NOTICE
Decision filed 05/16/19. The text of this decision may be changed or corrected prior to the filing of a Petition for Rehearing or the disposition of the same.

2019 IL App (5th) 160464-U

NO. 5-16-0464

NOTICE
This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	St. Clair County.
	)	
v.	)	No. 15-CF-769
	)	
GREGORY NELSON,	)	Honorable
	)	Zina R. Cruse,
Defendant-Appellant.	)	Judge, presiding.

PRESIDING JUSTICE OVERSTREET delivered the judgment of the court.
Justices Chapman and Moore concurred in the judgment.

ORDER

¶ 1 *Held*: The defendant's conviction for attempted first-degree murder is affirmed where the evidence supported the trial court's verdict and the court's comments at sentencing did not indicate that the court questioned the correctness of its finding that the defendant had acted with the intent to kill.

¶ 2 Following a bench trial, the defendant, Gregory Nelson, was convicted of attempted first-degree murder. On appeal, the defendant argues that the State failed to prove his guilt beyond a reasonable doubt and that remarks made by the trial court at sentencing suggested that it did not believe that the State had proven that he had acted with the requisite intent. For the reasons that follow, we affirm.

¶ 3 BACKGROUND

¶ 4 In June 2015, the State filed a complaint charging the defendant with one count of attempted first-degree murder (720 ILCS 5/8-4, 9-1(a)(1) (West 2014)), one count of aggravated discharge of a firearm (*id.* § 24-1.2(a)(3)), and one count of unlawful possession of a weapon by a felon (*id.* § 24-1.1). In July 2015, a St. Clair County grand jury indicted the defendant on the same counts. We note that the State later dismissed the unlawful possession of a weapon charge and that the attempted murder charge specifically alleged that on June 23, 2015, with the intent to commit the offense of first-degree murder, the defendant had taken a substantial step toward the commission of that offense by knowingly firing a pistol "one time in the direction of William Owen, a peace officer acting in the course of performing his official duties, after removing said pistol from his clothing while advancing toward and in close proximity to William Owen." In August 2016, the cause proceeded to a bench trial where the following evidence was adduced.

¶ 5 Trooper William Owen of the Illinois State Police testified that on the night of June 23, 2015, he was on State Street in East St. Louis patrolling the area around Interstate 255 in his marked police SUV, in full uniform. At approximately 11:30 p.m., while traveling eastbound on State Street, he saw a silver Kia traveling westbound without its headlights illuminated. After turning his SUV around, Owen caught up with the Kia, positioned himself behind it, and activated his emergency lights to initiate a traffic stop. The Kia's headlights then came on, and the car turned onto the northbound

onramp of Interstate 255. Owen testified that the Kia "traveled about halfway up the ramp" before pulling over onto the right-hand shoulder.

¶ 6 Owen testified that after exiting his SUV and approaching the Kia, he saw the defendant sitting in the driver's seat with a "spilled liquid" on his lap. The defendant smelled of alcohol, and he had red, glossy eyes and what "seemed to be slurred speech." The defendant denied having any open alcohol in the car and produced his driver's license when Owen asked him to do so.

¶ 7 After conducting a records check of the defendant's license and registration, Owen asked the defendant to exit the Kia for field sobriety testing. Owen testified that he had been holding a flashlight in his "gun hand" at the time. Owen testified that the encounter had not been confrontational and that the defendant had gotten out of the car as requested. After doing so, however, the defendant "walked backwards down the side of the vehicle," which made Owen concerned that the defendant might have a weapon or might try to flee.

¶ 8 As the defendant walked backwards towards the rear of the Kia, Owen asked him if he had any weapons. "As [the defendant] reached the rear bumper area of the Kia, he reached behind his back with his left hand and produced a handgun." From "about [an] arm's[-]length" distance, the defendant pointed the gun at Owen's face and "came forward *** like he was going to shoot [Owen] in the face." Owen turned to his left and ran toward the front of the car. Owen explained that he had wanted to "create distance to make it harder for [the defendant] to shoot [him]." The defendant advanced on Owen and fired a shot at him. Owen testified that looking over his right shoulder as he ran, he had

seen muzzle flash behind him. Owen estimated that the defendant had fired the shot from a distance of 10 to 12 feet. Owen testified that the defendant's arms had been "positioned in the same manner" as they had been when the defendant pointed the gun at his face.

