2020 IL App (2d) 180178-U
No. 2-18-0178
Order filed July 17, 2020

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellee, v. DELANO L. FOREMAN, Defendant-Appellant.	))))))))))	Appeal from the Circuit Court of Winnebago County. No. 15-CF-2286 Honorable Ronald J. White, Judge, Presiding.

JUSTICE JORGENSEN delivered the judgment of the court.
Justices McLaren and Bridges concurred in the judgment.

ORDER

¶ 1 *Held*: The trial court did not err in: (1) determining that the State laid a proper foundation for jail calls made by defendant (and, even if there was error, it was harmless); and (2) sentencing defendant to the maximum extended-term sentence on his aggravated-cruelty-to-an-animal conviction, where that offense was part of course of conduct unrelated to the human victim's murder and the residential burglary. Affirmed.

¶ 2 Following a jury trial, defendant, Delano L. Foreman, was convicted of 16 counts of first degree murder (720 ILCS 5/9-1(a)(1) (West 2016)), residential burglary, a Class 1 felony (720 ILCS 5/19-3 (West 2016)), concealment of a homicidal death, a Class 3 felony (720 ILCS 5/9-3.4(a), (c) (West 2016)), and aggravated cruelty to an animal, a Class 4 felony (510 ILCS

70/3.02(a), (c) (West 2016)). The trial court sentenced defendant to consecutive terms of 60 years' (first degree murder), 20 years' (residential burglary), and 10 years' (concealment) imprisonment, respectively, and sentenced him to a concurrent six-year term of imprisonment for aggravated cruelty to an animal. The court denied defendant's motion to reconsider sentence. Defendant appeals, arguing that: (1) the trial court erred in ruling that the State laid a sufficient foundation for the reliability and accuracy of defendant's recorded jail communications, where the foundational witness failed to testify about his training and qualifications with the recording systems and made a circular assertion concerning their accuracy; and (2) alternatively, the court abused its discretion in sentencing him to a six-year maximum extended term for aggravated cruelty to an animal, a Class 4 felony, where the court also sentenced him on Class 3 and greater felonies arising from the same criminal objective—residential burglary. We affirm.

¶ 3 I. BACKGROUND

¶ 4 On October 8, 2015, a grand jury returned a 35-count indictment against defendant, alleging several counts of murder, home invasion, armed robbery, residential burglary, residential arson, concealment of a homicidal death, and aggravated cruelty to an animal. The State alleged that, on or about July 16, 2015, defendant committed first degree murder by shooting Henry Murphy and committed aggravated cruelty to an animal by shooting Murphy's dog, Shelby, while committing a residential burglary in Murphy's home at 7609 Owen Center Road in Rockford. The State further alleged that defendant attempted to conceal Murphy's murder by knowingly setting Murphy's home ablaze while Murphy's body remained within. Prior to trial, the State dismissed several counts. Defendant was represented by two assistant Public Defenders, Erin Hannigan and Jacob Rubin. The jury trial commenced on June 20, 2017.

¶ 5 A. Events Leading Up to Defendant's Arrest

¶ 6 1. Jennifer Ackerson

¶ 7 Jennifer Ackerson testified that, in 2015, she was best friends with defendant's sister, Starnisha Stoecklin, and knew defendant before she met Stoecklin. Ackerson testified that defendant lived with her at her home on Underwood Street in July 2015. She had several prior convictions, including possession of a controlled substance (2011), retail theft and obstructing identification (2012), and retail theft (2013). Ackerson testified that the State had not promised, and she had not received, anything for her testimony.

¶ 8 Ackerson related that, at the end of June 2015, she was at the Underwood house while defendant and several other people were there. Defendant approached her and asked her to help him commit a robbery. He stated that he needed a "white girl" to help him, because a "black girl" might scare "the man." Defendant also asked Ackerson if she had a uniform hat that she could wear and told her that he planned on barging in once "the man" opened the door. Ackerson refused to help defendant.

¶ 9 About two weeks later, Ackerson again saw defendant at Stoecklin's house. Several other people were present. At some point, Ackerson, Stoeklin, and defendant left the house to get snacks for Ackerson's and Stoecklin's children. Defendant drove them and two other people ("Poopot" and an elderly African-American man) to the store. After leaving Underwood Street, defendant drove on School Street, stopped at the store, and then proceeded to drive north on Central Avenue for about five minutes, up to where Central turned into Owen Center Road. Ackerson asked defendant what he was doing when he briefly stopped at a stop sign at the intersection of Owen Center Road and Latham Road, and he replied that he was "peeping" (*i.e.*, checking) something out. Defendant continued driving up Owen Center Road for about ½ mile and then slowed down at one point, turned around, and drove back to the Underwood house.

¶ 10 2. Myca Pittman

¶ 11 Myca Pittman, currently incarcerated, testified that she had a heroin addiction. She has prior convictions, including: retail theft (2008), aggravated DUI and two counts of retail theft (2009), and retail theft (2011). Pittman also had 12 pending charges: aggravated driving after revocation and obstructing identification (2013); retail theft, resisting a peace officer, criminal damage to property, and retail theft (2015); and three retail-theft charges, obstruction of justice, theft, and driving on a revoked license (2017). Pittman testified that the State had not promised or given any consideration for her past or pending charges in return for her testimony.

¶ 12 Pittman testified that, in July 2015, she was regularly using heroin and lived with her then-boyfriend, Jessie Craft, as well as Joel Ford, Nika Mann, and Ford's grandmother in Ford's grandmother's house on Jonathan Avenue in Rockford. Pittman knew defendant as an acquaintance and knew that he lived on Underwood "off of School Street" in the same house Ackerson identified as the Underwood house. Defendant's sister lived there, too.

¶ 13 In early July 2015, defendant visited Ford's grandmother's house and asked Craft to help him rob an "old man." Defendant told Craft that he needed a "white boy," because "the man" would be more likely to open the door for someone white.

¶ 14 Pittman next saw defendant late Friday evening and early Saturday morning in mid-July 2015. Pittman, Ford, Ford's grandmother, Mann, and Craft were present in the home. While getting ready to obtain drugs from someone that morning, Pittman saw defendant and another person, whom she did not recognize, enter the house. She saw that defendant had credit cards, a social security card, and an identification card featuring the picture of an older Caucasian man and the name "Henry Murphy." While in the basement of Ford's grandmother's home, defendant asked everyone present for help "getting the money off the credit cards." He wanted Pittman to

call the credit card companies and try to change the PIN numbers on the cards. Pittman, Mann, and Ford helped defendant, and defendant spent about two hours in the home.

¶ 15 (Pittman further testified that she testified in front of a grand jury in this case with the promise that she would not be charged with assisting defendant with attempting to use the credit cards. However, she was not given any consideration on her pending cases.)

¶ 16 Pittman testified that she spoke privately with defendant while they were in the basement. Defendant told her that he went to the "old man's" house, robbed him, and shot him in the chest. He also stated that he shot the "old man" at his front door (there was a screen door between them) and described him as tall.

¶ 17 On cross-examination, Pittman stated that she visited the Underwood house either five or six times in July and had never visited it prior to July. (She never went inside.) She and Craft were arrested on July 21, 2015, on a retail theft they committed one day earlier. On July 26, 2015, she reached out to the police and offered to cooperate. Pittman admitted that she was a heroin addict and that she had a $100-per-day habit at the time she spoke with defendant in mid-July 2015.

¶ 18 Pittman recalled that defendant appeared at Ford's grandmother's house with the credit cards and other material at about 12:30 or 1 a.m. in mid-July 2015. In her written statement, she stated that defendant appeared at 1:30 a.m. Pittman helped defendant with the credit cards and used the house phone.

¶ 19 3. Jessie Craft

¶ 20 Jessie Craft testified that he is currently staying at an inpatient rehabilitation center for heroin addiction. He has several prior convictions for violations of the Controlled Substances Act

and retail theft (2016). Craft stated that he had not received or been promised anything for his testimony.

¶ 21 Around July 20, 2015, Craft lived at Ford's grandmother's home at 1610 Jonathan Avenue in Rockford. Unlike Pittman, Craft testified that Pittman, Ford, and Ford's grandmother also lived there; he did not mention Mann. He had a drug addiction at the time. Craft had been dating Pittman for about four years in 2015. He met defendant through Pittman, came into contact with him about four or five times, and knew that defendant lived at the Underwood house.

¶ 22 About one or two weeks after July 4, 2015, and close to the middle of July, defendant visited Ford's grandmother's house at about 10 or 11 a.m. Pittman was present while two other people were in a car outside the home. Defendant asked Craft to help him rob an "older gentleman" at a home located on Owen Center Road and steal the "older gentleman's" guns and money. Defendant told Craft that he had tried on a prior occasion to go to the house, but failed. Therefore, he needed someone else to go back to the house with him for his subsequent attempt. Defendant told Craft that he asked him, because Craft was "white, and [he] assumed that the man would not let a black person in the door." Defendant asked Craft if he had some type of uniform that would convince "the man" to open the door. Defendant also told Craft that his role would be to knock on the door to get the man to answer and that he could either mace him or shoot him. Craft replied that he would not shoot him, but would rather mace him. Craft testified that he did not go to the victim's house.

¶ 23 About 1 to 1½ weeks later, defendant returned to Ford's grandmother's home with a younger African-American man with short hair. Pittman was at the house at this time, and, 15 minutes later, Ford and Mann arrived. Defendant had an identification card/driver's license, a social security card, and several credit cards. The photo on the identification card depicted an

older man. Defendant asked Craft if he would try to change the PIN number on a credit card. Craft made one unsuccessful attempt. Craft testified before a grand jury in August 2015 and was told he would not be charged with attempting to change the PIN. However, he denied that was the reason for his testimony at defendant's trial.

