

NOTICE

Decision filed 09/25/26. The text of this decision may be changed or corrected prior to the filing of a Petition for Rehearing or the disposition of the same.

2026 IL App (5th) 250477-U

NO. 5-25-0477

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

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).

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Champaign County.
	)	
v.	)	No. 22-CF-97
	)	
TYJOHN G. WILLIAMS,	)	Honorable
	)	Randall B. Rosenbaum,
Defendant-Appellant.	)	Judge, presiding.

JUSTICE BOLLINGER delivered the judgment of the court.
Justices Sholar and Hackett concurred in the judgment.

ORDER

¶ 1 *Held:* Defendant's conviction for first degree murder is affirmed where (1) the trial court did not err in admitting witness Na'Shown Fenderson's recorded statement as substantive evidence, (2) the trial court did not err by admitting defendant's recorded statement as substantive evidence, (3) the evidence was sufficient to support defendant's conviction, and (4) the trial court did not err in imposing sentence.

¶ 2 Defendant, Tyjohn Williams, was convicted after a bench trial of first degree murder for the shooting death of Kristian Philpotts, a Lyft driver, and subsequently sentenced to a total of 55 years in the Illinois Department of Corrections. That sentence included the imposition of a discretionary 25-year firearm enhancement. Defendant now raises four claims of error, challenging his conviction and sentence. For the following reasons, we affirm.

¶ 3

I. BACKGROUND

¶ 4 On January 24, 2022, defendant was charged with four counts of first degree murder, each alleging the death of Kristian Philpotts by defendant personally discharging a firearm. Each had a potential sentencing range of 20 to 60 years in the Illinois Department of Corrections and each carried a 25-year sentencing enhancement based on defendant being alleged to have personally discharged the firearm causing Philpotts's death. That enhancement was made discretionary, rather than mandatory, by the fact that defendant was 16 years old at the time of the offense. Defendant was arraigned on those charges after being apprehended in the State of Georgia pursuant to an arrest warrant issued on January 24, 2022. On July 26, 2022, he was indicted by a grand jury on four counts of first degree murder identical to the counts initially charged by information.

¶ 5 On August 7, 2024, defendant waived his right to a jury trial and proceeded to a bench trial starting on November 18, 2024. Prior to opening statements, the trial court confirmed defendant was aware of the charges and potential penalties, and had rejected all plea offers from the State. Also prior to opening statements, Na'Shown Fenderson, who had previously been charged as a codefendant in the murder of Philpotts, was admonished by the trial court that he was under subpoena, as the State indicated he had been threatening to leave while waiting in the hallway.

¶ 6 Fenderson was the State's first witness and initially testified that he was feeling a lot of pressure, and could not recall what he was doing around 5 p.m. on January 12, 2022. Fenderson eventually testified that on that day, he was with Jahiem Dyer and defendant, whose mother had babysat him when he was a child. Fenderson believed Dyer to be defendant's cousin and characterized defendant as his friend.

¶ 7 During the early parts of his testimony, at times Fenderson did not answer questions and the trial court described Fenderson on the record during testimony as "recalcitrant." When asked

what was going on with him and how he was feeling in relation to his reluctance to testify, Fenderson stated his chest was “heavy, very heavy” and reiterated that he was “under a lot of pressure.” As a result, the State began asking Fenderson about a prior interview with Detective Pipkins of the Urbana Police Department and his attorney on May 4, 2022. Fenderson eventually stated, after testifying otherwise, that he remembered an interview with Detective Pipkins and his attorney. Fenderson described that interview as telling the truth to Detective Pipkins. The State attempted to have Fenderson repeat “the truth” on the stand, but Fenderson asked for a break. He further asserted he was uncomfortable and “just trying to do the best thing I could do.” When asked if he remembered what he said to Detective Pipkins, Fenderson replied, “I don’t—Bro, I ain’t gonna lie. I don’t—I don’t go over that stuff. I don’t like *** thinking about this stuff,” and that he needed to “just leave.” Fenderson’s reluctance to answer questions continued, and he stated that during the interview with Detective Pipkins that he felt comfortable answering questions, but he did not feel comfortable being questioned at trial.

