

2026 IL App (2d) 250555-U
No. 2-25-0555
Order filed September 24, 2026

NOTICE: This order was filed under Illinois Supreme Court Rule 23(b) and is not precedential except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
SECOND DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellee,

v.

MOHAMMED SHAIKH, Defendant-Appellant.

Appeal from the Circuit Court of Lake County.
Honorable Ari P. Fisz, Judge, Presiding.
No. 24-CF-836

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

ORDER

¶ 1 *Held:* Convictions of criminal sexual assault and attempted criminal sexual assault were affirmed where defendant was not deprived of the effective assistance of counsel at trial, and the trial court did not abuse its discretion in allowing evidence that defendant committed criminal sexual assault on a prior occasion.

¶ 2 Following a bench trial in the circuit court of Lake County, defendant, Mohammed Shaikh, was convicted of criminal sexual assault (720 ILCS 5/11-1.20(a)(1) (West 2022)) and attempted criminal sexual assault (*id.* §§ 8-4(a), 11-1.20(a)(1)) against K.L., one of his massage clients. Defendant argues on appeal that (1) he did not receive the effective assistance of counsel at trial and (2) the trial court erred in allowing the State's pretrial motion to admit evidence of a prior offense. We affirm.

¶ 3

I. BACKGROUND

¶ 4 Before trial, the State moved under section 115-7.3 of the Code of Criminal Procedure of 1963 (725 ILCS 5/115-7.3 (West 2022)) to admit the testimony of C.Y. that defendant fondled her breasts and touched her vagina during a massage session in June 2022. The State expected that, in the case at hand, K.L. would testify that defendant digitally penetrated and attempted oral sex on her during a massage session in May 2023. The trial court granted the motion, finding, *inter alia*, “a high degree of factual similarity between [the] two cases.”¹

¶ 5 At defendant’s bench trial, K.L.’s husband, A.A., who spoke Russian, testified with the assistance of an interpreter. In 2021, he started visiting Sky Spa & Sauna (Sky Spa), an establishment offering massage services and access to saunas and steam rooms. Defendant gave A.A. massages at Sky Spa on about 10 occasions. A.A. testified that he went to Sky Spa with K.L. on May 26, 2023, and she received a massage from defendant. When K.L. emerged from the room where the massage took place, A.A. noticed that she seemed “not normal and weird, and she was uptight.” Shortly thereafter, K.L. told A.A. that they needed to talk. She told him that defendant had placed his fingers in her vagina. K.L. also told A.A. that defendant had positioned her on her back, spread her legs apart, and moved his mouth toward her vagina. A.A. testified that he spoke with defendant and Sky Spa’s manager, who contacted Sky Spa’s owners. The owners arrived after about 30 to 40 minutes. One of the owners contacted A.A. by phone a few days later. A.A. testified that K.L. went to the hospital on the morning of May 27, 2023, and to the police station at some point later that day.

¹The court also granted the State’s motion with respect to a second prior victim, but the State did not call that victim to testify.

¶ 6 Defense counsel cross-examined A.A. at length about a range of topics including the physical layout of Sky Spa and A.A.’s interactions with Sky Spa staff and law enforcement authorities. As pertinent here, defense counsel elicited testimony that A.A. was interviewed by a female police officer whom he could not name. A.A. denied that K.L. was present for the interview and that he translated for K.L. (who spoke Russian) when she spoke with the officer. A.A. did not recall whether he and K.L. met with anyone on June 1, 2023. Defense counsel asked A.A. whether a police report would refresh his recollection. Counsel then presented a document to A.A. and began asking him about a particular “entry.” At this point, the State objected. The trial court sustained the objection and advised counsel, “If you wish to refresh his recollection, you give him the document, you allow him to review it, you take the document away from him, and then you ask whatever question you want to ask him.” Counsel did as directed, but the police report failed to refresh A.A.’s recollection.