¶ 24 On cross-examination, Craft stated that he had had contact with Pittman since 2015 and they have discussed defendant's case, but not the details of what occurred. When Craft first spoke to the police about the July 21, 2015, incident, he hoped to have his pending charges dismissed. However, he did not receive anything, was given probation, and ended up going to prison after violating his probation. It is his understanding that he will not be charged with anything from this incident.

¶ 25 4. Joel Ford

¶ 26 Joel Ford testified that he had several 2017 convictions: aggravated fleeing to elude, robbery, theft, and burglary. Ford stated that he did not receive any consideration for his testimony.

¶ 27 In July 2015, Ford had known defendant for 10 years and was friends with him up until July 2015. Defendant and his sister, "Star," lived at the Underwood house.

¶ 28 Around July 14, 2015, at about 2 p.m., defendant approached Ford outside the Underwood house. Defendant entered Ford's car and told Ford that he could "make a lot of money helping him rob somebody and that there was a guy out in the middle of nowhere we could get a lick on him, he collected guns and he had around 100 guns[.]" ("Lick" meant robbing someone.) Ford asked defendant is he was going to the house to rob the man, and defendant stated "that he was going to kill the guy and rob him." Ford did not believe defendant, but told him he would be interested and to call Ford. Ford testified that the conversation "threw me off" when defendant

mentioned killing and robbing the man and that Ford "just wanted to get away from him at that point so I told him yeah give me a call." Ford did not want any part in murdering someone.

¶ 29 The next day, Ford met defendant at the Underwood house. Ford parked his car in an alley before defendant pulled up in a small black car in the alley, parked, and walked up to Ford. Before Ford could speak, defendant stated that, "he didn't care what I was talking about because he did what he was going to do, and at that point I believed he was talking about the 'lick.' " Ford left.

¶ 30 The following day, the men had another conversation at about 1 or 2 a.m. Ford arrived at his grandmother's home with Mann and found defendant present in the basement. Pittman, Craft, and a man Ford did not know were also present. The unknown man sat quietly in the basement and did not make eye contact. Ford's grandmother was asleep upstairs. Defendant had credit cards with the name "Henry Murphy" printed on them. Defendant was there for two hours. Defendant told Mann and Pittman that he would pay them $1,000 if they would "help him retrieve money by any means off these cards[.]" Ford did not participate in trying to get money off the credit cards.

¶ 31 Later, defendant asked Ford if he had a gas can. At first, he replied that he did not, but he was scared. There was "no doubt" in Ford's mind that defendant had killed the man. Defendant stated that he needed the gas can "to take care of something, and that he would let me know more about it[.]" According to Ford, defendant stated that he was going to burn the "cars"[1] and pieces of paper on which he wrote information when he left the house.

¶ 32 Ford testified that he did not know Ackerson at that time, and she was never at the Jonathan Avenue house; he read about her in the newspaper. Ford testified that he had a cocaine addiction at this time and that his criminal history stemmed from his addiction.

[1] On cross-examination, the transcript refers to "cards."

¶ 33 On July 21, 2015, Ford met with police. Sometime afterwards, Ford agreed to help police with their investigation and agreed to wear an overhear device. He wore the overhear device on three separate occasions and receive about $440 to meet with defendant. Ford tried, but failed, to get defendant to admit that he killed Murphy. He also tried and failed to find the murder weapon. Ford agreed to wear the wire because, "[a]t that point[,] it was the right thing to do. I've made mistakes, but I don't go around committing murders."

¶ 34 On cross-examination, Ford testified that, when he met with police on July 21, 2015, they came to his house. Ford told them, "I suppose you want to talk to me about the fire at Owen Center Road." Ford agreed to go "downtown," where he gave a written statement.

¶ 35 In contrast to Pittman's testimony, Ford testified that both Pittman and Mann used cell phones when helping defendant with the credit cards. Ford admitted that he had a 2009 armed robbery conviction.

¶ 36 While Ford's charges were pending, he wanted a consideration for his testimony, but it did not happen. There was never an offer that was contingent upon his testimony in this case. He has not been charged with anything related to this incident, he received the payments for wearing a wire, and he entered a plea agreement as to several of his convictions.

¶ 37 B. Police Investigation

¶ 38 1. Paul Johnson

¶ 39 Paul Johnson testified that, at about 7 a.m. on a Saturday in July 2015, he and his wife were driving to work when he saw a house on fire. He pulled his car into the home's driveway, parked his car, and told his wife to call 911. While his wife made the call, Johnson walked up to a door and looked inside. It was very dark inside. A nearby window felt "really hot." He told his wife

that it appeared that no one was home. They waited until emergency personnel arrived about seven minutes later.

¶ 40 2. Daniel Ewers

¶ 41 Daniel Ewers, deputy chief of the Rockton Fire Department and head of emergency services, responded to reports of a home fire at Owen Center Road at about 7:30 a.m. on July 18, 2015. He reached the location in about 8 to 10 minutes, but other fire personnel were already there when he arrived. Ewers saw that the home was ablaze with heavy fire and smoking coming from the home's north side.

¶ 42 Ewers subsequently identified the home's porch area as the south end of the home. He and other firefighters went up to the porch, through a screen door, and then through an unlocked front door before coming face-to-face with visible smoke that almost reached the floor. Based on the smoke, Ewers surmised that there was a lot of heat and a lot of unburned combustibles within the home. He also determined that the fire had been burning for some time. As Ewers prepared his personal protective equipment while bent down, he saw a body on the floor about three to four feet from the front door. On his direction, personnel responded by dragging the body out of the home and onto the porch. Ewers returned to the porch and determined that the individual was deceased.

¶ 43 3. Bill Hintz

¶ 44 Bill Hintz, the Winnebago County coroner who worked as chief deputy coroner in 2015 testified that he went to the scene and on July 18, 2015. He noticed Murphy had significant burns on his head, arms, the left side of his torso, and his left leg. Murphy wore boots, a belt, and pants, although the left pant leg was missing. Hintz also noticed that Murphy appeared to have a hole in the right side of his neck. He did not notice signs of decomposition and pronounced Murphy dead at about 8:14 a.m. A dead dog was located on the kitchen floor.

¶ 45 4. Mark Johnson

¶ 46 Mark Johnson, an animal-control officer with Winnebago County animal services responded to a dispatch to the Owen Center Road house to retrieve a dog carcass from a house fire. Once the carcass was received and bagged, Johnson opened the bag and saw that the carcass was bleeding from the ear, which seemed unusual for a fire-related injury. He felt the top of the dog's head and the skull was broken and there was a hole in the top of the dog's head. Johnson ran the rabies tags numbers through animal services' system and determined that the dog belonged to Henry Murphy.

¶ 47 5. Michael Poel

¶ 48 Michael Poel, an arson investigator with the State fire marshal's office, arrived at the scene at about 11 a.m. After examining the house, Poel determined that the house suffered the greatest amount of damage near the back bedroom located on the north side of the home, and it was there that the main body of the fire began. The bedroom was difficult to inspect because it suffered from a structural collapse, including a hole burned through the floor and a collapsed ceiling/roof, which likely had been caused by a free-burning fire in a flashover phase (*i.e.*, a confined and intensely burning fire exceeding 1900 degrees). Poel followed the fire's path and went into the hallway near the bedroom, which lead to an adjoining room containing radio equipment and reloading equipment.

¶ 49 Ultimately, Poel determined that someone intentionally set three very distinct fires in the home, because no connection existed between the fire patterns. In the home's living room, he identified an overstuffed easy chair that had been severely damaged by flames and an adjacent overstuffed chair with heat damage. The chairs were ordinary combustibles (*i.e.*, easily ignited or burned items). Next, a small fire appeared to have been started in the kitchen. Near a table

surrounded by chairs and along the kitchen's south wall, Poel discovered that a fire was on the back of the chair and the surface of the kitchen table. More ordinary combustibles lay on the ground near the table.

¶ 50 Poel could not determine whether the individual who set the fires used an ignitable liquid (*i.e.*, gasoline, kerosene, diesel fuel, etc.) to start the fires, but he took samples from the living room and kitchen. He did not take samples from the bedroom because entering the room was unsafe and analyzing samples from there would have required substantial expense. Nevertheless, Poel concluded that someone likely used an ignitable liquid in the bedroom, because the fire there was unusual in that there was a large amount of localized damage and it was unlikely the mattress otherwise would have burned as intensely as the fire appeared to have burned.

¶ 51 On cross-examination, Poel testified that ordinary combustibles, not ignitable combustibles, were the most likely source of the kitchen fire. The living room samples similarly did not show ignitable liquid use.

¶ 52 6. Tim Speer

¶ 53 Tim Speer, a crime-scene technician with the Winnebago County sheriff's department, testified that he assisted in the crime-scene examination. The Owen Center Road property encompassed more than one acre, which was bordered by trees and brush. The closest neighboring homes were "quite aways away."

¶ 54 In the kitchen, Speer observed a lot of burned materials, smoke, and heat damage. Soot covered everything. He testified that the drawers and cupboards were open and there was a dog bowl containing water on the floor with a spent cartridge casing floating in it. The living room contained two reclining chairs. One was severely damaged and burned, while the other had some heat damage on one side. There were also "drag marks" through the soot, which indicated that the

chair had been moved. Blood appeared to have pooled beneath the chair, and a cartridge casing and a pair of eyeglasses were on the floor. Speer also stated that there was a blood smear trail going from the pool on the floor through the front door. There was an empty gun cabinet in the room.