¶ 8 The State attempted to ask Fenderson specific questions about what he stated to Detective Pipkins during his interview. Defense counsel objected to the leading nature of the questions, but the State indicated it was asking the questions for the purpose of the admission of a prior inconsistent statement under section 115-10.1 of the Code of Criminal Procedure of 1963 (725 ILCS 5/115-10.1 (West 2022)) and the objection was overruled. Fenderson’s resistance continued, though he also stated, “I’m here. I don’t want to refuse *** I’m going to jail if I don’t; right?” The State told Fenderson he was not going to jail, and clarified with him that he had pleaded to the offense of obstructing justice, and as part of that plea deal he had agreed to testify and tell the truth. As the State attempted to question Fenderson about the events of January 12, 2022, and his subsequent interview with Detective Pipkins, Fenderson continued to deflect. Fenderson also

asserted he did not remember what happened on the day of the murder, and reiterated that he told the truth during his interview with Detective Pipkins. Eventually, Fenderson asked if he would go to prison “if you guys just play my statement,” asserting that he had told the truth during that statement. The State answered the question, stating, “Nobody’s going to prison,” and defense counsel objected, characterizing it as the State “lecturing” the witness.

¶ 9 Fenderson confirmed that he gave a videotaped statement to Detective Pipkins and that during that interview, he told Detective Pipkins “what happened in the car, and *** where [he] went afterwards.” A sidebar was then held off the record. Subsequently, the trial court noted that the sufficiency of the questioning for the purposes of admitting Fenderson’s recorded statement as a prior inconsistent statement under section 115-10 of the Code of Criminal Procedure of 1963 (*id.* § 115-10) was addressed in the sidebar, and that it found sufficient foundation had been laid over objection.

¶ 10 On cross-examination Fenderson was asked if he had taken any drugs the night before testifying. Fenderson asserted he had not. Fenderson indicated his drug of choice was marijuana and admitted he had done ecstasy in 2022, although he denied having used it “back in 2022, when these events that are on trial here today” took place. Fenderson again admitted that he had pleaded to obstructing justice for a sentence of 30 months’ probation, and was still on probation for that offense as he testified. Fenderson also confirmed that he had originally been charged with murder in relation to Philpotts’ death.

¶ 11 Fenderson initially denied, but later admitted, removing a firearm from the vehicle where the murder took place. He described the firearm as black, but was unable to state whether it was a revolver or semiautomatic, asserting he did not know what a revolver was. Fenderson also admitted to removing defendant’s shoes from the vehicle. When asked if he had put the firearm on the roof

of a garage, Fenderson responded, “I did what I shouldn’t of did. I feel bad for it, too.” Fenderson testified that he recalled driving around with officers in the area of the murder, trying to point out where he discarded the firearm. Fenderson admitted that when he spoke to police on the day of the murder, he lied about his name and did not mention disposing of the firearm or shoes.

¶ 12 Fenderson denied wearing a fanny pack on the day of the murder, or even owning one. Fenderson further denied ever keeping a firearm in a fanny pack, ever having his own firearm, or holding onto a firearm for someone else. Fenderson also denied having been at the home of a Hezekiah on Hedge Road or having done ecstasy and shooting firearms in the backyard.

¶ 13 Fenderson admitted to knowing and spending time with Dyer, who had also originally been charged with Philpotts’s murder, in 2022 leading up to the date of the murder. Fenderson characterized them as “good friends.” Fenderson also confirmed that when he was housed in the Champaign County Juvenile Detention Center for murder, Dyer was there as well and that he talked to Dyer while there. Fenderson denied knowing Dyer to have a firearm, or seeing him around firearms.

¶ 14 Fenderson testified that on the night of the murder, he went to a house and made a phone call, then left the area in a car driven by Dyer’s mother, and that he saw police that night. Fenderson also remembered being arrested out of a vehicle the night of the murder, but stated it was a different vehicle from the one he had originally left the scene in. Fenderson indicated he did not have the murder weapon when he was arrested, and had disposed of it prior to leaving the scene with Dyer and his mother. He disposed of defendant’s shoes prior to leaving the scene. He and Dyer went to Dyer’s house, and while there, he changed clothing at the direction of defendant’s mother, the same clothing he was later arrested in. Fenderson denied that defendant was present at Dyer’s house that night.

¶ 15 On redirect examination, Fenderson acknowledged that defendant had a pink phone in the car where Philpotts was shot. Fenderson was asked if he saw the person who shot Philpotts in the courtroom, but stated he was scared to answer the question. On recross-examination, Fenderson acknowledged that he had received no verbal threats from defendant, his mother, or his maternal aunt.