¶ 9 As Owen continued to run, the defendant "continued forward" until Owen drew his service weapon and returned fire. At that point, the defendant ran across the shoulder in front of the Kia, jumped over the guardrail, and fled into some nearby woods. Owen indicated that he had not chased the defendant into the woods out of fear that he might have gotten "ambushed." Owen testified that he had called for back-up officers to assist him in attempting to locate the defendant.

¶ 10 When cross-examined, Owen acknowledged that his written report of the incident did not include several of the details that his testimony at trial had included. He further acknowledged that the defendant had not verbally threatened him in any way.

¶ 11 A video camera mounted on the dashboard of Owen's SUV recorded the incident in question, and the recording was played at trial. Although the lighting is minimal and the video captured the rearview of the events as they unfolded, the video nevertheless corroborates much of Owen's testimony. Among other things, the video clearly shows the defendant suddenly pull a pistol from the back of his pants with his left hand before gripping it with his right hand and aiming it at Owen with both hands. Upon seeing the weapon, Owen quickly reacts, turns to his left, and runs towards the front of the Kia. As Owen retreats into darkness, the defendant advances on him. Multiple gunshots are then heard, and the defendant can be seen jumping over the guardrail in front of the car.

¶ 12 The State presented evidence establishing that the defendant's wallet, a partially-full bottle of berry vodka, and two pipes "typically used for drugs" were among the items found in the Kia when it was processed after the incident. A total of nine .40-caliber shell casings that had been ejected from Owen's service weapon were collected at the scene of the traffic stop, along with a single 9-millimeter shell casing that had not been ejected from his service weapon.

¶ 13 Acting on an anonymous tip, investigators later found a 9-millimeter pistol and a loaded magazine inside a 1971 Chevrolet Camaro parked behind a residence on Missouri Avenue in East St. Louis. Inside the residence, muddy clothing and personal effects belonging to the defendant were discovered.

¶ 14 Ballistics testing later established that the 9-millimeter casing found at the scene of the traffic stop had been fired from the pistol found inside the Camaro. Illinois State Police firearm expert Aaron Horn testified that he had examined and test fired the 9-millimeter pistol. Horn explained that because the gun had a "heavy trigger pull," firing it required that the trigger be pulled with "a significant amount of force." He indicated that a heavy trigger pull can also affect the accuracy of an aimed shot. Horn testified that his examination of the 9-millimeter pistol revealed that all of its safety mechanisms were in proper working order. Horn explained that with the gun's thumb safety engaged, one would have to "disengage the safety and then pull the trigger" to fire the weapon.

¶ 15 The State presented testimony establishing that approximately five hours after the traffic stop, a friend of the defendant's had gotten him a room at the French Village Motel in Fairview Heights, where he stayed until the morning of June 26, 2015. On June

26, 2015, the defendant got a ride to an acquaintance's apartment in St. Ann, Missouri, where he was arrested on June 27, 2015. Prior to his arrest, the defendant told the acquaintance that he had "messed up" during a traffic stop and that when the officer who had stopped him asked him if he had a gun, he "just started shooting."

¶ 16 In July 2015, while incarcerated at the St. Clair County jail following his arrest, the defendant sent a letter to his ex-fiancée, which included the following statements: "I'm in a terrible position, all of my own doing" and "I wasn't drunk or high[;] I actually snapped and must pay for my mistake." The defendant's letter also referenced his desire to get help for the "mental flaws" that cause him "to become violent."