¶ 55 Based on his observations of the home, Speer testified that it was obvious that Murphy had been an ammunitions reloader (*i.e.*, "a person who takes spent cartridge casings and reloads them with new primers and gun powder and projectiles and basically makes their own bullets"). In the home, Speer found hundreds of cartridge casings. Most were in boxes or plastic cups that were stacked in the kitchen and other areas. However, the spent casings in the dog bowl and on the front porch were distinguishable from the other casings, as the spent casings were nine-millimeter shells stamped "D-R-T" and none of the other nine-millimeter casings recovered from the house featured that stamp.

¶ 56 Speer testified that he also found items of evidentiary significance outside the home. He found a spent cartridge casing and a bloody, partially-burned shirt on the front porch. In the backyard, about 25 to 30 feet from the home, he found a flashlight and a pair of Remington safety glasses.

¶ 57 Speer also attended Murphy's autopsy, which occurred on July 20, 2015. He collected clothing, a multi-tool, a blood-standard card, and five copper jacket fragments that Dr. Mark Witeck removed from the inside of Murphy's throat.

¶ 58 On cross-examination, Speer stated that he also recovered a smoked cigarette and a syringe outside the house. Neither of these items were tested for fingerprints.

¶ 59 7. Dr. Mark Witeck

¶ 60 Dr. Mark Witeck, a Winnebago County coroner's office forensic pathologist, conducted Murphy's autopsy. Witeck testified that Murphy was an elderly man and he had been partially burned over the length of his body. Also, there was a gunshot wound to the right side of his neck, about eight and one-half inches from the top of his head. The neck hole was oblong and there was soot inside of it. Dr. Witeck determined that the hole was a bullet wound about one-half inch by three-eighths inch in dimension. There was also evidence of close-range fire, because of the soot found inside the wound. He did not find evidence of any defensive wounds and did not note any other injuries. However, Dr. Witeck noted that Murphy's stomach was distended and that it had started to turn green, which reflected early signs of decomposition.

¶ 61 Dr. Witeck opined that the cause of death was a bullet that severed Murphy's spinal cord after piercing his neck, which would have cause his body to collapse and he likely would have died after his heart gave out about four or five minutes later. He ultimately concluded that Murphy died because of a "close range penetrating gunshot wound to the neck," as there was no evidence that Murphy breathed in any of the smoke or soot. Soot, Dr. Witeck explained, would have been deposited in Murphy's airway if he was still alive when the fire started. Murphy appeared to have been dead less than one week when his body was recovered.

¶ 62 8. Dr. Charles Castelein

¶ 63 Dr. Charles Castelein, a staff veterinarian with Winnebago County animal services, performed the necropsy on Shelby. After examining the dog's teeth, he determined that the dog was a nine-year-old female golden retriever. The dog had scorch marks, signs of burning, and signs of singeing on its left side and back. Dr. Castelein also discovered a puncture wound between the last rib and the hip up close to the backbone. He tracked the wound to a puncture wound located at the left inguinal (*i.e.*, groin) area. Dr. Castelein also discovered fragmentation of the

frontal bone in the dog's forehead and he felt loose bone fragments across its forehead. He also found signs of trauma in both wounds and recovered a bullet from the dog's skull.

¶ 64 Dr. Castelein opined that the gunshot to the dog's brain killed it and that it was dead before the fire began.

¶ 65 9. Edward Rottman

¶ 66 Edward Rottman, a latent print examiner with the State police, tested the D-R-T shell casings for fingerprints and failed to find any prints that were suitable for comparison. He also tested a blue plastic box and discovered a print suitable for comparison, but the print did not match defendant's prints.

¶ 67 10. Christina Davison

¶ 68 Christina Davison, a forensic scientist specializing in firearms identification with the State police Rockford Forensic Science Laboratory, testified that she examined the D-R-T casings and determined that they were fired from the same handgun.

¶ 69 11. James Abate

¶ 70 James Abate, a Winnebago County sheriff's deputy, performed a trash pull with deputy Fillers at the Underwood house at about 4:30 a.m. on July 22, 2015. The following items were found during the trash pull: a bag containing a sock and an envelope, which contained a shell casing filled with primer and appeared to have been previously fired; a plastic ammunition tray used for storing reloaded bullets; a resident hunting license transcribed with the last name "Murphy"; a prescription card for "Henry Murphy"; burned up pictures and documents; and a dark leather wallet.

¶ 71 Abate testified that, while he and Fillers turned over the evidence, detective Berg overheard them note they found a hunting or fishing license with the name "Murphy" on it. Berg, who was

working on the Murphy case, told the deputies that the name matched a homicide victim from Owen Center Road.

¶ 72 12. Mike Schultz

¶ 73 Sheriff's deputy chief Mike Schultz, then supervising sergeant at the Winnebago County sheriff's office narcotics division, testified that he and several other officers executed a search warrant on 412 Underwood at about 10:59 a.m. on August 3, 2015. Defendant, Stoecklin, and two children were inside.

¶ 74 Schultz found a checkbook bearing Henry Murphy's name in the ceiling tiles of the basement. Stoecklin had been present at the door when the officers arrived, yelled profanities at them, and attempted to close the door when the officers moved to go inside.

¶ 75 13. James Abate

¶ 76 Winnebago County sheriff's deputy James Abate assisted in executing the search warrant for the Underwood residence. He identified a piece of mail addressed to defendant at 412 Underwood, which was in a kitchen drawer. Abate also identified a photo of a rubber glove filled with ammunition, which was found sitting atop a refrigerator in the kitchen. He also identified a photo of a partially-burned CPR card found in the Underwood home's backyard and featuring the name "Henry" or "Murphy"; a rubber glove; checks that were found in the checkbook recovered from the Underwood house; and a letter from Nicor Gas addressed to defendant at the Underwood address.

¶ 77 14. Steve Roberson

¶ 78 Detective Steve Roberson testified that he assisted in executing the search warrant at the Underwood house. He searched the home's back yard and noticed something that appeared to

have been burned in a grill. Roberson found a small piece of charred paper, which appeared to be a CPR card featuring the name "Henry."

¶ 79 15. Tim Speer

¶ 80 Winnebago County detective Tim Speer testified that no prints were found on the checkbook or rubber glove. The nine-millimeter ammunition found in the rubber glove was not D.R.T. brand.

¶ 81 C. Jail Calls

¶ 82 1. David Huff

¶ 83 David Huff, a corrections captain at the Winnebago County jail, testified that he is the administration operation captain, which encompasses the inmate phone system, video visitation system, and security and control systems. He has been overseeing the phone and video systems for 10 years, and the phone system has not changed during that time in terms of its operation, although a different company—Inmate Legacy Communications in Houston, Texas—now stores the data. Huff explained that the phone system monitors all outgoing inmate calls.

¶ 84 Inmates make phone calls using their MID number and a four-digit PIN unique to each inmate, which they punch in when using the system. A pre-message at the front notes they are being recorded and monitored. All calls are recorded and remain recorded for one year. A limited group of people have access to the calls, including Huff, detectives, and a couple of supervisors.

¶ 85 When asked how he knows that the system is working, Huff replied, "If it's not operating it doesn't record." You cannot get a partial result. The recordings are time-stamped to ensure they are not changed. In August 2015, Huff was monitoring the system, and it was properly functioning. He knew this because the calls were available. If the system was not working, they would not be available.

¶ 86 Video records, Huff testified, are different, because they are maintained by the maintenance department and the system is owned by the sheriff. The jail records video communications only if they are requested ahead of time by the "deck." He knows that the video system is operating property because, when it is not, it will not record.

¶ 87 On cross-examination, Huff testified that there is a voice recognition feature in the jail recording system. However, if someone obtains another inmate's MID and PIN, they can use it. "Yes, either that or they dial the phone for them and give it to them."

¶ 88 On re-direct, Huff stated that when an inmate's information is stolen, which does occur "from time to time," staff will change the PIN when notified.

¶ 89 2. Kyle Boomer

¶ 90 Winnebago County sergeant Kyle Boomer was a detective in August 2015 and accessed defendant's recorded jail calls via his computer.

¶ 91 He testified that there are times when inmates use each other's PINs.

¶ 92 Prior to listening to the calls defendant placed from the jail, Boomer was familiar with defendant and had heard him speak. He could recognize defendant's voice. He recognized defendant's voice on the calls on People's exhibit No. 301, a disc of the phone calls defendant placed from the jail.

¶ 93 When the State moved to admit and publish the exhibit, defense counsel Hannigan objected:

> "I don't believe the State laid the proper foundation for the audio recording to be entered into evidence in light of Officer Huff from the jail. They failed to establish his competency as an operator, there was nothing in regard to his training of the program or how he operated it. I know that they said that he oversaw it, but there's no testimony as to

his training and the operation of the recording system. It's a circular kind of reasoning where you say if I get a recording I know it's working.

Additionally, there's a question as to the program itself. There's some case law about this situation, it's *Sangster and Sangster*, of course, as you know, that was the voice recognition of the inmate. Here we don't have that same security. Additionally, the identity of [defendant] was not properly laid. [Boomer] indicated that he had heard him speak; however, when, how many times was never established, and so for all of those reasons, Judge, I ask you find that the foundation hasn't been laid."