¶ 16 The State then called Detective Kenneth Sprague of the Urbana Police Department to testify. Detective Sprague testified that on January 12, 2022, he was called out to take crime scene photographs related to the death of Philpotts. He photographed two different crime scenes, the first at Burkwood and Vine, where Philpotts was discovered lying on the pavement, and the second three to four blocks away from the first, where a white Jeep had crashed into another vehicle. He identified the white Jeep as being connected with Philpotts, indicating that Philpotts had rented the Jeep from a rental company that had a contract with Lyft, a paid ride-sharing service utilized through an app on smart phones. He also identified photographs taken of the interior of the white Jeep. Two showed a single shell casing on the passenger side rear floorboard of the vehicle and another showed a bag of what appeared to be cannabis on the rear passenger seat. Sprague was also shown a still from a police body camera, which he identified as showing the driver's seat floorboard with a pink cell phone visible on the floorboard.

¶ 17 Detective Sprague testified that he located another cell phone next to where Philpotts was found near Burkwood and Vine Streets. That cell phone was powered on when found and showed the Lyft application running. The application indicated that Philpotts had been in the process of giving a paid ride to a customer through the app, originating at 2315 Barberry in Champaign. The customer being given the ride was identified in the app as "Tia." Detective Sprague was able to look up the pick-up address for the Lyft ride through the police department's report management

system (RMS) and found that police had previously made contact with a resident of 2315 Barberry in Champaign named Tia Williams. RMS also showed her to have a son named Tyjohn Williams.

¶ 18 Detective Sprague testified that as part of the investigation he also followed up on a vehicle which had picked up two people near the crime scene. Another officer had noted the license plate of a vehicle that picked up two male subjects who were at a house near the crash site of the white Jeep. Officers ran the license plate number through RMS and it came back to the address of 906 South State Street in Champaign, and the mother of Dyer. He learned that the vehicle went to a liquor store after picking up the two male subjects. Detective Sprague then went to the liquor store nearest the vehicle's registered address to get video surveillance footage from the store. That video showed Dyer's mother exiting the vehicle at about 8:23 p.m. Two subjects in the vehicle's rear seats consistent with Dyer and Fenderson were seen when she exited. The video showed Dyer's mother entering the store and purchasing beer while speaking on her cell phone and appearing agitated and nervous.

¶ 19 During cross-examination, Detective Sprague testified that he interviewed Fenderson the night of the murder, and during that interview, Fenderson appeared to be very nervous. He was part of the search for the firearm Fenderson discarded, during which Fenderson was taken out of the juvenile detention center by detectives and driven around the area of the murder. He described the extent of the geographic area that was searched and that the firearm was not recovered.

¶ 20 Sergeant Cortez Gardner of the Urbana Police Department testified that he was called out to the area of Burkwood and Vine around 6:23 p.m. on January 12, 2022. He canvassed the area for witnesses or relevant surveillance video. At about 8:11 p.m. he noticed two individuals outside of 1506 Vine Street. He approached them to see if they were potential witnesses, and one of the two, later identified as Fenderson, gave the name "Shown Fender," while the other, later identified

as Dyer, gave no name. Sergeant Gardner then watched them walk southbound on Vine Street and turn eastbound onto Florida Avenue, where they were picked up by a vehicle. He noted the license plate number and radioed it to other officers in the area. He then returned to 1506 South Vine and spoke with a resident. The resident told him that Fenderson and Dyer came to his door at about 6:45 p.m. looking to use a phone. They were allowed inside and called for a ride. Sergeant Gardner was told that Fenderson and Dyer were present at 1506 South Vine from around 6:45 to 8:11 p.m.

¶ 21 Sergeant Gardner explained that the registration on the vehicle he saw pick up Fenderson and Dyer came back as registered at 906 South State Street in Champaign. He went to that address, along with some officers from the Champaign Police Department. A perimeter was established around the residence, as officers were hoping to obtain a search warrant, and during that time, three cars attempted to leave the residence. All three were stopped. One of those vehicles contained Dyer and his mother, another contained Fenderson. Defendant's mother, Tia Williams, was also present in one of the three vehicles. Defendant was not present.