¶ 17 The defendant testified that he had been armed during the traffic stop in question because he had been carjacked the day before and had obtained the 9-millimeter pistol for his personal protection. He had also been distressed at the time of the stop because he and his fiancée had just broken up. The defendant stated that he had forgotten that the gun was on his person until Owen ordered him out of the Kia, at which point he had felt the weight of the weapon on his left hip. The defendant stated that he had walked backwards towards the rear of the Kia because he had felt uncomfortable being armed in Owen's presence. The defendant explained that he "didn't know how [Owen] was going to react to that" and was thus afraid for his life. The defendant also noted that he "had a flashlight in [his] face."

¶ 18 The defendant testified that when he got to the back of the Kia, he pointed the gun at Owen, and "the incident just happened." The defendant explained that when he "started going forward" as Owen retreated, his thumb had accidentally hit the safety, and

the gun fired. The defendant indicated that he was not very familiar with the pistol's operation because he had not handled it much. The defendant further indicated that when the gun discharged, Owen was about to draw his service weapon. The defendant testified that "[a]s soon as the gun discharged, [he] took off running."

¶ 19 The defendant testified that he had not intended on shooting the gun at all and had not acted with the intent to shoot or kill Owen. The defendant claimed that he had "just wanted to separate space between [them] because [he] was afraid for [his] life." The defendant testified that he was a compassionate person who respected the law. The defendant stated that if he had wanted to shoot Owen, he would have "shot him at point blank range."

¶ 20 The defendant testified that after emerging from the woods, he had proceeded to the residence on Missouri Avenue where his muddy clothes were later found. The defendant indicated that after changing his clothes, he had given the 9-millimeter pistol to the owner of the property. The defendant confirmed that he had subsequently stayed at the French Village Motel for two days before relocating to the apartment in St. Ann where he was ultimately apprehended. The defendant stated that he had planned on surrendering to the police after contacting an attorney. The defendant indicated that he had not wanted to turn himself in under circumstances that might have resulted in him being "shot on the spot."

¶ 21 When cross-examined, the defendant acknowledged that Owen had not exhibited any threatening behavior before the defendant had pointed the 9-millimeter pistol at him. The defendant further acknowledged that even though his stated intent was to create

space between them, he had nevertheless advanced on Owen as Owen tried to get away. The defendant denied having pointed the gun at Owen's head and reiterated that the weapon had accidentally discharged. The defendant acknowledged that he was not allowed to possess a gun.

¶ 22 During closing arguments, defense counsel maintained that the defendant had not intended to shoot or kill Owen because he never intended to fire the 9-millimeter pistol in the first place. Counsel suggested that had the defendant wanted to kill Owen, he would have shot him while they had been closest to each other and would have continued firing after initially missing him. Counsel emphasized that the defendant had not verbally threatened Owen and that the video of the incident had only captured "one view from one point." Counsel maintained that after the defendant's gun had accidentally gone off, he had understandably fled and gone on the lam out of fear for his safety. Counsel argued that because the defendant had not knowingly or intentionally discharged the gun at Owen, the defendant could not be found guilty of attempted first-degree murder or aggravated discharge of a firearm. Counsel conceded, however, that the defendant's actions would support a conviction for reckless discharge of a firearm (720 ILCS 5/24-1.5(a) (West 2014)).

¶ 23 Suggesting that the defendant had panicked because he knew that he was prohibited from possessing a firearm, the State argued that by pulling the gun, pointing it at Owen's head, and then advancing on and firing at Owen as he retreated, the defendant had acted with the intent to kill Owen and had taken a substantial step toward the commission of the offense of first-degree murder. Referencing Horn's testimony

regarding the 9-millimeter pistol's heavy trigger pull, the State further argued that even assuming that the defendant's thumb had accidentally disengaged the safety, firing the weapon required a "deliberate and intentional act." The State emphasized that the defendant had not fled until Owen had returned fire and that the defendant's claim that he had been trying to create space between them made "no sense." The State noted that although the defendant testified that he had accidentally discharged the 9-millimeter pistol, his failure to turn himself in and his pretrial admissions that he "messed up," "snapped," and tended to "become violent" indicated that he "knew what he did" and "what his intent was." Further noting that "intent can be formed in an instant" and without premeditation, the State argued that "the fact that [the defendant] missed or that he only shot one time" did not negate his intent to kill.