¶ 7 Counsel also asked if A.A. recalled speaking with Officer Adrian Jigalov. A.A. responded that he did not “remember names of the officers.” The State objected that “[i]f [counsel is] trying to impeach, it’s being done improperly.” Addressing defense counsel, the trial court stated:

“[I]f you are trying to impeach the witness, that’s fine. You should ask the witness a question establishing a fact. And then if you want to demonstrate a contradiction, you can do that. I suppose if you want to ask the witness a particular question and if he says ‘yes’ or ‘no,’ then if you want to get out in front of an impeachment you plan on making with a later witness, you can ask this witness, if somebody else testified to this or that, that would be incorrect, that’s all fine, just so long as you perfect the impeachment[.]”

The court added that if counsel planned to impeach A.A. in that manner, he would need a good faith basis for perfecting the impeachment with the testimony of the other witness. The State

pointed out that “perfection of impeachment would be impossible in this situation because Officer Jigalov is not under subpoena by the [d]efense and the State has no intention to call said witness to complete the impeachment.” The court reiterated that defense counsel needed “to have a good-faith basis” to impeach. Counsel acknowledged this and then questioned A.A. as follows:

“Q. How many officers did you talk to from the point of events until now?

A. I remember lady which [sic] was interviewing me.

Q. And absolutely no officer before her?

A. I don’t remember.

Q. Okay. And if Officer Dibble who is under subpoena says otherwise, she would be incorrect, is that—”

At this point, the trial court interjected and said, “No. Objection sustained. That question doesn’t make any sense. ***.” Counsel then asked A.A. if he remembered speaking with “Officer Dibble” over the phone on June 1, 2023. A.A. replied that he recalled a meeting at the police department but not a phone conversation.

¶ 8 K.L., who was also a Russian speaker, testified through an interpreter. At A.A.’s recommendation, she made an appointment with defendant for a massage to alleviate shoulder pain. There were “no problems” during her first massage session with defendant. She made a follow-up appointment for the evening of May 26, 2023. When she arrived for the appointment, she put on two-piece swimsuit. When she entered the massage room, defendant asked her if she “[was] modeling.” Defendant checked her shoulder and told her that she had “a lot of problems in [her] shoulder which it radiates down to the hip and even influence [her] maternal organs.” Defendant then pushed the strap of her swimsuit down and “checked” her. He told her to take off her swimsuit and lie on her stomach on the massage bed. Defendant covered her with a towel,

took some measurements with a tape measure, and started massaging her back and legs. K.L. testified, “While massaging my legs, I felt that he was touching my vagina, top of my vagina. And then after he touches it, then he rubbed his palm against some towel or something and then he did several times.” Eventually, defendant penetrated K.L.’s vagina with two fingers. He then flipped her onto her back and spread her legs apart. According to K.L., defendant “approached with his head to my vagina trying to do oral sex.” K.L. jumped off the bed and told defendant to stop. Defendant said that it was okay and told K.L. not to worry. He added that what happened in the massage room was confidential and “nobody should know.” Defendant told K.L. to lie down on the bed again. She complied because she was scared. Defendant massaged K.L.’s face and then put her swimsuit on the massage bed.

¶ 9 After putting her swimsuit back on and leaving the massage room, K.L. did not know what to do. She wanted to leave and initially did not say anything to A.A. They went outside by the swimming pool, where K.L. told A.A. what had happened. A.A. said that he wanted to talk to defendant, but K.L. wanted to go home. They later met with Sky Spa’s owners. The next morning, K.L. went to the Buffalo Grove police station and reported what had happened. She then went to the hospital where she met with a nurse who performed a sexual assault examination. K.L. testified that she has a pending civil lawsuit against defendant.

¶ 10 C.Y. testified that her mother scheduled her for a massage by defendant on June 8, 2022, to alleviate neck and back pain. When C.Y. entered the massage room, defendant had her sit on the bed, took her pulse, and asked her about her sleep habits and menstrual cycle. Defendant asked C.Y. to undress, and he left the room while she did so. C.Y. covered herself with a sheet that had been provided for that purpose. When defendant reentered the room, he used a “vibrator machine or some sort of device” on her head and feet. C.Y. had had massages on several prior occasions.

Asked if she felt that this massage was unusual, C.Y. testified, “As I was flipping over, he was working in my groin area, working alongside my breasts, exposing one at a time, ***.”

