

2026 IL App (1st) 241493-U

No. 1-24-1493

Order filed August 26, 2026

Third Division

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

IN THE
APPELLATE COURT OF ILLINOIS
FIRST DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 18 CR 3107
	)	
JULIAN UPSHAW,	)	Honorable
	)	Tiana Blakely,
Defendant-Appellant.	)	Judge, presiding.

PRESIDING JUSTICE MARTIN delivered the judgment of the court.
Justices Rochford and Reyes concurred in the judgment.

ORDER

- ¶ 1 *Held:* Defendant’s convictions are affirmed, where testimony by a detective identifying defendant in video evidence was relevant and the probative value of such testimony outweighed the potential prejudice.
- ¶ 2 Following a jury trial, defendant Julian Upshaw was found guilty of first degree murder and attempted first degree murder, and sentenced to a total of 76 years in prison. Upshaw appeals, arguing that the testimony of a detective—who identified Upshaw in video evidence—should have

been excluded because such testimony did not meet the standards for admission under Illinois Rules of Evidence 403 and 701 (Ill. Rs. Evid. 403, 701 (eff. Jan. 1, 2011)). We affirm.¹

¶ 3

I. BACKGROUND

¶ 4 Following an incident on December 28, 2017, Upshaw was charged with multiple offenses. The State proceeded on charges of the attempted first degree murder of Baquar Syed (720 ILCS 5/8-4, 9-1(a)(1) (West 2016)) (count XX), the first degree murder of Arshad Vhora (720 ILCS 5/9-1(a)(1) (West 2016)) (counts VII-VIII), the felony murder of Arshad (720 ILCS 5/9-1(a)(3) (West 2016)) (count XVI), and attempted armed robbery (720 ILCS 5/8-4, 18-2(a)(2) (West 2016)) (count XXXII).² Codefendants Derrick Fils and Eric Brewer were tried separately on related charges, and are not parties to this appeal.

¶ 5 Before trial, the State filed a motion to admit the identification testimony of Dolton police detective Darryl Hope.

¶ 6 At the motion hearing, Hope testified that he met Upshaw, whom Hope identified in court, after Upshaw's stepbrother was killed in 2010. Since then, Hope had seen Upshaw approximately six times in the Dolton area. They "[f]requently" greeted each other, but these encounters were not police contacts. Hope further testified that surveillance video was recovered from Fils's residence during the investigation of Syed and Arshad's shooting. Hope identified Upshaw in the video, based on Upshaw's "very visible" face, as well as his height, "over six feet tall," and "stature." After reviewing the footage, Hope explained Upshaw was depicted in the video as the "[t]all male with an afro and goatee, with all dark clothing with a *** [d]istinct symbol on the left pants."

¹In adherence with the requirements of Illinois Supreme Court Rule 352(a) (eff. July 1, 2018), this appeal has been resolved without oral argument upon the entry of a separate written order.

²We refer to Arshad Vhora as Arshad, as he shares a last name with a witness, Firoz Vhora (Firoz).

¶ 7 On cross-examination, Hope testified that he could not remember documenting his video identification of Upshaw in any contemporaneous reports.

¶ 8 The court granted the State’s motion in part and denied it in part, ruling that Hope would “be able to identify [Upshaw] in the home video,” subject to cross-examination at trial. Specifically, the court stated, “[Hope’s] basis of his knowledge had nothing to do with run-ins with the law *** and his knowledge and identification [was] based on him living in the same community or working in the same community as [Upshaw].” However, the court stated that Hope could not “make a statement regarding *** clothing that’s worn in the gas station video [recordings] versus the video that’s in the home.”

¶ 9 We set forth the trial evidence relevant to the issue on appeal.

¶ 10 At trial, Firoz testified that he managed a gas station on the 700 block of East 142nd Street. On December 28, 2017, the gas station had two surveillance systems: one monitoring the inside of the store and one for the gas pumps. Syed and Arshad, Firoz’s nephew, were working at the gas station that day.

¶ 11 Javier Alvarado, a delivery driver, testified that he arrived at the gas station between 10:30 and 11 a.m. on December 28, 2017. While loading items onto shelves, Alvarado heard gunshots. He did not observe the shooter and hid in a closet until police arrived.