¶ 24 At the conclusion of the parties' arguments, the trial court found the defendant guilty of attempted first-degree murder and aggravated discharge of a firearm. With little elaboration, the court suggested that the defendant had not shown Owen the respect that Owen had shown him.

¶ 25 The defendant subsequently filed a timely posttrial motion specifically alleging, *inter alia*, that the State had failed to prove him guilty of attempted murder, "especially in light of the lack of evidence proving the required intent to kill." In October 2016, the trial court addressed the defendant's posttrial motion at the commencement of his sentencing hearing. After listening to the parties' respective arguments as to the merits of the motion, the court indicated that its verdict had been "considerate" and "thought out" and that the

court had no reason to "second guess" its judgment. The court accordingly denied the defendant's posttrial motion, and the cause proceeded to sentencing.

¶ 26 Noting that the applicable sentencing range was 40 to 100 years (see 720 ILCS 5/8-4(c) (West 2014); *People v. Jackson*, 2018 IL App (1st) 150487, ¶¶ 50-52), the State argued that a 55-year sentence would be appropriate under the circumstances. The State emphasized that the defendant had an extensive criminal history, that Owen could have been killed, and that by claiming that "he didn't mean to pull the trigger," the defendant had demonstrated a lack of remorse and a failure to accept responsibility for his actions.

¶ 27 In response, stating that "[t]his was not a premeditated, calculated, well thought-out, planned act," defense counsel argued that the defendant had not "set out to shoot or even shoot at a police officer" on the night in question. Counsel emphasized that "only one shot" had been fired from the 9-millimeter pistol and that the defendant "could have returned fire when Trooper Owen was shooting at him." Counsel further emphasized that the defendant had been arrested without incident. Maintaining that the defendant's conduct during the traffic stop was the result of "a series of circumstances that combined to create the situation," counsel asked the court to consider those circumstances and impose the minimum sentence of 40 years.

¶ 28 In allocution, the defendant apologized to Owen and stated the following:

> "It was never my intention to harm [Owen] in any way. The situation did escalate to a dangerous potential situation because I did brandish a weapon. But when I brandished that weapon, if it was my intention to harm him or kill him, and then I'm pretty sure that's what would have happened at that time. The window of

> opportunity was the greatest when he was right next to—next close to me. If it was my intention to harm him or kill him or shoot him, it would have been at that particular time."

The defendant then explained that he was not a "cold, calculated shooter of the police," that he had not been "out there riding around all willy-nilly trying to find a police officer to shoot at," and that what had happened "was a spontaneous, spur-of-the-moment thing." The defendant suggested that he had not been "suicidal" on the night in question. The defendant stated that it was "only by the grace of God" that neither he nor Owen had been "hit or hurt on that particular night." The defendant argued that the trial court's finding that he had acted with the intent to kill Owen was inconsistent with what he knew in his heart. Ostensibly paraphrasing 1 Corinthians 2:11, the defendant suggested that the trial court had misread his spirit.

¶ 29 The trial court ultimately merged the defendant's aggravated discharge of a firearm conviction into his attempted first-degree murder conviction and sentenced him to a 50-year term of imprisonment on the latter. See *People v. Betance-Lopez*, 2015 IL App (2d) 130521, ¶ 61 ("The effect of a trial court merging one conviction into another conviction is vacatur of the merged conviction."). When pronouncing sentence, the trial court made several comments and observations, one of which was that it did not believe that the defendant had "set out to harm or attempt to murder anyone." The court noted that the defendant had a gun, however, and, "If you have a gun, someone may get shot." Indicating that it had not tried to divine the nature of the defendant's spirit, the court then

explained that its “rulings [were] based on the evidence that was presented.” Referencing the video recording of the incident, the court concluded by stating:

> “I saw you grab a weapon out of the back of your pants and aim it at that man. I saw that with my own eyes. I don’t know what you expected to do with it. Did you think he was going to get scared and punk out or something? What were you thinking? He was going to do his job, which is what he was trying to do. How dare you.”