¶ 94 Defense counsel Rubin added:

"Finally, Judge, as far as the operating the system working properly, a lot of these cases talk about systems in which it's voice activated. Here we don't have that, here [ ] Huff indicated that all you need is a MID and a PIN to activate a phone. He even further said someone could use someone else's MID or PIN or someone can dial the phone themselves and hand it to someone else. That's not reliable. That doesn't sufficiently prove the operating system works properly."

¶ 95 The trial court overruled the objection and determined that the issue went to the weight of the recording, not its admissibility, as to whether a different PIN is used or other technical complications. Thus, the court found that there was a proper foundation laid as to the operation of the device and no changes or deletions of the recording.

¶ 96 Boomer continued his testimony and testified that he had two conversations with defendant and was familiar with his voice. There was no doubt in his mind that the person he heard on the calls was defendant. Over objection, the State's exhibit was admitted and played for the jury. Specifically, the audio from several calls was played:

¶ 97 The first call occurred on August 4, 2015. An inmate identified as defendant asked a person on the other end for "Big Booty's" phone number. Defendant talked about a bag at the house in the basement and a camera. Defendant told the person on the other end to tell "Big Booty" to give the bag and the camera to Corey. "Right now." Also, defendant told the person to tell "Big Booty" to throw the camera and "the rest of the shit downstairs" in "the car" and take it somewhere.

¶ 98 The second call occurred on August 5, 2015. An inmate identified as defendant told a person on the other end, "I need you to get word to her ASAP." Defendant asked if the person on the other end managed to talk to "her" about "the bag and shit" at the house. The other person told defendant that they "shot her a text." Defendant gave the person a phone number ending in 9340. Defendant told the person that he has been trying to call "her."

¶ 99 The third call occurred on August 7, 2015. An inmate identified as Jaquavian Evans, but whom Boomer identified as defendant, told a person to "take that bag" from the laundry room with them, to get rid of it, and that all it contained was "some clothes and shit."

¶ 100 A final call occurred on October 13, 2015. An inmate identified as defendant asked the person on the other end where the bag is. He instructed another person on the phone to go to Corey's and find out if the police took the bag. Defendant told the person, "That shit can be real detrimental to me, especially if I'm trying to go to trial."

¶ 101 An August 5, 2015, jail video was played. In the video, defendant appears to ask a person on the other end of a telephone call about Stoecklin's whereabouts. The person tells him that the police stopped her car. Defendant asks if Stoecklin "got rid of that shit," because "if not, I'm fucked." Defendant slams down his hands in frustration and says, "This is why I told you to call her last night.'' He then says, "You ain't seeing me no more. It's a wrap. You, Star, my grandma, everybody. [Unintelligible] the white boy [phonetic] put me in a situation, you hear me? He made

me look like I just did this shit. All the shit came from him." Next, defendant appears to tell the person on the other end to get in contact with Stoecklin again and states that he bought the camera found in Stoecklin's car from someone for $10.

¶ 102 Boomer testified that, based on the first call, he stopped Stoecklin's (Sitarah Stokes') car on August 4, 2015. She gave Boomer permission to search her vehicle, and Boomer found a camera in the front passenger door pocket. Stoecklin then gave Boomer permission to search the camera. After he did so, Boomer took it to the detective bureau and gave it to detective Juarez. Boomer testified that defendant is not a police officer.

¶ 103 3. Pete Dalpra

¶ 104 Winnebago County sheriff's sergeant Pete Dalpra testified that he was a detective in August 2015 and spoke with Stoecklin at the courthouse on August 4, 2015. Stoecklin gave Dalpra permission to search her phone and filled out a consent form. She listed her phone number as the same number ending in 9340 that was given in the third jail call. She also gave police her phone's passcode, but neither Dalpra nor detective Pete Engelkins, who was also present, searched the phone. Instead, they gave it to detective Juanez.

¶ 105 4. Robert Juanez

¶ 106 Winnebago County sheriff's detective Robert Juanez testified as an expert in computer forensics. He extracted data from the phone that belonged to Stoecklin. The records reflected that calls were made on August 4, 2015, and he identified the second call as coming from a phone within the Winnebago County jail. The contact associated with the phone number was " 'Delano answer.' " The cell phone received the call at 9:30 p.m. Juanez testified that a total of four calls were received from " 'Delano answer' " on August 4, 2015. Juanez also identified two photos of

Murphy that he remembered seeing when reviewing the camera's memory card and internal image files.

¶ 107 5. Darius Day

¶ 108 Darius Day testified that he knew defendant and a man named Corey Francis. In August 2015, police approached Day at his home at 950 North Winnebago and asked him to give a statement. Day identified an exhibit as the statement that detective Ryan Haven wrote and that Day initialed and signed on August 26, 2015. However, Day denied reading over the statement and stated that he merely initialed and signed it.

¶ 109 Day testified that he retrieved a black bag from his doghouse in his back yard that same day. However, he denied knowing that the bag was in the doghouse and stated that he found it while helping police search his home. He did not remember whether Francis brought the bag to his home, but, in his statement, he related that " 'maybe like three weeks ago my girl's brother, Corey, came over to my house with a black bag.' "

¶ 110 On cross-examination, Day testified that he retrieved the bag for the police and did not initially hide it or know how it ended up in the doghouse. He also stated that he did not read over his statement the day he signed and initialed it and testified that he first read it when the State showed it to him before trial. He signed the statement "[b]ecause when I talked to the officer *** he said that it was just a statement that they found the bag at my house, that's the only thing I was signing to. He never said that—I never said that I seen Corey Francis with the bag or none of that."

¶ 111 6. Detective Ryan Heavin

¶ 112 Winnebago County Sheriff's detective Ryan Heavin testified that he and other detectives went to Day's residence on August 26, 2015, to retrieve a large bag of ammunition. Heavin and Boomer searched the property. Day's friend, Sam Jackson, was also present.

¶ 113 Day walked to the dog house in the back of the yard and retrieved a heavy black and red duffle bag, weighing 50 to 65 pounds. No one asked Day to retrieve the bag, and the bag was sealed when Day produced it. Heavin took the bag and locked it in the trunk of his squad car.

¶ 114 Detective Heavin obtained a written statement from Day in his squad car. Heavin stated that he followed his typical procedures in obtaining the statement. In this case, "I wrote it down on my handwritten statement form. As I was going along clarifying, making sure that I had what he told me exactly how he told me. And then once we were—once we were finished the statement he read it aloud, agreed that that statement was true and accurate and then did his initials and signed and dated the statement."

¶ 115 The statement includes the following: " 'Maybe like three weeks ago my girl's brother, Corey, came over my house with a black bag.' " Afterwards, Heavin drove back to the detective bureau and took the bag to the equipment room. In the equipment room, Heavin took photos of the closed bag before opening it and taking additional photos. Inside the bag, he found different calibers of ammunition in various containers.

¶ 116 On cross-examination, Heavin testified that he did not, and could not, record Day's statement. However, he could have taken Day to the detective bureau to record it.

¶ 117 7. Deputy Mark Maffioli

¶ 118 Winnebago County Sheriff's deputy Mark Maffioli, a crime-scene investigator, testified that the duffle bag contained ammunition stored in grocery bags, plastic food containers, and blue

plastic ammunition boxes, as well as four empty firearm magazines. He also noted a blue Caseguard ammo box, which he processed for fingerprints. No results were provided.

¶ 119 On cross-examination, Maffioli testified that he processed the containers, jars, boxes, and magazines for evidence, but did not perform any processing on the bullets.

¶ 120 8. Mikaye Hugi

¶ 121 Mikaye Hugi, Murphy's former son-in-law, testified that Murphy taught him to shoot a gun and reload ammunition. Murphy collected curios and relic firearms. He also held a CNR license, which allowed him to receive firearms mailed to his home at Owen Center Road. Hugi testified that Murphy was a licensed firearms seller at one point. Murphy visited Hugi in Alabama at least one to two times per year to go shooting. He would bring 5,000 to 6,000 rounds of ammunition, and the pair would "usually go home empty-handed."

¶ 122 Hugi identified several exhibits, including gunpowder, ammunition Murphy reloaded, reloaded ammunition stored in containers that Murphy prepared, or simply containers Murphy prepared. Hugi testified that he spent a lot of time around Murphy's reloaded ammunition. Murphy's bullets were distinguishable from others, because they were made with low-quality lead, which likely came from melted wheel weights, as Murphy had a friend in the tire business who would give Murphy the weights. Hugi explained that store-bought ammunition, of which he had seen hundreds of thousands of rounds, was distinguishable from reloaded ammunition. He does not know if there are other reloaders in Rockford.

¶ 123 Hugi identified the duffel bag found in Day's yard as Murphy's bag. Hugi further testified that Murphy owned a small, gray Sony digital camera. He identified the State's exhibit No. 16 as appearing to be Murphy's camera, including the black case Murphy kept it in.

¶ 124 D. Verdict and Subsequent Proceedings

¶ 125 Trial concluded on June 29, 2017. The jury found defendant guilty of 16 counts of first degree murder, residential burglary, concealment of homicidal death, and aggravated cruelty to an animal. It found him not guilty of home invasion, armed robbery, residential arson, and several first degree murder counts. As to the enhancement factors, the jury determined that the State failed to prove that defendant was armed with a firearm, discharged a firearm, or personally discharged a firearm that proximately caused the death of another.

¶ 126 Defendant moved for a new trial, arguing in part that the court erred in admitting the jail tapes, because the State did not lay a proper foundation based on Huff's testimony. The trial court denied the motion on November 6, 2017.