¶ 22 The State next called Jahiem Dyer. Dyer testified that on January 12, 2022, he was hanging out with Fenderson and defendant. During the late afternoon, defendant's mother ordered the three a ride via Lyft from defendant's home to Urbana so defendant could have his hair done. When the vehicle arrived, all three sat in the back of the vehicle, with Dyer seated directly behind the driver, Fenderson in the middle seat, and defendant on the rear passenger side. Defendant had a phone with him, which Dyer believed to be defendant's younger sister's phone. Defendant began acting "paranoid," and was "moving a lot, just twitching," and wanted to return home rather than completing the trip. Defendant started asking the Lyft driver to take them back to his home, and told the driver he would give him money or cannabis in exchange for doing so. The Lyft driver

refused the cannabis but did agree to take Fenderson, Dyer, and defendant back to defendant's home.

¶ 23 Dyer testified that he heard a gunshot from the right side of the vehicle, behind the front passenger seat. He saw defendant holding the firearm when it fired. It fired at a downward angle toward the front seat of the car where the driver was seated. The driver fell out of the car, through the driver's door, and the car was not moving. Defendant then hopped into the front seat and threw the firearm into the back seat. As defendant did that, he and Fenderson were both yelling at defendant, asking him what he was doing and why he shot the driver. Defendant then drove the car a little way down the road before hitting a truck. When that happened, defendant hopped out of the driver's seat and ran. Dyer did not see him again.

¶ 24 After the car crashed, Dyer and Fenderson got out of the car and ran into someone's back yard. Fenderson had the firearm, as well as a pair of shoes that had been left in the back seat of the vehicle. Within minutes of the shooting, Fenderson put the firearm in the gutter of a house. Dyer and Fenderson then "walk[ed] around the neighborhood, trying to *** find a phone to call *** somebody." Dyer had a phone on him at the time, but it was only able to make calls when it was connected to Wi-Fi. Eventually an elderly white man allowed them to use his phone and make a call. The man's house was on the same street as the Lyft vehicle and the truck it had crashed into, and was "pretty close" to that spot.

¶ 25 Dyer testified that Fenderson was the one who actually made the first phone call, and that he called defendant's mother, Williams. Williams was then supposed to come and pick up Dyer and Fenderson, but never came. Eventually, Dyer's mother, Belon Taylor, was called to pick them up, which she did. Dyer and Fenderson were waiting at the elderly man's house for at least an hour

before they were picked up by Taylor, who took them back to her house at 906 South State Street in Champaign. Dyer denied that they stopped at a liquor store on the way.

¶ 26 Dyer testified there were approximately six members of Dyer's family present, including defendant's mother, when they arrived. Dyer and Fenderson discussed what happened. Williams was present for that conversation. Everyone was there for around 20 minutes before getting into cars and leaving. Prior to leaving, Dyer testified that both he and Fenderson changed clothes. After he left, the vehicle was stopped and he was detained by police. Dyer admitted that he did not give a full accounting of the evening's events to police at that time, including not mentioning that defendant had been in the Lyft vehicle, indicating that "I was scared and *** I didn't really know what *** really was going on, like I was nervous."

¶ 27 Dyer testified that in August of 2022, after he was charged related to the events of that evening and had acquired an attorney, he spoke with Detective Pipkins, and this time gave a full accounting of the evening's events. It was during that statement that he first told police that defendant was the shooter. Dyer also attempted to help police find the firearm disposed of by Fenderson by driving around with officers and attempted to point out the gutter where the firearm had been left. However, the firearm was never found.

¶ 28 During cross-examination, Dyer admitted that he was originally charged with murder in relation to the death of Philpotts on January 12, 2022, and pleaded guilty to a single count of obstructing justice for initially lying to the police about the death of Philpotts. In exchange for his plea of guilty, Dyer was placed on 30 months of probation and agreed to testify regarding the events of January 12, 2022. Dyer was still on probation when he testified.

¶ 29 Dyer denied seeing Fenderson wearing a fanny pack on January 12, 2022, or at other times. Dyer denied he and Fenderson were "good friends," instead characterizing them as "cool people"

or “just friends.” He agreed that he would hang out with Fenderson and they would smoke marijuana together, although he denied any ecstasy use. Dyer denied Fenderson ever moved into the front seat of the car. He agreed with defense counsel that he would not “want to jam [Fenderson] up.”

¶ 30 Dyer was asked about his initial interview with police. He admitted telling police that the hair appointment he was going to was for Fenderson, and that he did not know the name of Fenderson’s mother, even though neither was true. He admitted that he told police he had heard a gunshot, then immediately ran out of the car, and did not tell police that he had seen the firearm or who was using it. He also admitted to having made up a third passenger in the Lyft vehicle by the name of “Buddy.” He also admitted that at one point police told him they did not believe what he was saying, and he changed his story. Dyer denied telling police that he had been picked up by the Lyft from either “County Fair” or Gramercy Apartments. He admitted that officers eventually confronted him with several facts they believed to be true and he denied them. As part of that confrontation, Dyer agreed that he was shown a picture of defendant and denied knowing defendant. Dyer also admitted to telling police that he was lying because of “street code” which dictated that one should lie to police.