¶ 12 Former Illinois State Police (ISP) master sergeant Matthew Gainer testified that he obtained surveillance videos from Firoz. Thirteen segments from those videos were published without objection, and Gainer narrated their contents. The videos, which are included in the record on appeal, have been viewed by this Court.

¶ 13 In these videos, a white Chrysler 300 automobile pulls into the gas station. A man wearing a blue Cubs baseball cap exits the passenger side of the vehicle, enters the store to buy lottery

tickets, and then leaves in the same vehicle. Next, a black-and-silver pickup truck drives near the gas station, followed shortly by a white Chrysler 300 vehicle. Later, a black-and-silver pickup truck parks at the gas station, and a white Chrysler 300 parks between the store and the gas pumps. A man in a blue Cubs baseball cap exits the Chrysler's driver's seat, enters the store, departs, and drives away. The truck then parks at the gas pumps, before a man exits the passenger side wearing a mask covering his whole face, a dark jacket, and what Gainer described as a "dark-colored pair of pants with a unique logo on the left leg." The logo appears to be a large white square located over the man's left thigh. That man enters the store but moves out of frame. Men—whom Gainer identified as Syed and Arshad—face the masked man before falling to the ground, one of whom is visibly injured. The footage does not depict the masked man discharging a firearm. The man then exits the store and runs away.

¶ 14 Dolton police detective Anthony Delgadillo testified that he recovered surveillance video from a residence near the gas station. The surveillance video was published. Delgadillo testified that it depicted a man wearing dark clothing enter a white Chrysler 300 located just south of the gas station. The video has been viewed by this Court.

¶ 15 While reviewing the gas station surveillance video, Delgadillo identified a taxi parked near the white Chrysler 300 at the gas station. According to Delgadillo, other investigators located the taxi driver. Delgadillo obtained dashcam footage from the driver, which showed the license plate number of the white Chrysler 300. After speaking with the Chrysler's registered owner, Blake Walton, Delgadillo focused the investigation on Fils's residence.

¶ 16 Melanie Nobles testified that she lived with codefendant Fils on the day of the shooting. Nobles noted that Fils "had access to a lot of cars," including a white Chrysler 300, although he did not own a vehicle. Nobles had observed Fils drive the Chrysler. Fils and Nobles's residence

had a security system with a camera that recorded the interior front door, half of the home's dining room, and some of the living room. Footage from that camera was published at trial and has been viewed by this Court. According to Nobles, that footage depicted Fils and another man entering the home on December 28, 2017. Fils wore a blue Cubs baseball cap. On cross-examination, Nobles clarified that the white Chrysler 300 at issue was a "neighborhood car" that multiple people regularly accessed.

¶ 17 Tiajunna Williams, a custodian of T-Mobile phone records, testified that she examined December 28, 2017 records pursuant to a January 2, 2018 police request. Those records contained call logs for a phone number registered to codefendant Brewer. Shirley Hiner, a custodian of AT&T phone records, testified that she examined records containing call information for a phone number registered to Fils. Fils's number received a 44-second call from Brewer's number on December 28, 2017, at approximately 10:45 a.m. Two minutes later, Fils's number called Brewer's number for 16 minutes and 42 seconds.

¶ 18 ISP sergeant Cary Morin, a crime scene investigator, testified that he collected swabs of potential bloodstains and recovered a fired bullet from a shelf at the gas station. Morin recovered two more fired bullets from Arshad's autopsy. Morin processed a recovered Chrysler 300, obtaining latent fingerprints from the front passenger door and DNA swabs from the passenger floorboard. Morin also processed a pickup truck registered to Brewer. Finally, Morin took buccal swabs of Fils and Upshaw.

¶ 19 Luke Lemming, an ISP latent print analyst, testified that he compared four latent fingerprints from the passenger door of the Chrysler, and identified one fingerprint which matched Upshaw.

¶ 20 Hope testified that he met Upshaw while investigating the shooting death of Upshaw's stepbrother in 2010, when Upshaw was 9 or 10 years old. Hope had encountered Upshaw in Dolton approximately six times in subsequent years. When Hope observed Fils's surveillance video in early 2018, Hope recognized Upshaw "[b]y his face and stature."