¶ 127 The trial court sentenced defendant to an aggregate term of 90 years' imprisonment: 60 years for first degree murder; 20 consecutive years for residential burglary; 10 consecutive years for concealment of homicidal death; and 6 concurrent years for aggravated cruelty to animal. On March 5, 2018, the court denied defendant's motion to reconsider sentence. Defendant appeals.

¶ 128 II. ANALYSIS

¶ 129 Defendant argues that: (1) the trial court erred in ruling that the State laid a sufficient foundation for the reliability and accuracy of defendant's recorded jail communications, where the foundational witness—Huff—failed to testify about his training and qualifications with the recording systems and made a circular assertion concerning their accuracy; and (2) alternatively, the court abused its discretion in sentencing him to a six-year maximum extended term for aggravated cruelty to an animal, a Class 4 felony, where the court also sentenced him on Class 3 and greater felonies arising from the same criminal objective—residential burglary, where the offense was part of a related course of conduct.

¶ 130 A. Foundation for Recorded Jail Communications

¶ 131 Defendant argues first that the trial court abused its discretion in admitting the jail-call evidence, where the State failed to lay a sufficient foundation for it. Specifically, defendant asserts that Huff's testimony failed to show that he knew how the jail systems worked and did not show that he actually knew the recordings were reliable and accurate. First, defendant asserts that Huff did not testify that he received any training concerning the recording systems' use and functionality or how to verify a recording's accuracy. Second, defendant contends that Huff used circular reasoning and blanket assertions—"If it's not operating, it doesn't record," and imperfect results were not possible, because the system did not allow it—to explain why the recordings were reliable, rather than providing a comprehensive explanation of the recording system's safeguards or processes that ensured reliability. Third, defendant takes issue with Huff's assertion that he knew that the recordings were unmanipulated because of their time stamps, but also admitted that inmates could swap or steal identification numbers and make calls under another inmate's name. The jail's voice-identification technology did not bar inmates from making calls while using someone else's PIN and MID number. Defendant requests that we reverse his convictions and remand for a new trial. For the following reasons, we reject defendant's argument.

¶ 132 The trial court exercises its sound discretion in admitting evidence, and its determination will not be reversed absent an abuse of this discretion. *People v. Taylor*, 2011 IL 110067, ¶ 27. A trial court abuses its discretion when no reasonable person would adopt the court's view. *Id.*

¶ 133 As with any evidence, the party seeking admission of an audiotape must establish an adequate foundation. *People v. Williams*, 109 Ill. 2d 327, 338 (1985). The party establishes sufficient foundation when "a witness to the conversation recorded on the tape *** testifies that the tape, as it exists in court, accurately portrays the conversation in question." *Id.*; see also *People v. Johnson*, 2016 IL App (4th) 150004, ¶¶ 66-67. The Illinois Rules of Evidence state that evidence

is authenticated where a witness with knowledge testifies that "a matter is what it is claimed to be." Ill. R. Evid. 901(b)(1) (eff. Jan. 1, 2011).

¶ 134 If no witness with personal knowledge is available, such as here, parties may authenticate recordings under the silent-witness theory "if there is sufficient proof of the reliability of the process that produced the [media]." *People v. Vaden*, 336 Ill. App. 3d 893, 898 (2003). Generally, this is shown if the recording's proponent presents "evidence as to (1) capability of the device for recording; (2) competency of the operator; (3) proper operation of the device; (4) preservation of the recording with no changes, additions, or deletions; and (5) identification of the speakers." *People v. Smith*, 321 Ill. App. 3d 669, 675 (2001); *Vaden*, 336 Ill. App. 3d at 899. These factors are nonexclusive. *Taylor*, 2011 IL 110067, ¶ 35. "The dispositive issue in each case is the accuracy and reliability of the process that produced the recording." *Id.*

¶ 135 Defendant relies on *People v. Sangster*, 2014 IL App (1st) 113457. In *Sangster*, the reviewing court affirmed the admission of a recorded jail call, finding that the proper foundation was laid for the call under the silent-witness theory. *Id.* ¶¶ 3, 50. In that murder case, the defendant argued that the trial court erred in admitting an audio recording of a jail call that was attributed to him and related to attempted witness tampering. The defendant contended that no witness testified about the capability of the devices used to record the calls, the competency of the operators, the proper operation of the devices, or the preservation of the recording. At an admissibility hearing, a jail employee testified that she was trained to use the system by the supplier and that the calls were recorded and the recordings were kept for five years. Inmates were registered in the jail's telephone system, the system had a voice-recognition component, and the inmate was required to provide a PIN and state his or her name before placing a call. If the voice matched a previously-recorded voice, the system activated. If the voice associated with the PIN was not recognized, a

call could not be placed. The trial court rejected the defendant's argument that someone else could have used his PIN to place the call, where the person who placed it identified himself without hesitation via a variation of the defendant's streetname and was attempting to contact witnesses who were scheduled to testify against the defendant, knew of the pending court date, and the scheduling for jury selection. From this evidence, the trial court determined that defendant placed the call and made the statements in the recording.

¶ 136 The *Sangster* court found no error in the admission of the recording, concluding that the jail employee's testimony was sufficient evidence of the reliability of the process that produced the recording. *Id.* ¶¶ 3, 50. The employee had testified that she was trained to use the system by the supplier and that the only way the system would be activated was by the caller entering a PIN and speaking his or her name. *Id.* ¶ 50. Further, because the defendant did not present any evidence that the recording was tampered with or contaminated, "the State need only establish a probability that those things did not occur." *Id.* ¶ 51. Deficiencies went to the weight, not the admissibility, of the evidence. *Id.* Also, the court concluded that the trial court reasonably found that the caller's use of defendant's streetname to identify himself, the discussion of the case, and the caller's attempts to contact known witnesses was sufficient evidence that the defendant made the call. *Id.* ¶ 52.

¶ 137 Defendant also points to *People v. Viramontes*, 2017 IL App (1st) 142085. In that case, the reviewing court held that there was no abuse of discretion in the admission, under the silent-witness theory, of five jail house phone tapes, because the State had laid a sufficient foundation. *Id.* ¶¶ 2, 70. The defendant was convicted of attempted robbery and attempted murder and sentenced to 90 years' imprisonment. The evidence showed that, while the defendant and his co-defendant, Cruz, where driving around a Chicago neighborhood, the defendant suggested they rob

some " 'white hoes.' " They parked their vehicle, and the defendant grabbed a bat, exited, and struck two female victims in the head. At trial, the co-defendant Cruz identified the defendant's voice on five recorded jail calls. The defendant's girlfriend testified that she had previously had conversations with the defendant on the telephone and recognized his voice. She recognized the defendant's voice in all five recorded jail calls and recognized her own voice on one of the calls with the defendant. A sergeant with the sheriff's office testified that he oversaw operations of the inmate telephone system at the jail. He stated that all outgoing calls were recorded as well as call details, including the location within the jail where the calls were made, the date and time of the calls, the phone number dialed, and which party ended the call.

¶ 138 In the first call, the defendant's girlfriend had identified her voice and the defendant's voice. During the call, the defendant asked his girlfriend if she had heard anything about " 'the girls' " and the girlfriend stated that one of the victims had been released from the hospital. In the second call, the defendant explained that he was not trying to kill anyone, but wanted to get money and get high and to help Cruz. In the third call, both the defendant's girlfriend and his co-defendant identified the defendant's voice and an unknown female on the call. The defendant reiterated his motivation was to get money to help Cruz. In the fourth call, the defendant opined that he needed Cruz to give another statement saying something other than what she had said. Finally, in the fifth call, both the defendant's girlfriend and co-defendant Cruz identified one of the two men on the line as the defendant. In the recording, the defendant discussed the robbery and his use of the baseball bat. Defense counsel moved to strike the sergeant's testimony and the calls, arguing that the State had failed to lay a proper foundation, where the sergeant identified the defendant but did not see him make any calls. The trial court found that the authentication and foundation were proper.

¶ 139 On appeal, the defendant argued that the State had failed to lay a proper foundation for the admission of the five calls. *Viramontes*, 2017 IL App (1st) 142085, ¶ 70. The *Viramontes* court rejected this argument, holding that both the defendant's girlfriend and co-defendant identified the defendant's voice on all of the calls, the girlfriend had also identified her own voice on one of the calls, and the sergeant had testified to the operation of the jail phone system. *Id.* The court noted that the sergeant had testified that he oversaw the system, had received training as an end user and administrator, that the calls were date- and time-stamped, and the location from which they were made was recorded. *Id.* Also, the sergeant accessed the recordings through a web portal. *Id.* Acknowledging that the sergeant did not testify that the system was correctly operating, the reviewing court determined that the fact that the recordings existed at all showed that the system was correctly operating. *Id.* ¶ 71. The *Viramontes* court found *Sangster* distinguishable, rejecting the defendant's argument that the *Sangster* jail employee's testimony concerning the fact that the system in that case required a PIN and that the inmate speak his name showed that the system was enabled and working. *Id.* ¶ 72. The *Viramontes* court determined that this factor did not appear to be an element of the *Sangster* court's analysis. *Id.* It reiterated the *Sangster* court's comment that, where there is no evidence of tampering or contamination, the State need only show a probability that those things did not occur. *Id.* ¶ 73. The *Viramontes* court noted that, in the case before it, the defendant did not present evidence of any tampering and the sergeant had testified that the recorded calls were accurate versions of the longer original calls. *Id.* ¶ 74. Thus, based on this testimony, the State had shown that the system was properly working and no tampering occurred. *Id.* The court also concluded that Cruz's and the girlfriend's identification and the discussions that took place on the calls were sufficient to identify the defendant as the party to each conversation. *Id.* ¶ 75. The defendant asked about the victims' medical condition, the charges

against him, he mentioned Cruz, and he discussed details about the crime, including use of the bat. *Id.*