The present appeal followed.

¶ 30 DISCUSSION

¶ 31 The defendant argues that the State failed to prove him guilty of attempted first-degree murder beyond a reasonable doubt because the evidence at trial did not establish that he acted with the specific intent to kill Owen. The defendant further argues that by stating that it did not believe that the defendant had “set out to harm or attempt to murder anyone,” the trial court “acknowledged that [he] did not intend to kill Owen” or alternatively, entered judgment “on a legal mistake with respect to the mental state element.” Suggesting that at most, the evidence at trial supported a finding that he committed the offense of reckless discharge of a firearm, the defendant asks that we reduce his conviction accordingly.

¶ 32 In response, the State maintains that “the evidence against the defendant was not merely sufficient but incredibly strong.” The State further maintains that the defendant’s contentions regarding the trial court’s comments at the sentencing hearing are based on

words taken out of context. We agree with the State and accordingly affirm the trial court's judgment finding the defendant guilty of attempted first-degree murder.

¶ 33 It is well established that "[a] reviewing court will not set aside a criminal conviction on grounds of insufficient evidence unless the proof is so improbable or unsatisfactory that there exists a reasonable doubt of the defendant's guilt." *People v. Maggette*, 195 Ill. 2d 336, 353 (2001). When considering the sufficiency of the evidence, it is not our function to retry the defendant. *Id*. Rather, we must determine whether, after reviewing all of the evidence in the light most favorable to the State, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. *Id*. "This means that we 'must allow all reasonable inferences from the record in favor of the prosecution.' " *People v. Beauchamp*, 241 Ill. 2d 1, 8 (2011) (quoting *People v. Cunningham*, 212 Ill. 2d 274, 280 (2004)). This standard applies regardless of whether the evidence was direct or circumstantial and regardless of whether the defendant received a bench trial or a jury trial. *People v. Wheeler*, 226 Ill. 2d 92, 114 (2007).

¶ 34 The State is not required to prove motive in order to sustain a conviction for attempted first-degree murder. *People v. Furdge*, 332 Ill. App. 3d 1019, 1023 (2002). To prove a defendant guilty of attempted first-degree murder, the State must prove that the defendant performed an act constituting a substantial step toward the commission of a murder and that he did so with the specific intent to kill. *People v. Rolfe*, 353 Ill. App. 3d 1005, 1011 (2004). "Because intent is a state of mind, it can rarely be proved by direct evidence." *People v. Williams*, 165 Ill. 2d 51, 64 (1995). Nevertheless, a specific intent to kill may be shown by the surrounding circumstances, including the character of the

assault and the use of a deadly weapon. *Rolfe*, 353 Ill. App. 3d at 1011. "The necessary mental state may also be inferred from evidence that defendant voluntarily and willfully committed an act and that the natural tendency of such act was to destroy another's life." *People v. Bailey*, 265 Ill. App. 3d 262, 273 (1994). Thus, "[t]he very fact of firing a gun at a person supports the conclusion that the person doing so acted with an intent to kill." *People v. Mitchell*, 209 Ill. App. 3d 562, 569 (1991).

¶ 35 At a bench trial, "it is for the trial judge to determine the credibility of witnesses, to weigh evidence and draw reasonable inferences therefrom, and to resolve any conflicts in the evidence." *People v. Slim*, 127 Ill. 2d 302, 307 (1989). Accordingly, questions of fact concerning whether or not an intent to kill has been shown are for the trial court to resolve as well. *Bailey*, 265 Ill. App. 3d at 273; see also *People v. Baum*, 219 Ill. App. 3d 199, 201 (1991) ("The right to believe or disbelieve testimony as to the state of mind of the defendant or the existence of the requisite felonious intent is the prerogative of the trier of fact."). As a reviewing court, we will not reweigh the evidence or substitute our judgment for that of the trier of fact. *People v. Buscher*, 221 Ill. App. 3d 143, 146 (1991).