¶ 11 When the session ended, defendant told C.Y. that “he didn’t get to do everything, that there wasn’t enough time.” He pressured her to make another appointment, and she did so. The second appointment was on June 12, 2022. At that appointment, defendant asked C.Y. when her last period was. He also asked her if she shaved. She was unsure what he meant and did not know how to answer. As she did at her first massage session, C.Y. undressed fully while defendant was out of the room. However, she was not given a sheet to cover herself. Instead, she was given a long see-through “scarf-like object.” Defendant used the vibrating device to massage C.Y.’s head and feet. He then started massaging her legs, which he spread apart. At that point, her buttocks and vagina were exposed. While defendant was massaging one of C.Y.’s legs, she felt his finger brush her labia. At that point, C.Y. was in shock. Defendant again brushed her labia while massaging her other leg. C.Y. flipped over so that she was lying on her back. Defendant massaged her legs and “inner groin.” He also put a face mask on her without asking permission. The mask partially obscured her vision. C.Y. told defendant that her bladder was full and asked him to be cautious “around that area.” She hoped he would move away from her groin. C.Y. testified that defendant “mentioned how some women do have ejaculation or precum on the tables.” He asked her if she was “wet.”

¶ 12 At one point, defendant got onto the massage table and placed C.Y.’s legs around his waist. He told her he knew she was in a vulnerable position and asked her to relax. Defendant put her legs in a “frog” position and massaged her breasts. At this point, the scarf “was completely pulled down.” Ultimately, he removed the scarf entirely and placed balls made of metal or other material on several parts of her body. After removing the balls, defendant covered C.Y. with the scarf again.

When the session ended, defendant stated that he did not “go inside of [her].” C.Y. reported the incident 10 to 14 days later to Crystal Dibble, a detective with the Buffalo Grove police department.

¶ 13 Alisha Akerson, a certified sexual assault nurse examiner, testified that at about 4 p.m. on May 27, 2023, she performed a sexual assault exam on K.L. at Advocate Condell Medical Center (Condell). The exam entailed taking swabs of K.L.’s internal and external genitalia and preserving them in a sexual assault kit. She transferred the kit to Buffalo Grove police officer Robert Gasca.

¶ 14 Gasca testified that on May 27, 2023, he transported the sexual assault evidence kit to the Buffalo Grove police department where he placed it in the evidence processing room. On cross-examination, Gasca testified that he memorialized his involvement in the case in a “supplemental report.” Asked what he meant by “supplemental report,” Gasca responded, “So there is an original case report that the officer does. Everything after that would be considered a supplemental. ***.” Gasca acknowledged that his report was blank in the section reserved for the “reported on” date. Gasca thought the omission was a clerical error but was not certain. Gasca noted that his report did show an “[o]ccurred on” date and time of “5/27/23 at 8:49 p.m.,” which, he explained, was the date and time he retrieved the sexual assault kit. Counsel then asked, “But then why would it be considered a supplemental report? Wouldn’t—if it was supplemental, it would have had to have been given before the original officer said that this happened?” Gasca disagreed and explained, “Because the original case report was done at a different time and date before I *** received this kit.”

¶ 15 Dibble testified that she was assigned to investigate the reported sexual assault of K.L. According to Dibble, the incident was initially reported to Officer Jigalov. Dibble spoke with K.L. on June 1, 2023. K.L. named defendant as the individual who assaulted her. Dibble was familiar

with defendant's name because she had investigated sexual assault allegations against defendant about a year earlier. Dibble further testified that the sexual assault evidence kit for K.L. that Gasca retrieved from Condell was delivered to the Northeast Regional Crime Lab for testing. No male DNA was found on the samples included in the sexual assault kit.

¶ 16 Sky Spa's managing partner, Yan Belfor, testified for the defense that he and his business partners met with K.L., A.A., and Sky Spa's manager to discuss the incident. A.A. primarily explained what happened, while K.L. mostly nodded. The police were not summoned during the meeting, but Dibble contacted Belfor a few months later. Belfor testified that K.L. filed a lawsuit against Sky Spa.