¶ 140 Here, defendant argues that *Sangster* and *Viramontes* are distinguishable and the differences demand a different result. First, he contends that, unlike the foundational witnesses in those cases, Huff failed to establish his competency as an operator. He never testified that he received training in using the systems from the suppliers, someone else with knowledge, or even a user manual. Defendant argues that Huff "nebulously" testified that he had worked with the system for 10 years. *Cf. Viramontes*, 2017 IL App (1st) 142085, ¶ 70 (sergeant testified he had received training as an end user and an administrator); *Sangster*, 2014 IL App (1st) 113457, ¶ 50 (jail employee testified that she was trained to use the system by the supplier). Second, defendant argues that Huff failed to establish the system's recording capabilities and what constituted proper system operation. Instead, he circularly asserted that the systems only produced recordings when they recorded accurately. Huff failed to testify, defendant contends, that the systems had safeguards or to even describe their functioning with any nuance. Defendant also asserts that, unlike the system in *Viramontes*, the recordings here merely identified the inmate allegedly making the call, the fact that they were calling from the jail, and informed the caller that he or she was being recorded. *Cf. Viramontes*, 2017 IL App (1st) 142085, ¶ 70 (sergeant testified that the system captures where the call was made from within the jail, the date of time of the call, the number dialed, and how the call terminated); *Sangster*, 2014 IL App (1st) 113457, ¶ 27 (system had voice-recognition component and inmate, before placing a call, had to give PIN and state their name; only if there was a match, the system activated). Third, defendant contends that, despite the system's use of voice-recognition technology, Huff testified that inmates only needed the MID and PIN of another inmate to make an outgoing call, unlike the combination PIN and voice-

recognition system in *Sangster*. Fourth, defendant argues that, in the age of so-called deep-fake videos and easily-manipulated audio recordings, improperly-authenticated recorded communications should be inherently suspect.

¶ 141 The State responds that Huff's testimony about his 10 years' experience working with the jail communications systems was sufficient to establish a proper foundation for the reliability and accuracy of defendant's jail calls. His experience, coupled with his testimony that the system's operation had not changed throughout that time, and that the system monitors outgoing calls, requiring the use of a unique MID and PIN, laid a proper foundation for admission of defendant's calls. The State further notes that Huff testified that he knew the recordings were authentic, because they were time stamped, the calls remained recorded for one year, that only he and other detectives had access to the calls, and that the calls were stored by Inmate Legacy Communications in Houston. He distinguished video recorded calls from phone calls, stating that the video calls are maintained in-house by the maintenance department and owned by the Sheriff's office. The State also notes that Huff did not testify that inmates steal each other's PIN or MID, but that they sometimes share the numbers, that they are caught or staff is notified when that happens, and that the inmate's PIN is then changed. The authenticity of the jail calls was also established, the State contends, by Boomer's testimony that he was familiar with defendant's voice and identified defendant as the inmate who made the outgoing calls. Thus, a proper foundation was laid.

¶ 142 Addressing defendant's argument that Huff's competency was not established because he did not specifically testify as to his training, thus, his testimony was insufficient to lay a proper foundation for the admission of the jail calls, the State argues that this argument is erroneous, because it elevates the foundational standard applicable to lay witnesses beyond that of even an expert witness. Huff, the State notes, was not an expert witness, but, even if he were, an expert's

qualifications may be shown through experience alone; specialized, formal training is not necessary. See, *e.g.*, *People v. Hanna*, 120 Ill. App. 3d 602, 609 (1983). Next, addressing defendant's argument that Huff used circular reasoning and general assertions concerning the system's reliability, the State contends that it is sufficient that a witness with knowledge comment on the general reliability of the system as a whole. See *Taylor*, 2011 IL 110067, ¶ 33. Next, as to the authenticity and reliability of the recordings, the State contends that the fact that inmates could swap or steal each other's identification numbers does not establish the proper grounds for the reliability of the jail calls. It notes that Huff testified that the system had a voice-recognition component, he had expertise in the system before the new company's involvement, and he testified that the system itself had not changed since he worked there. The State also contends that voice recognition was achieved in this case by way of Boomer's testimony that he was familiar with defendant's voice and his identification of defendant is the person who made the outgoing calls. Thus, the speaker was identified. Finally, the State contends that defendant engages in speculation concerning the possibility of tampering.

¶ 143 We conclude that the trial court did not abuse its discretion in admitting the jail calls based on its finding that the State had laid a proper foundation for the calls. We disagree with defendant's assertion that Huff's testimony did not establish his competency as an operator of the jail communications system. Huff testified that he is the administration operation captain, and his responsibilities include the inmate phone, video-visitation, and security and control systems. He has overseen the phone and video systems for 10 years, and, other than using a different storage company, the phone system has not changed during that period in terms of its operation. Huff testified that, in August 2015, he was monitoring the phone system, and it was properly functioning. Huff's 10 years' experience overseeing the jail communications system was

sufficient to establish his competency as an operator of the system. In *Sangster*, the jail employee testified that she was trained to use the jail recording system by the system's supplier (*Sangster*, 2014 IL App (1st) 113457, ¶ 50), but the reviewing court did *not* hold that training was the only way to show operator competency. In *Viramontes*, the sergeant testified that he had training as an end user and administrator (*Viramontes*, 2017 IL App (1st) 142085, ¶ 70), but, again, the reviewing court did not hold that training was required where other factors, such as substantial experience with a system, were present; indeed, operator competency was not even at issue in that case. As the State notes, even in the context of expert testimony, specialized formal training is not required and "experience alone may qualify one as an expert." *People v. Hanna*, 120 Ill. App. 3d 602, 609 (1983). We do not require more here.

¶ 144 We also reject defendant's argument that Huff's testimony did not establish the system's reliability. Defendant contends that Huff used circular reasoning and blanket assertions to explain why the recordings were reliable, rather than providing a comprehensive explanation of the system's safeguards or processes that ensured reliability. We disagree. Huff explained that the jail system monitors all outgoing inmate calls. Inmates must enter their MID and PIN to initiate a call. There is also a voice-recognition feature. All calls are recorded, time-stamped to ensure they are not changed, and stored for one year. Only a limited group of people have access to the calls. Huff explained how he knows the system is working, stating that, "If it's not operating it doesn't record." There are no partial results. If the system is not working, calls would not be available. We believe that this evidence was sufficient to show the system's reliability. We also reject defendant's circular-reasoning argument. The fact that the system did not produce partial calls and either produced a call or not was sufficient to establish its reliability. See *Taylor*, 2011 IL 110067, ¶ 39 ("While the camera may not have worked perfectly[,] it clearly worked. As one court

has stated, '[t]he fact that the tape[ ] exist[s] at all is evidence that the tape recorder was functional and that [the operator] knew how to operate it.' ") (quoting *Willett v. Russell M. Stookey, P.C.*, 568 S.E.2d 520, 526 (Ga. App. Ct. 2002)); see also *Viramontes*, 2017 IL App (1st) 142085, ¶ 71 (quoting *Taylor*).

¶ 145 Defendant's challenge to the recordings' authenticity also fails. He argues that Huff testified that inmates could swap or steal other inmates' identification numbers to make outgoing calls. "Yes, either that or they dial the phone for them and give it to them." Defendant also points out that improperly-authenticated recordings are inherently suspect in this age of deep-fake videos and easily-manipulated audio records. We reject defendant's arguments. Huff testified, that, when notified that an inmate's information has been stolen, which occurs "from time to time," the jail staff will change the PIN. He did not testify that such theft is a routine occurrence. Further and critically, sergeant Boomer testified that, based on two prior conversations, he was familiar with defendant and recognized his voice. He listened to the jail calls and recognized defendant's voice on the calls; he had no doubt it was defendant's voice. This testimony bolstered Huff's testimony concerning the reliability and authenticity of the recordings at issue. We also reject defendant's argument that recent technological advancements render all recordings suspect, because they can be easily manipulated. In the absence of any evidence of tampering or other such manipulation in this case, there are no foundational issues with the recordings. In *Sangster*, the reviewing court determined that, where a defendant does not present any evidence that a recording has been tampered with or contaminated, "the State need only establish a probability that those things did not occur." *Sangster*, 2014 IL 113457, ¶ 51. Any deficiencies go to the weight, not admissibility, of the evidence. *Id.* The court concluded that the caller's use of the defendant's street name to identify himself, the content of conversations, and the caller's attempts to contact known witnesses

were sufficient to show that the defendant made the call. *Id.* ¶ 52. Here, as noted, Boomer identified defendant's voice on the calls, and the context of the conversations—telling the person on the other end of the call to retrieve a bag, camera, and other items from the basement and take them somewhere—showed that defendant was the caller.

¶ 146 Accordingly, the trial court did not err in determining that the State laid a proper foundation for the calls.

¶ 147 Even if there was error in admitting the jail calls on the basis of a proper foundation, we agree with the State that the error was harmless, because, excluding the jail calls, the evidence of defendant's guilt was overwhelming.

¶ 148 The erroneous admission of evidence can amount to harmless error where the other evidence against a defendant is overwhelming. *People v. Sandifer*, 2017 IL App (1st) 142740, ¶ 71. See also *People v. Lindsey*, 2013 IL App (3d) 100625, ¶ 39 ("The improper admission of evidence is harmless beyond a reasonable doubt if no reasonable probability exists that the verdict would have been different if the evidence in question had been excluded.").