¶ 31 Upon redirect, Dyer testified that during the police interview he was scared and his heart was pounding. Dyer said he was attempting to protect defendant the night of the murder, and that was what was behind him changing clothes and making up “Buddy.” During recross-examination, Dyer denied speaking about the case with Fenderson while the two were housed together in the juvenile detention center. It was then clarified that this was due to a policy which prevented them from being alone together.

¶ 32 The State next called forensic pathologist Shiping Bao as a witness. After testifying to his training and experience, Bao testified regarding his autopsy of Philpotts and its findings. Philpotts had a single gunshot wound in the right upper back, which perforated the lungs, collapsing them, and the heart. The bullet traveled through the body downwards from the right side of the body to the left and from the back of the body to the front. The bullet entered Philpotts in the upper back or shoulder area and did not exit the body. The bullet itself was located under the skin of Philpotts's left lower chest. Bao was able to conclude that, based on the wound's trajectory, the firearm would have been fired from Philpotts's right side. Bao testified that bullet wound was the cause of Philpotts's death.

¶ 33 The State's next witness was Detective Doug Pipkins of the Urbana Police Department, the lead detective in the investigation of Philpotts's murder. He took Fenderson and Dyer out separately to the area where the murder occurred and had them point out possible locations for the firearm. This effort took place approximately seven months after Philpotts's murder and was ultimately unsuccessful.

¶ 34 Detective Pipkins also testified to the analysis of the phones found in relation to the crime scene. One was a pink phone found in the driver's seat footwell which was subject to a stipulation stating that it was "an iPhone 7 in a pink case belonging to [defendant]'s sister and used by [defendant]." Detective Pipkins was able to confirm the phone number for the pink phone and that it was the same phone number that defendant's mother gave him for defendant. A printout of the data extraction of that pink phone was presented and submitted into evidence.

¶ 35 Within the data from the pink phone was a series of Snapchat messages between defendant and another individual about trading a "Glock." Detective Pipkins testified that the other party to the message exchange indicated they did not know anybody trying to make such a trade. The phone

extraction also showed a different Snapchat message conversation occurring on January 9, 2022, wherein defendant mentioned that he was “finna go grab my other pipe.” Detective Pipkins knew the term “pipe” in this context to refer to a firearm.

¶ 36 Photos were also recovered during the phone extraction. One, found within Facebook Messenger, showed three individuals, one of whom was defendant. Defendant was holding a firearm in the photo. The photo was sent to defendant in response to a request for the photos. Metadata on the photograph showed it to have been created, photographed, or “captured” on January 11, 2022, at 2:49 p.m., the day before Philpotts was killed. Detective Pipkins was only able to identify two of the individuals in the photograph, defendant and an individual named Taylen Markham. Neither Fenderson nor Dyer appeared in the picture. Based on his experience with firearms, Detective Pipkins identified the firearm defendant was holding in the picture as a 9-millimeter or .40-caliber, semiautomatic pistol, which would eject a shell casing when fired. This would make the firearm consistent with the 9-millimeter shell casing found within Philpotts’s Lyft Jeep.

¶ 37 Four of the photographs sent in response to defendant’s Facebook Messenger request were admitted into evidence. All the admitted photographs depicted the same three individuals, including defendant. In each, defendant possessed a firearm, sometimes in his right hand, and sometimes with the handle sticking out of his left front pocket.

¶ 38 After the photographs were sent to defendant at 3:43 p.m. on the day of Philpotts’s murder, another conversation started via Facebook Messenger around 4:23 p.m. That conversation was interpreted by Detective Pipkins for the trial court, who testified that at one point defendant indicated he was not getting into the car with an L.A., warning the other subject not to be seen in the car, which was “hot,” because the car interior could be easily seen into during the daytime.

Defendant also talked about hitting a “stain,” with Detective Pipkins testifying that a “stain” was slang for a robbery, shooting, or committing a felony, and was similar in usage to the slang phrase “hit a lick.” Defendant also mentioned having a hair appointment during the conversation.