¶ 36 On appeal, raising arguments similar to those that he advanced below, the defendant contends that the character and surrounding circumstances of the assault in the present case did not demonstrate that he acted with the intent to kill. We disagree. Viewing the evidence adduced at trial in the light most favorable to the State, the trial court could have reasonably concluded that the evidence presented for its consideration overwhelmingly established that the defendant had acted with the requisite intent. The court obviously found that the defendant's account of the incident was not credible, and

as previously indicated, Owen's testimony was corroborated by the video recording of the traffic stop.

¶ 37 On appeal, consistent with his assertion that had he wanted to shoot Owen, he would have "shot him at point blank range," the defendant emphasizes that he did not discharge the 9-millimeter pistol when it was initially pointed at Owen's face. The trial court could have reasonably inferred that the defendant would have done so, however, had the weapon's thumb safety not been engaged or had Owen not reacted as quickly as he did.

¶ 38 The defendant emphasizes that the bullet that he shot did not strike Owen and that there was no evidence that the pistol had been pointed "directly" at Owen when he fired it. "[P]oor marksmanship is not a defense," however, and "[e]vidence that a defendant discharged a firearm *in the direction of another individual*, either with malice or total disregard for human life, is sufficient to support a conviction for attempted first degree murder." (Emphasis added.) *People v. Johnson*, 331 Ill. App. 3d 239, 251 (2002). Here, Owen testified that when he saw muzzle flash behind him, the defendant's arms had been positioned in the same manner as they had been when the defendant had pointed the gun at his face. Moreover, the defendant advanced on and fired at Owen as Owen was retreating. Under the circumstances, the trial court could have readily inferred that the defendant had maliciously discharged the 9-millimeter pistol in Owen's direction and that but for Owen's ability to quickly "create distance" between them, the fired bullet might not have missed.

¶ 39 Noting that he only fired the gun "once when Owen was 10 to 12 feet away," the defendant argues that if he had truly intended to kill Owen, he would have fired additional shots and would not have fled. We again emphasize, however, that the defendant advanced on and fired at Owen as Owen was retreating. Furthermore, Owen testified that after firing at him, the defendant had continued to advance until he drew his service weapon and returned fire. As the State emphasized below, only then did the defendant flee. The firing of a single shot can support the inference of an intent to kill (*People v. Stanford*, 2011 IL App (2d) 090420, ¶ 41), and under the circumstances, the trial court could have reasoned that had Owen not defended himself, the defendant's assault would have continued. The defendant's argument on this point also ignores that "once the elements of attempt are complete, abandonment of the criminal purpose is no defense." *People v. Myers*, 85 Ill. 2d 281, 290 (1981).

¶ 40 We lastly note that "[w]hen a defendant elects to explain the circumstances of a crime, he is bound to tell a reasonable story or be judged by its improbabilities and inconsistencies." *People v. Nyberg*, 275 Ill. App. 3d 570, 579 (1995). Here, the defendant suggested that by advancing on Owen, he had been attempting to create space between them. He further suggested that even though Owen had not been exhibiting any threatening behavior, he had suddenly pointed the 9-millimeter pistol at Owen's face out of fear as to how Owen might have reacted upon learning that he had a gun. The defendant claimed that the pistol accidentally discharged, but Horn's testimony regarding the gun's heavy trigger pull supported the State's argument that firing the weapon required a "deliberate and intentional act." The trial court could have viewed the

defendant's flight and post-event admissions as additional evidence that the defendant had acted with the requisite intent. See, *e.g.*, *People v. Cobbins*, 162 Ill. App. 3d 1010, 1026 (1987); *People v. Hawkins*, 54 Ill. App. 2d 212, 216 (1964).