¶ 149 The State argues that, even if error occurred, it was harmless, because the evidence was not closely balanced and defendant could not have been prejudiced. According to the State, regardless of the jail calls, defendant told numerous witnesses, in detail, what he was planning to do to Murphy, confessed killing him after the crime, and the physical evidence—Murphy's checkbook hidden above a ceiling tile in defendant's apartment, spent shell casings that matched Murphy's found in defendant's trash, a wallet found in the trash—combined to constitute overwhelming evidence of guilt. Addressing the witnesses' criminal records, the State notes that Ackerman was honest about her criminal background, had no connection to other State witnesses, and offered corroborative testimony to other witness testimony. Similarly, Ford had no pending

cases and did not receive anything in exchange for his testimony, which related defendant's plan to rob a man. The State also points to Pittman's testimony, who overheard defendant soliciting Craft's help in robbing Murphy and to whom defendant told he robbed and shot the old man.

¶ 150 Next, the State argues that it offered evidence directly linking defendant to the crime, noting that Murphy's body had no defensive wounds and was found close to the front door, which supported witnesses' testimony that defendant was planning to catch Murphy by surprise. Also, shortly after the murder, defendant was observed in possession of Murphy's wallet and credit cards, and a search of his property turned up a wallet outside. In defendant's apartment, Murphy's checkbook was located above a ceiling tile. The fact that the checkbook was hidden, the State argues, shows consciousness of guilt. Third, addressing the unknown man with whom defendant arrived at Ford's grandmother's house shortly after Murphy's murder, the State contends that, at best, the jury would have believed that both men were potentially responsible for the murder and arson. However, given that defendant sought assistance from multiple witnesses, that Murphy was murdered shortly thereafter, and defendant confessed to witnesses about having robbed and killed Murphy, his asking Ford for a gas can to burn down Murphy's residence, and possessing several of Murphy's personal items immediately following the crime, the jury would have been absolutely convinced of defendant's guilt.

¶ 151 Defendant argues that the error was not harmless, because the admission of the calls clearly and substantively prejudiced him. The case against him, he asserts, was circumstantial and the jury acquitted him of almost half of the charges, while also finding that none of the gun-enhancement factors applied. This suggests, defendant argues, that the evidence was closely balanced and that the court's erroneous decision to admit the jail calls tipped the scales against defendant. First, defendant points to several of the State's witnesses who had criminal records

reflecting crimes of dishonesty. Also, he asserts that a majority of the witnesses suffered from drug addiction and many provided contradictory testimony. Defendant notes that, while these witnesses testified that defendant approached them or informed them about his alleged intent to rob and, in some cases, murder Murphy, none of them actually saw him do it. He also notes that a majority of these witnesses initially began cooperating with the State to receive leniency in their pending cases or because they feared punishment on their prior convictions. Thus, in his view, it would be unreasonable to presume that the jury accorded defendant's acquaintances' testimony any significant weight. Second, defendant argues that the State failed to uncover any tangible evidence directly linking him to the crime. It did not recover a murder weapon or show that it found defendant's DNA or any other identifying evidence in Murphy's home. He notes that the evidence found at his house on Underwood and Day's home only had significance when combined with the inadmissible jail calls. Third, defendant argues that all of the witnesses who knew him and saw him at Ford's grandmother's home after he allegedly murdered Murphy also testified that he arrived with an unknown man. He asserts that, absent the improperly-admitted jail calls, on the facts presented and among countless other possibilities, the jury could have reasonably found that defendant merely received proceeds from the crime and that the unknown man independently robbed and killed Murphy.

¶ 152 We agree with the State that, if there was error, it was harmless. The evidence of defendant's guilt was overwhelming. Several witnesses consistently related defendant's plan to rob and kill Murphy. Ackerson, who testified to several prior convictions and stated she had not been promised anything in exchange for her testimony, related that defendant asked her to help him commit a robbery, because she was Caucasian and, on another occasion, drove to Owen Center Road to check on something. Pittman, a heroin addict who did have prior convictions and pending

charges but stated she had not been promised anything in exchange for her testimony other than not being charged with assisting defendant to use credit cards, related that she overheard defendant ask Craft, her then-boyfriend, to help him rob an "old man" and that he need a Caucasian man to assist him. On another occasion, Pittman saw defendant and another person in mid-July at Ford's grandmother's house, and defendant had credit cards, a social security card, and an identification card featuring a photo of an older Caucasian man and bearing the name "Henry Murphy." She further testified that she spoke privately with defendant in the basement and that he told her that he went to the "old man's" house, robbed him, and shot him in the chest at his front door and described him as tall. (Murphy's body was found near his front door, and Dr. Witeck, the forensic pathologist who performed Murphy's testimony, testified that Murphy was 6 feet 3 inches tall.) Craft, a heroin addict with prior convictions who stated that he had not been promised anything in exchange for his testimony, except that he understood he would not be charged for anything stemming from defendant's case, testified that, in mid-July 2015, at Ford's grandmother's house, defendant asked him for help to rob an older gentleman who lived on Owen Center Road and to steal his guns (about 100 guns) and money. Defendant wanted Craft's help, because he is Caucasian and the man would be more likely to open the door for him. About 1½ weeks later, defendant returned to Ford's grandmother's home with a younger African-American man. Defendant had an identification card/driver's license, a social security card, and several other cards. A photo on the identification card depicted an older man. Defendant asked for help in changing the PIN on the credit card. Finally, Ford, a cocaine addict who had prior convictions but stated he did not receive any consideration for his testimony, gave highly damaging testimony. He stated that, in mid-July 2015, defendant asked for assistance in his plan to rob and kill a man "in the middle of nowhere" who collected guns. (Murphy died of a gunshot wound to the neck, and

the dog died of a gunshot wound to the brain.) The following day, defendant approached Ford and told him "he did what he was going to do." The day after that, the men spoke in Ford's grandmother's basement, where the unknown man and others were present. Consistent with other witness testimony, Ford stated that defendant had credit cards with the name "Henry Murphy" printed on them and that defendant sought help in retrieving money off the cards. Later, defendant asked Ford for a gas can "to take care of something" and that he was going to burn cards and pieces of paper. Ford believed that defendant had killed the man.

¶ 153 We reject defendant's assertion that, given the foregoing witnesses' backgrounds and addictions, the jury would not have placed significant weight on their testimony. The majority of the witnesses received nothing in exchange for their testimony and their testimony was consistent in relating defendant's scheme to rob and kill Murphy and, as to Ford, setting fire to his home and burning some of the stolen belongings.

¶ 154 Also unconvincing is defendant's argument that the evidence found at his house on Underwood (*i.e.*, the trash pull items—a hunting license with the name Murphy on it, a prescription card for "Henry Murphy," burnt pictures and documents, and a dark leather wallet—as well as the items found there upon execution of the search warrant of the interior of the home—a checkbook bearing Henry Murphy's name found above ceiling tiles in the basement, a partially-burned CPR card found in the backyard grill bearing the name "Henry" or "Murphy," and a rubber glove filled with ammunition) and Day's home (*i.e.*, the duffel bag in the doghouse that contained ammunition, ammunition boxes, and firearm magazines) only had significance when combined with the inadmissible jail calls. In our view, this physical evidence, along with the foregoing witness testimony, was highly damaging to defendant. Many of the items contained Henry Murphy's name, and other items included various forms of ammunition (Murphy was an ammunition

reloader). Also, Murphy's checkbook was found in defendant's home. Defendant's assertion that the jury could have determined, without the jail calls, that the other man shot Murphy, defies logic, because defendant possessed, in his home, the most critical personal and financial pieces of information from Murphy's residence. Had he merely been an accomplice, it is highly unlikely that he would have received the most valuable fruit from the stolen goods. Finally, the police also retrieved the duffle bag from the doghouse at Day's house that Francis had dropped off. The bag weighed 50 to 65 pounds and contained ammunition. Hugi, Murphy's son-in-law, identified the bag as Murphy's bag. Given the physical evidence and the consistent witness testimony of defendant telling numerous people of his plan to kill and rob Murphy, the evidence of his guilt was overwhelming. Any error in the admission of the jail calls was harmless.

¶ 155 B. Extended-Term Sentence

¶ 156 Next, defendant argues in the alternative that the trial court erred in sentencing him to a six-year maximum extended-term prison sentence for aggravated cruelty to an animal, a Class 4 felony, where the court also sentenced him on Class 3 and greater felonies arising from the same criminal objective—residential burglary. He requests that we modify his sentence for aggravated cruelty to an animal to the maximum non-extended term. For the following reasons, we reject defendant's argument.

¶ 157 As defendant acknowledges, defense counsel did not preserve this issue.