¶ 17 The trial court, finding K.L. "totally and completely credible," found defendant guilty of all five counts that went to trial. The court merged the five counts into two counts and sentenced defendant to consecutive prison terms of nine years and four years. Defendant filed this timely appeal.

¶ 18 II. ANALYSIS

¶ 19 A. Ineffective Assistance of Counsel

¶ 20 Defendant first argues that he did not receive the effective assistance of counsel at trial. Claims of ineffective assistance of counsel are evaluated under the two-prong test of *Strickland v. Washington*, 466 U.S. 668, 688, 694 (1984), which requires a showing that counsel's performance "fell below an objective standard of reasonableness" and that the deficient performance was prejudicial in that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." We assess counsel's performance by using an objective standard of competence under prevailing professional norms. *People v. Wise*, 2019 IL App (2d) 160611, ¶ 52. To establish deficient performance, the defendant must overcome the

strong presumption that counsel's action or inaction was the result of sound trial strategy. *Id.* "Counsel's competence is to be determined from a consideration of the totality of counsel's conduct, not isolated incidents, and a reviewing court will not extend its inquiry into areas involving the exercise of judgment, discretion, trial tactics or strategy." *People v. Janis*, 240 Ill. App. 3d 805, 815 (1992).

¶ 21 In broad terms, defendant argues that trial counsel's ineptitude was on display throughout trial and that, as United States Supreme Court Justice Potter Stewart said of obscenity in his concurring opinion in *Jacobellis v. Ohio*, 378 U.S. 184, 197 (1964) (Stewart, J., concurring), deficient performance might not be susceptible to a precise definition, but "one knows it when one sees it." However, rather than relying solely on that analogy (and considerable censorious language²), defendant offers numerous examples of counsel's supposedly deficient performance. Defendant argues, *inter alia*, that (1) counsel's opening statement was improper; (2) counsel cross-examined a particular witness with a "single-minded bizarre focus" on a minor detail; (3) counsel was unaware of the proper procedures for refreshing a witness's recollection and impeaching a witness's testimony, (4) counsel asked a cross-examination question that, according to the trial

²Defendant's brief is rife with disparaging descriptions of trial counsel's performance: counsel's opening statement was "rambling" and "incoherent"; his objections during A.A.'s direct examination were "nonsensical"; his cross-examination of A.A. was "muddled," "incomprehensible," and "self-defeating"; his cross-examination of K.L. was "meandering and irrelevant"; and his performance was generally "hapless." The insulting character of this language does nothing to advance defendant's argument.

court, “[did not] make any sense”; and (5) counsel’s failed to effectively cross-examine the State’s principal witnesses with respect to key issues.³

¶ 22 Defense counsel’s opening statement included a personal anecdote about counsel’s conversation with a judge for whom counsel had clerked, in which they discussed how to decide sexual assault cases in which there is no physical evidence. Defendant insists that the anecdote was “emblematic of what was to follow in terms of trial counsel opining as to hos [sic] own personal opinions and experiences and none of it in the form or nature of advising the trial court of what the evidence would show.” The argument is unpersuasive. Counsel’s anecdote simply introduced his theory that the State’s case depended on K.L.’s credibility. Counsel proceeded to describe the evidence he expected to undermine K.L.’s credibility. We fail to see how the anecdote or the remainder of counsel’s opening statement amounted to deficient performance or could have had any conceivable effect on the outcome of the trial.

¶ 23 Defendant also contends that counsel’s opening statement included “repeated use of the singular personal pronoun which elicited constant and proper objections from the State which were sustained by [the trial court] until it very clearly gave up trying to rein in [counsel] and just let him

³In a single sentence, defendant catalogs no fewer than nine additional “noteworthy examples” of counsel’s supposedly deficient performance. “ ‘A reviewing court is entitled to have the issues on appeal clearly defined with pertinent authority cited and a cohesive legal argument presented.’ ” *In re Marriage of Andres*, 2021 IL App (2d) 191146, ¶ 69 (quoting *Thrall Car Manufacturing Co. v. Lindquist*, 145 Ill. App. 3d 712, 719 (1986)). We are not obliged to review a laundry list of complaints about counsel’s performance with no guidance from defendant as to how they represent deficient representation or how they might have affected the outcome of the trial. See *In re Commitment of Cehoda*, 2021 IL App (2d) 190624-U, ¶¶ 40-41 (cited as persuasive authority).