¶ 41 Ultimately, because the evidence in the present case is not so improbable or unsatisfactory that there exists a reasonable doubt as to the defendant's guilt, we cannot disturb the trial court's verdict. We therefore deny the defendant's request that we reduce his conviction from attempted first-degree murder to reckless discharge of a firearm.

¶ 42 With respect to the defendant's claim that at the sentencing hearing, the trial court "acknowledged that [he] did not intend to kill Owen" or alternatively, indicated confusion with respect to the applicable mental state, we agree with the State's suggestion that "[t]his is simply not true." A trial court's remarks at a sentencing hearing "must be taken in context, and read in their entirety, including arguments of counsel." *People v. Young*, 138 Ill. App. 3d 130, 142 (1985). Furthermore, "the trial court is presumed to know the law and apply it properly," absent "strong affirmative evidence to the contrary." *People v. Howery*, 178 Ill. 2d 1, 32 (1997).

¶ 43 Here, considered in context, the trial court's acknowledgment that it did not believe that the defendant had "set out to harm or attempt to murder anyone" was made in response to the series of assertions made by the defendant and his counsel regarding the unpremeditated nature of the defendant's conduct. As noted, stating that "[t]his was not a premeditated, calculated, well thought-out, planned act," counsel argued that the defendant had not "set out to shoot or even shoot at a police officer" on the night in question. In allocution, the defendant subsequently insisted that he was not a "cold,

calculated shooter of the police," that he had not been "out there riding around all willy-nilly trying to find a police officer to shoot at," and that what had happened "was a spontaneous, spur-of-the-moment thing."

¶ 44 Under the circumstances, we find no inconsistency between the trial court's verdict and its observation that the defendant had not "set out to harm or attempt to murder anyone." Nor do we discern any confusion on the trial court's part as to the relevant mental state. The court could agree with the defendant's contention that what had happened was "a spontaneous, spur-of-the-moment thing" and still find that he had taken a substantial step towards the commission of the offense of first-degree murder with the requisite intent. Importantly, the court did not state that it believed that the defendant had not attempted to murder anyone on the night in question; it merely conceded that he had not "set out" to do so.

¶ 45 It must also be remembered that at the commencement of the sentencing hearing, the trial court refused to "second guess" its judgment and rejected the defendant's posttrial claim that the State had failed to prove him guilty of attempted murder "in light of the lack of evidence proving the required intent to kill." The cases that the defendant cites in support of his claim that the trial court entertained doubts as to his guilt or misapplied the applicable standard of intent are readily distinguishable, as nothing in the present case suggests that the trial court entertained such doubts or was otherwise confused with respect to the mental state that the prosecution had been required to prove. *Cf. In re Vuk R.*, 2013 IL App (1st) 132506, ¶¶ 6, 8 (reversing the respondent's delinquency adjudication where his guilt turned on the credibility of the witnesses'

accounts and the trial court found that all of the witnesses had lied about what had happened); *People v. Kluxdal*, 225 Ill. App. 3d 217, 224 (1991) (reversing the defendant's conviction where the trial court affirmatively recited the wrong standard of proof "at least four times"); *People v. Dworzanski*, 220 Ill. App. 3d 185, 200 (1991) (reversing the defendant's conviction where the trial court "pointedly ignored the language of the statute" and based its finding of guilt on evidence outside the record); *People v. Warren*, 40 Ill. App. 3d 1008, 1011 (1976) (reversing the defendant's conviction where the trial court specifically indicated "continuous doubts" as to the defendant's guilt).

¶ 46 CONCLUSION

¶ 47 For the foregoing reasons, we conclude that the evidence adduced at trial sufficiently supported the trial court's finding that the State had proven the defendant guilty of attempted first-degree murder beyond a reasonable doubt. We further find that nothing suggests that the court harbored doubts as to the defendant's guilt or was confused as to the applicable mental state. Accordingly, the defendant's attempted murder conviction is hereby affirmed.

¶ 48 Affirmed.