> "To preserve a purported error for consideration by a reviewing court, a defendant must object to the error at trial and raise the error in a posttrial motion. *People v. Belknap*, 2014 IL 117094, ¶ 66 (citing *People v. Enoch*, 112 Ill. 2d 176, 186 (1988)). Failure to do either results in forfeiture. There is, however, a well-established exception to that principle. Illinois Supreme Court Rule 615(a) provides that insubstantial errors 'shall be disregarded'

> but that substantial or what have become known as plain errors 'may be noticed although they were not brought to the attention of the trial court.' Ill. S. Ct. R. 615(a) (eff. Jan. 1, 1967). As the language of the rule indicates, a reviewing court may exercise discretion and excuse a defendant's procedural default. *People v. Clark*, 2016 IL 118845, ¶ 42. We have traditionally identified two instances when it is appropriate to do so: (1) when 'a clear or obvious error occurred and the evidence is so closely balanced that the error alone threatened to tip the scales of justice against the defendant, regardless of the seriousness of the error,' or (2) when 'a clear or obvious error occurred and that error is so serious that it affected the fairness of the defendant's trial and challenged the integrity of the judicial process, regardless of the closeness of the evidence.' *People v. Piatkowski*, 225 Ill. 2d 551, 565 (2007) (quoting *People v. Herron*, 215 Ill. 2d 167, 186-87 (2005)). We recently reaffirmed this view of the plain error doctrine. See *People v. Fort*, 2017 IL 118966, ¶ 18 (quoting *Herron*, 215 Ill. 2d at 186-87)." *People v. Sebby*, 2017 IL 119445, ¶ 48.

¶ 158 The first step under either prong of the plain-error doctrine is determining whether there was a clear or obvious error at trial. *Piatkowski*, 225 Ill. 2d at 565. The next step depends upon the defendant's argument. Here, defendant argues that the error qualifies as a second-prong plain error, because it affects his fundamental right to liberty. *People v. Palen*, 2016 IL App (4th) 140228, ¶ 78; see also *People v. Keene*, 296 Ill. App. 3d 183, 186 (1998) (sentencing issues may be reviewed as plain error where the issue is one of misapplication of the law, as the right to be sentenced lawfully is substantial and affects a defendant's fundamental right to liberty). Under a second-prong plain-error analysis, prejudice is presumed, "because of the importance of the right involved." *People v. Sargent*, 239 Ill. App. 3d 166, 191 (2010).

¶ 159 1. Whether Error Occurred

¶ 160 A sentencing decision by the trial court will generally not be disturbed on appeal unless the trial court abuses its discretion. *People v. Thomas*, 178 Ill. 2d 215, 249 (1997). A trial court abuses its discretion where no reasonable person would take the trial court's view. *People v. Anderson*, 367 Ill. App. 3d 653, 664 (2006). The issue whether the imposition of an extended-term sentence was proper raises a question of law subject to *de novo* review. *People. v. White*, 2016 IL App (2d) 140479, ¶ 43. Finally, "[t]he determination of whether a defendant's actions constitute a single course of conduct" or is part of an unrelated course of conduct "is a question of fact for the trial court to determine, and a reviewing court will defer to the trial court's conclusion unless that conclusion is against the manifest weight of the evidence." *People v. Hummel*, 352 Ill. App. 3d 269, 271 (2004). A determination is against the manifest weight of the evidence where no reasonable person would take the court's view. *People v. Robinson*, 2015 IL App (1st) 130837, ¶ 102.

¶ 161 The aggravated-cruelty-to-an-animal statute provides, in relevant part, that "[n]o person may intentionally commit an act that causes a companion animal to suffer serious injury or death." 510 ILCS 70/3.02(a) (West 2018). Section 5-8-2(a) of the Unified Code of Corrections states, in relevant part, that "[a] judge shall not sentence an offender to a term of imprisonment in excess of the maximum sentence authorized by Article 4.5 of Chapter V for an offense or offenses within the class of the most serious offense of which the offender was convicted unless the factors in aggravation set forth in Section 5-5-3.2 or clause (a)(1)(b) of Section 5-8-1 were found to be present." 730 ILCS 5/5-8-2(a) (West 2018). "[A] defendant who is convicted of multiple offenses may be sentenced to an extended-term sentence only on those offenses that are within the most serious class." *People v. Bell*, 196 Ill. 2d 343, 350 (2001). An extended term sentence may be imposed, however, " 'on separately charged, differing class offenses that arise from *unrelated*

courses of conduct.' " (Emphasis in original.) *Id.* (quoting *People v. Coleman*, 166 Ill. 2d 247, 257 (1995)). Whether multiple offenses arise from an unrelated course of conduct pursuant to section 5-8-2(a) of the Corrections Code, the proper test is the test in section 5-8-4(a) of the Code—whether there was a substantial change in the nature of [the defendant's] criminal objective." *Id.* at 351, 354-55.

> "If there was a substantial change in the nature of the criminal objective, the defendant's offenses are part of an 'unrelated course of conduct' and an extended-term sentence may be imposed on differing class offenses. If, however, there was no substantial change in the nature of the criminal objective, the defendant's offenses are not part of an unrelated course of conduct, and an extended-term sentence may be imposed only on those offenses within the most serious class." *Id.* at 354-55.

¶ 162 Here, defendant argues that this case is analogous *White*. In that case, the defendant was charged with unlawful sale of a firearm to a felon and being an armed habitual criminal. Reviewing the issue for plain error and noting that the State had confessed error, this court noted that both offenses arose out of the defendant's obtaining a gun and arranging with a felon to sell a gun to him. *White*, 2016 IL App (2d) 140479, ¶¶ 42, 46. We held that an extended-term sentence would be appropriate only if it were imposed on the armed-habitual-criminal conviction (a Class X felony), not on the unlawful-sale-of-a-firearm-to-a-felon conviction (a Class 3 felony), as was imposed by the trial court. *Id.* Accordingly, we reduced the extended-term sentence on the unlawful sale of a firearm to a felon conviction to a non-extended term of five years. *Id.* ¶ 48.

¶ 163 Defendant maintains that he was convicted of aggravated cruelty to an animal, because the jury found that he shot and killed Murphy's dog. However, he contends that he shot the dog as part of his overall criminal objective—residential burglary. The jury found that defendant

murdered Murphy after entering his home. He then proceeded to steal some of Murphy's property and killed the dog, or vice versa. Finally, defendant tried to conceal his actions by setting the house on fire. The foregoing, according to defendant, show that all of the crimes were part of the same fluid course of conduct and the same criminal objective. Thus, his murder conviction was the greatest class of offense, and the trial court erred in sentencing him to a maximum extended term of six years for aggravated cruelty to an animal, a Class 4 felony. He contends that this court must reduce the aggravated-cruelty sentence to a non-extended term.

¶ 164 The State responds that no error occurred. It contends that there are no facts in the record conclusively establishing that defendant's killing of the dog was part of the precise course of conduct in which he murdered Murphy and, therefore, the trial court's decision must be given deference. See *People v. Gaultney*, 174 Ill. 2d 410, 420 (1996) (there is a presumption that the trial court knows the law and applies it). The State relies on *Hummel*. In *Hummel*, the defendant acted as the getaway driver while his accomplices entered stores and attempted to shoplift. During their final attempt, they were discovered and a security guard attempted to prevent the defendant from leaving by placing herself in front of the defendant's vehicle. In order to escape, the defendant hit the guard with his vehicle and he pleaded guilty to burglary and was convicted of aggravated battery. The trial court sentenced him to an extended term of 10 years for aggravated battery and a consecutive term of 6 years for burglary On appeal, the defendant argued that the crimes were part of a single course of conduct and, therefore, the consecutive sentence and extended-term sentence for aggravated battery were inappropriate. The reviewing court affirmed, holding that there was a substantial change in criminal objective, because the defendant's original objective was to obtain merchandise from the store "without the need for confrontation or violence" and, once discovered, his objective changed to avoiding apprehension. *Hummel*, 352

Ill. App. 3d at 273. Once the store employee blocked the defendant's vehicle, "the defendant's actions were directed specifically at that individual rather than at the store he had intended to rob." *Id.*; but see *People v. Robinson*, 2015 IL App (1st) 130837, ¶¶ 100-113 (disagreeing with *Hummel* and holding that the residential-burglary and aggravated-battery defendant engaged in a single course of conduct when a security guard blocked the defendant's only escape path and the defendant bit off a portion of the guard's lip). Here, the State argues that the trial court could have reasonably found, based on the heinous nature of defendant's offenses, that he indiscriminately killed the dog out of cruelty with no connection whatsoever to the robbery. Once confronted with the dog, the State further asserts, defendant's actions were directed specifically at the dog rather than on his intended purpose and, at that point, his conduct in killing the dog was unrelated to robbing Murphy. The dog's presence in the house was inconsequential to the robbery and, the State continues, there was no evidence that the dog figured into any of defendant's premeditated plans to rob Murphy.

¶ 165 We conclude that the trial court did not err in sentencing defendant to a six-year maximum extended term for the aggravated-cruelty-to-an-animal conviction. We believe that the killing of the dog constituted a substantial change in the nature of defendant's criminal objective, which was killing Murphy and residential burglary. The trial court could have reasonably determined that defendant's advance planning, including his solicitation of assistants and his surveillance of Murphy's property, did not contemplate the killing of Murphy's dog. The killing of the dog was not related to defendant's murder of Murphy or the burglary and constituted a substantial change in the nature of the criminal objective. Having determined that there was no error, there can be no plain error and we honor the procedural default.

¶ 166 2. Whether There Was Prong-Two Plain Error

¶ 167 Even if there was error in extending defendant's sentence, we conclude that the error would not rise to prong-two plain error. As the State notes, defendant is serving his 6-year animal-cruelty sentence *concurrently* with his 60-year first degree murder sentence. Thus, the six-year sentence does not adversely impact the length of his incarceration and cannot be so serious that it affected the fairness of defendant's trial and challenged the integrity of the judicial process.

¶ 168 III. CONCLUSION

¶ 169 For the reasons stated, the judgment of the circuit court of Winnebago County is affirmed.

¶ 170 Affirmed.