go.” Defendant provides no citation to the record for these supposed errors. We find two instances where counsel spoke in the first person to express an opinion about the implications of certain evidence that counsel expected would be introduced at trial. On the first occasion, the trial court sustained the State’s objection, explaining that “[l]awyers’ personal opinions are not relevant.” On the second occasion, the State interrupted counsel’s remark with an objection that the court overruled when counsel agreed to “move on.” These missteps were trivial and, again, could not have engendered prejudice within the meaning of *Strickland*.

¶ 24 With respect to the cross-examination of Gasca (the police officer who took custody of K.L.’s sexual assault kit), defendant faults counsel for his “single-minded bizarre focus on the word ‘supplemental’ as the title of [Gasca’s] report.” However, counsel appears to have been simply trying to clarify the order in which certain law enforcement reports were prepared. Counsel wondered how Gasca’s report could be considered “supplemental” when his report did not indicate the date the incident was reported. Far from being the “single-minded *** focus” of cross-examination, the use of the word “supplemental” was the subject of only two questions. Although this might not have been a fruitful area of inquiry, it was not objectively unreasonable and certainly did not affect the outcome of the trial.

¶ 25 Defendant also contends that counsel was ignorant of basic procedures, such as how to refresh a witness’s recollection and impeach a witness. As discussed, counsel attempted to refresh A.A.’s recollection with a police report, and the trial court sustained the State’s objection when counsel asked if A.A. recognized the report and began to describe its contents. Even if counsel’s minor procedural error could be considered evidence of deficient performance, it did not result in prejudice within the meaning of *Strickland*. The court very briefly instructed counsel to show the report to A.A. without discussing its contents until determining whether A.A.’s recollection had

been refreshed. Counsel did as instructed. Although the report did not ultimately refresh A.A.'s recollection, counsel's procedural misstep did not contribute to that outcome.

¶ 26 Likewise, even if trial counsel's question to A.A. whether he recalled speaking with Officer Jigalov was an impermissible attempt at impeachment, the record does not establish that defendant suffered any resulting prejudice within the meaning of *Strickland*. Counsel discontinued the line of questioning after the trial court advised him that, if he intended to impeach A.A., he needed a good faith expectation of perfecting the impeachment, which apparently would have required calling Jigalov (who had not been subpoenaed) as a witness. The record does not disclose whether counsel could have perfected the impeachment. Therefore, it is impossible to assess the likelihood that counsel's misguided attempt at impeachment (if such it was) affected the outcome of the trial.

¶ 27 Defendant also points to what, in our view, was a trivial mistake during cross-examination of A.A. when counsel asked whether a particular witness would contradict his testimony that he did not recall meeting with more than one police officer. Obviously, no witness could testify as to what A.A. was able to recall at trial, so the trial court was correct to note that the question "[did not] make any sense." Counsel immediately acknowledged the court was correct. Isolated mistakes like this one, which could not possibly have had any effect on the determination of guilt, do not establish ineffective assistance.

¶ 28 Defendant argues that during cross-examination of A.A., counsel "barely touched the one issue that formed the basis of his reasonable doubt argument, to wit, [A.A. and K.L.'s] reluctance to report the incident and rather to 'handle' it at the spa." However, the relevant timeline of events was brought out during direct examination. Whether additional questioning on the subject would have undermined A.A.'s credibility is a matter of pure speculation.

¶ 29 In addition, defendant criticizes counsel’s performance during his cross-examination of K.L. Defendant argues, among other things, that while focusing excessively on irrelevant matters, counsel (1) failed to establish that K.L. had given the police and a hospital physician conflicting accounts of the incident and (2) neglected to pursue a line of questioning designed to elicit evidence that A.A. and K.L. “tried to extort [Sky Spa] in exchange for them not reporting the claimed incident.” However, the record does not establish that defendant suffered any prejudice from these alleged deficiencies. Defendant points to nothing to suggest that cross-examination on these subjects would have been fruitful.