¶ 21 The State, without objection, published three video clips taken from Fils's surveillance footage. Hope narrated these videos. In one December 28, 2017 video clip, Hope identified Upshaw entering a room alongside a man with a Cubs baseball cap. The State asked, "[W]hat is he wearing?" Upshaw objected based on the court's rulings on the motions *in limine*. The court overruled that objection. Hope then described Upshaw's appearance in the video as "approximately six-four; six-six; tall, dark clothing with a distinctive mark on the left leg of the jumpsuit that he was wearing."

¶ 22 On cross-examination, Hope testified he first identified Upshaw in the surveillance video on January 5, 2018. Hope then informed a detective that the suspect in the surveillance footage "resembled" Upshaw. Hope was "sure" of his identification of Upshaw. Hope acknowledged that he did not testify before the grand jury that the suspect in surveillance footage resembled Upshaw.

¶ 23 Dolton police detective Major Coleman testified that the white Chrysler 300 identified by Delgadillo was recovered by the police on December 29, 2017. Coleman obtained a search warrant for Fils's residence the next day. During their search, officers found a Cubs baseball cap, a pair of grey and black men's jogging pants, a firearm box, and two empty magazines.

¶ 24 The parties stipulated that Justin K. Barr, an ISP forensic scientist, would testify that the three recovered fired bullets were .38-caliber. While the bullet recovered on scene could not be identified or eliminated as originating from the same firearm as the other recovered bullets, the two bullets found in Arshad's body were discharged by the same firearm.

¶ 25 The parties further stipulated that Dr. Eric A. Eason would testify that he conducted the autopsy of Arshad on December 29, 2017. Eason would opine that Arshad died of multiple gunshot wounds to the head and torso, and that the manner of death was homicide.

¶ 26 Upshaw moved for a directed verdict. The trial court granted the motion as to the charges of attempted armed robbery (count XXXII) and felony murder (count XVI), noting the lack of evidence indicating that Upshaw attempted to take money from the gas station.

¶ 27 Upshaw called former Dolton police officer Jesse Williams, who testified that he spoke with Alvarado at the gas station on December 28, 2017. Alvarado told Williams that the shooter was approximately six feet tall.

¶ 28 The court instructed the jury regarding Hope's identification testimony, stating, "In determining the weight to be given to this evidence, you should not draw any inference from the fact that the witness is a law enforcement officer."

¶ 29 The jury found Upshaw guilty of the attempted first degree murder of Syed (count XX) and the first degree murder of Arshad (counts VII-VIII). The jury also found that Upshaw personally discharged a firearm that proximately caused great bodily injury to Syed and death to Arshad.

¶ 30 Upshaw filed a posttrial motion arguing, in relevant part, that Hope's limited contacts with Upshaw were insufficient to qualify Hope as "more likely to correctly identify [Upshaw] *** than the jury." The court denied Upshaw's motion, noting that evidence corroborated Hope's testimony that he originally identified Upshaw in the surveillance video based on personal knowledge in January 2018. The trial court reviewed the four factors regarding admission of video identification testimony by police, as articulated in *People v. Thompson*, 2016 IL 118667. It held that Hope's identification testimony was relevant, admissible, and reliable, in part because Hope had recent

and repeated contact with Upshaw. Specifically, the court held, “Hope credibly testified *** that there was an ID early on in the investigation *** even though there was no written documentation.” The court also found the video was “dark and *** grainy” overall, but “[t]here are moments when the video is clear,” allowing Hope to clearly observe Upshaw’s face.

¶ 31 At sentencing, the court merged the two counts of first degree murder (counts VII-VIII) and imposed consecutive terms of 45 and 31 years’ imprisonment. Each sentence included a 25-year firearm enhancement.

¶ 32 II. ANALYSIS

¶ 33 On appeal, Upshaw argues that Hope’s identification testimony was erroneously admitted, where Hope “was only minimally familiar with [Upshaw],” and “the jury would have been equally or more familiar” with Upshaw’s appearance by the time Hope testified. Upshaw also argues that Hope’s testimony should have been excluded because it was more prejudicial than probative.

