was aware, when it presented its opening statement, that no eyewitness other than Savannah Redding would actually testify.

¶ 48 Mr. Robinson relies on *People v. Bunning*, 298 Ill. App. 3d 725, 729 (4th Dist. 1998), in which we held that "[i]t [is] error for the prosecutor, during opening statement, to inform the jury of 'facts' about which no evidence was presented." *Id.* However, this court in *Bunning* concluded that it was "clear" that the prosecutor would have been aware prior to trial that he could not present evidence as to the "facts" he presented during his opening remarks. *Id.* at 730. In this

case, the record supports the State's argument that it had these additional witnesses under subpoena and was trying to obtain their appearances, even after the trial had started.

¶ 49 As to the closing argument remarks, the State argues that it never referred to the identification testimony of multiple witnesses, and that Mr. Robinson misrepresents the exchange between the trial court and the State by not providing the full context of the conversation. In that exchange, the trial court interrupted the State's closing argument reference to "the witnesses" in order to inquire about the number of eyewitness identifications:

> "[THE STATE]: And you heard from Savannah Redding ***. You heard from the officers who testified in this case, Judge ***. And most importantly, the GSR's [gunshot residue], Judge ***. So the defendant's testimony that he was in the park at 60th and Rockwell letting off fireworks is just simply not credible ***. The testimony from the witnesses that you heard, Judge—
>
> THE COURT: How many people identified him?
>
> [THE STATE]: Well, it was Savannah Redding who after the defendant was detained, defendant was brought to the scene and she immediately identified him as being the person who had shot at her, Judge. And her testimony, it was credible. You could judge her demeanor when she was on the stand.
>
> THE COURT: Is she the only person that identified him?
>
> [THE STATE]: She's the only person that came in court and identified this defendant in that show-up, Judge. But when you look at her credibility, her demeanor when she was in court it is clear that she was scared when she was on the stand.
>
> THE COURT: Did the other people testify?
>
> [THE STATE]: No they didn't, Judge. The other people did not testify but

> Savannah Redding did. She was [a] credible witness. It was clear that she was in here in court, she was scared to testify. She was crying."

¶ 50 The State referred to testimony from "the witnesses" before commenting that Mr. Robinson's testimony was not credible. It was after this that the trial court, as the finder of fact, clarified that Ms. Redding was the sole eyewitness. The State's reference to "witnesses" does not necessarily even suggest that there was more than one eyewitness and certainly does not rise to the level of substantial prejudice to warrant a new trial. Mr. Robinson also claims that in closing arguments the State said Ms. Redding was a credible witness and that she was afraid to testify. The State responds that it never personally vouched for Ms. Redding by explicitly offering a personal opinion as to her credibility. Rather, the State merely pointed out to the trial court that, based on Ms. Redding's crying, she was afraid. The State insists its comments simply urged the trial court to make its own assessment of Ms. Redding's credibility, based on her demeanor on the stand, which was proper. See *People v. Nitz*, 143 Ill. 2d 82, 120 (1991) (finding that "it is a fair comment for the prosecutor to argue that a witness is believable because of her demeanor while testifying and because her testimony was corroborated.").

¶ 51 Mr. Robinson relies on *Roach*, 213 Ill. App. 3d 119, 123, in which the prosecutor commented repeatedly on the credibility of the State's own witnesses to bolster their credibility and on *People v. Hood*, 229 Ill. App. 3d 202 (1992), in which the prosecutor repeatedly stated that the witness was afraid to testify, dwelling on the fact that "[h]er family still lives in that area [near where the crime occurred] *** You would say I don't want nothing to happen to them, but what is the price that I have to pay [by testifying]." *Id*. at 217-18. The court held in both of these cases that the cumulative effect of the comments warranted a new trial, admonishing in *Roach* that the prosecutor should not have placed the "authority of his office behind the credibility of

his witnesses." *Roach*, 213 Ill. App. 3d at 124-25. Unlike the prosecutors in those cases, the State here argued that Ms. Redding was credible based on her demeanor in an isolated reference and urged the court to draw the same conclusion. These cases are quite different.

¶ 52 C. Correcting the Mittimus

¶ 53 Finally, Mr. Robinson asks that we correct his mittimus to reflect the trial court's oral pronouncement in which it acquitted him of counts 14 through 16. The State agrees that the mittimus erroneously lists counts 14 through 16 as convictions and improperly indicates that Mr. Robinson was sentenced to concurrent eight-year terms for each.

¶ 54 Pursuant to Supreme Court Rule 615(b), we may correct the mittimus without remanding the case to the trial court. *People v. Pryor*, 372 Ill. App. 3d 422, 438 (2007) (citing Ill. S. Ct. R. 615(b) (eff. Aug. 27, 1999)). We direct the clerk to correct the mittimus to reflect Mr. Robinson's sole conviction for aggravated battery with a firearm, with a single, eight-year sentence accompanying that conviction.

¶ 55 IV. CONCLUSION

¶ 56 For these reasons, we affirm Mr. Robinson's conviction and correct his mittimus to remove the convictions for counts 14, 15, and 16, reflecting the trial court's oral pronouncement.

¶ 57 Affirmed, mittimus ordered corrected.