¶ 30 In summary, although trial counsel often struggled with the rules of evidence, defendant has not shown that counsel’s missteps, individually or cumulatively, prejudiced defendant. See *People v. Smith*, 2024 IL App (2d) 230539, ¶ 52 (“appellate courts have recognized claims for ineffective assistance of counsel based on cumulative error”). We therefore conclude that defendant was not deprived of his right to the effective assistance of counsel.

¶ 31 B. Other Crimes Evidence

¶ 32 Defendant next argues that the trial court erred by permitting the State to present C.Y.’s testimony regarding what occurred when she visited defendant for massages in June 2022. As a general rule, evidence of other crimes is inadmissible to show the defendant’s propensity to commit the charged crime but might be admissible for other purposes. *People v. Bedoya*, 2021 IL App (2d) 191127, ¶ 93. However, in prosecutions for, *inter alia*, criminal sexual assault or criminal sexual abuse, evidence that the defendant committed either offense on another occasion “may be admissible (if that evidence is otherwise admissible under the rules of evidence) and may be considered for its bearing on any matter to which it is relevant.” 725 ILCS 5/115-7.3(a)(1), (b) (West 2022). Whether to admit such evidence is within the trial court’s discretion. *People v.*

Adams, 2023 IL App (2d) 220061, ¶ 62. “An abuse of discretion occurs where the trial court’s evaluation is arbitrary, fanciful, or unreasonable.” *Id.* In exercising its discretion, the trial court must balance the probative value of the evidence against its undue prejudice to the defendant. *Id.* ¶ 70. The court may consider “the proximity in time to the charged *** offense” (725 ILCS 5/115-7.3(c)(1) (West 2022)), “the degree of factual similarity to the charged or predicate offense” (*id.* § 115-7.3(c)(2)), or “other relevant facts and circumstances” (*id.* § 115-7.3(c)(3)).

¶ 33 Citing *People v. Illgen*, 145 Ill. 2d 353 (1991), defendant argues that “[w]here similarities [between the charged offense and the other crime] are generalized rather than distinctive, the probative force of other-crimes evidence is minimal.” However, the *Illgen* court explained that the necessary degree of similarity depends on the purpose for which the evidence is relevant. *Id.* at 372-73. When other-crimes evidence “is offered to prove *modus operandi* or that the crime charged was part of a common design or plan, there must be a high degree of identity between the facts of the crime charged and the other offense in which the defendant was involved.” *Id.* However, when the evidence is offered to, *e.g.*, establish criminal intent, “mere general areas of similarity will suffice.” *Id.* at 373. Here the evidence was admitted to show defendant’s propensity to commit sex offenses against female massage clients. The prior offense’s similarity to the charged offense, even if properly characterized as “general,” makes the evidence of the prior offense highly probative for that purpose. The offenses, which occurred less than a year apart, were also sufficiently proximate in time for the uncharged offense to be admissible.

¶ 34 Moreover, we cannot say that the trial court erred in concluding that the risk of *undue* prejudice did not outweigh the probative value of the evidence that defendant sexually assaulted C.Y. Defendant argues, without citation of authority, that “[u]ncharged allegations carry a heightened risk that a trier of fact (*here a bench trial*) will punish the defendant for collateral

conduct never proven beyond a reasonable doubt.” (Emphasis added.) Even if evidence of uncharged offenses carries a greater risk of undue prejudice than evidence of convictions, it is significant that “[t]he prejudicial effect of other-crimes evidence is almost exclusively discussed in terms of impact on a *jury*.” (Emphasis in original.) *People v. Felton*, 2019 IL App (3d) 150595, ¶ 47. “The law *** presumes that a judge, unlike a jury, is not likely to find a defendant guilty simply because he or she is a bad person deserving punishment.” *Id.* ¶ 48. That said, we fail to see how the evidence that defendant sexually abused and sexually assaulted C.Y. could be considered *unduly* prejudicial even if defendant’s trial took place before a jury. We cannot say that the trial court abused its discretion by allowing C.Y. to testify about what she experienced.

¶ 35

III. CONCLUSION

¶ 36 For the reasons stated, we affirm the judgment of the circuit court of Lake County.

¶ 37 Affirmed.