¶ 34 Illinois Rule of Evidence 701 provides that lay opinions or inferences are admissible where they are “(a) rationally based on the perception of the witness, and (b) helpful to a clear understanding of the witness’ testimony or the determination of a fact in issue, and (c) not based on scientific, technical, or other specialized knowledge within the scope of Rule 702.” Ill. R. Evid. 701 (eff. Jan. 1, 2011). The *Thompson* court, interpreting this rule as it applies to identification of a defendant in video evidence by a law enforcement officer, implemented a “totality of the circumstances” test, wherein a court examines:

“the witness’s general familiarity with the defendant; the witness’s familiarity with the defendant at the time the recording was made or where the witness observed the defendant dressed in a manner similar to the individual depicted in the recording; whether the defendant was disguised in the recording, or changed his/her appearance between the time

of the recording and trial; and, the clarity of the recording and extent to which the individual is depicted.” *Thompson*, 2016 IL 118667, ¶ 51.

¶ 35 Any of these factors can support admission of law enforcement identification testimony. *Id.* ¶ 49. A “witness must only have had contact with the defendant, that the jury would not possess, to achieve a level of familiarity that renders the opinion helpful.” *Id.* ¶ 50. Such testimony may qualify under Rule 701 but still be excluded “ ‘if its probative value is substantially outweighed by the danger of unfair prejudice.’ ” *Id.* ¶ 54 (quoting Ill. R. Evid. 403 (eff. Jan. 1, 2011)).

¶ 36 We review the trial court’s ruling regarding admission of Rule 701 testimony for an abuse of discretion. *Id.* An abuse of discretion occurs where a ruling is arbitrary, fanciful, or unreasonable. *People v. Yankaway*, 2025 IL 130207, ¶ 59.

¶ 37 Upshaw has failed to show that the trial court abused its discretion in permitting Hope’s identification testimony. Rather, we find the court could reasonably have determined that Hope’s recurring contacts with Upshaw over seven years “achieve[d] a level of familiarity” which rendered his opinion relevant and admissible. *Thompson*, 2016 IL 118667, ¶ 50.

¶ 38 The trial court undertook an extensive analysis of the *Thompson* factors when ruling on Upshaw’s posttrial motion, first noting that Hope’s “familiarity” with Upshaw exceeded that of the jury. The court then examined the second and third factors, finding that Hope had contact with Upshaw at most a year prior to the shooting and stating that Hope’s testimony was “reliable.” Regarding the fourth factor, the court agreed that the video was “dark and *** grainy” but noted that “[t]here are moments when the video is clear,” including instances where Upshaw’s face is clearly visible. The court addressed Upshaw’s argument that Hope’s testimony was not credible because it was not contemporaneously documented, holding that “Hope credibly testified *** that there was an ID early on in the investigation *** even though there was no written documentation.”

¶ 39 Evaluating the totality of the circumstances, these conclusions were not arbitrary, fanciful, or unreasonable, and support the admission of Hope’s testimony. *Id.* ¶¶ 44-51. It is clear from the record that Hope was more familiar with Upshaw than the jury, and that his identification testimony was a helpful and relevant opinion. *Id.* ¶ 50. This testimony therefore meets the standards for admission under the rules of evidence. *Id.* ¶ 59.

¶ 40 Upshaw nonetheless maintains that such testimony should have been excluded under Rule 403 (eff. Jan. 1, 2011), because its potential prejudice outweighs its probative value where Hope’s testimony “was essentially an opinion that [Upshaw] was guilty.” However, Hope’s testimony provided an opinion that Upshaw was visible in surveillance footage entering Fils’s house with Fils. Although Hope identified Upshaw by describing Upshaw’s clothes, Hope did not opine further that those clothes matched the clothes of the suspect shown in the gas station surveillance footage. This is not akin to opinion testimony regarding Upshaw’s guilt. Thus, the trial court’s ruling admitting Hope’s limited testimony provided the jury with relevant, admissible evidence without undue prejudice. Further, the jury was appropriately admonished that it “should not draw any inference from the fact that the witness is a law enforcement officer.” This procedural safeguard, in conjunction with the other relevant considerations, adequately ensured compliance with the rules of evidence. *Thompson*, 2016 IL 118667, ¶ 59.

¶ 41 III. CONCLUSION

¶ 42 Accordingly, we affirm the judgment of the circuit court of Cook County.

¶ 43 Affirmed.