¶ 39 Detective Pipkins was able to find further talk of a hair appointment in the phone extraction in the form of Snapchat messages between defendant and someone with the username “latavia44102.” The most recent string of messages between the two prior to the murder began on January 8, 2022, with defendant asking when his hair could be done and later stating he made an appointment for 5:40. At 5:10 p.m. on January 12, 2022, latavia44102 asked defendant if he could instead come to the appointment at 6 p.m. Defendant agreed, then sent another message indicating he was on the way at 5:59 p.m. Defendant then sent another message asking, “U got a rello.” Detective Pipkins testified that a “rello” was a cigar or cigarillo, commonly used to smoke a blunt of marijuana. Latavia44102 indicated she did not have a “rello” but that she could stop to get one. Eventually, defendant asked latavia44102 if she was home, and at 6:17 p.m., she indicated she was. No other messages were exchanged between the two after that.

¶ 40 Within 20 seconds of defendant’s last message with latavia44102, defendant called his mother. Within two minutes, there was another outgoing call. After that, within two minutes, a call came in from defendant’s mother to the pink cell phone he was using. While the extraction data made it unclear whether the first two calls were answered, the third call, the incoming call to the pink cell phone, was listed in the extraction data as answered and the call was listed as having ended because defendant hung up. About an hour and 40 minutes after that call, another call was listed as coming in from defendant’s mother. The extraction data showed that call as rejected, and the pink cell phone was in police custody at the time it received that call.

¶ 41 Detective Pipkins testified that the day after Philpotts's murder, he received a call from someone who identified himself as a Mark Nicholson, living at 1604 South Maple Street, located about two blocks from where the white Jeep had crashed on Vine Street. Nicholson claimed to have seen information about the shooting on the news and believed that someone involved had come to his house asking to use a phone. Nicholson's statements were the subject of a stipulation, which stated that a male had come to his residence at approximately 6:40 p.m. on January 12, 2022, and asked to use his phone. Two phone calls were made with Nicholson's phone to the phone number defendant's mother had given to police as hers. The male that came to Nicholson's home then sat on his porch until he was picked up by a vehicle. Nicholson noted the male was only wearing socks, and that he drank water from a cup while waiting. The male also left a red stain on a seat cushion where he had been seated. DNA swabs were taken by police from both the red stain and the cup. The stipulation further indicated that Nicholson's home, 1604 South Maple, was equipped with external surveillance cameras and that copies of the footage from those cameras were given to police and would be entered into evidence by agreement.

¶ 42 The surveillance footage was played for the trial court in several clips, which all had audio. In the first clip an individual wearing all black but for white foot coverings approached a detached garage's open door and attempted to verbally gain the attention of anyone who might be present, before knocking on an exterior door to the house. Next, clips showing a porch facing Maple Street were played in what the State described as chronological order. The clips of the porch were not continuous, as Detective Pipkins testified that movement initiated each recording. In the porch clips, the individual wearing all black is more clearly visible and the white foot coverings visible in the first clip can clearly be seen to be socks.

¶ 43 During the porch clips, the individual in black approached the exterior door and, eventually, a white male identified by Detective Pipkins as Nicholson stepped out onto the porch to speak with the individual. Nicholson appeared to hand the individual in black a phone and, in the next clips, that individual appeared to be speaking to someone on the phone, apparently asking the person on the other end of the call if they are “’bout to come here?” Detective Pipkins also identified the individual in black as using the phone in a second clip. In another clip, a female opened the exterior door and asked the individual in black if he wanted a glass of water “or anything,” to which he responded, “yeah.” In the last clip, a vehicle with its headlights lit can be viewed pulling up in front of 1604 South Maple, and the individual in black leaves the porch heading toward that vehicle. Detective Pipkins testified that Nicholson told him that the encounter shown in the video clips took “just a few minutes” and, while the videos had no timestamps, an approximate time for the encounter could be determinate based on the usage of Nicholson’s phone to call Williams, which occurred at 6:44 p.m. and 6:53 p.m.

¶ 44 Detective Pipkins testified to having collected the cup used by defendant and swabbing the blood. DNA laboratory reports for those items were then entered into evidence based upon a stipulation. The laboratory reports both indicated that the DNA found belonged to defendant at statistical frequency of 1 in 1.7 nonillion. Fenderson, Dyer, and Philpotts were also excluded from the samples. Based on the DNA match, Detective Pipkins asserted that the individual in black viewable in the surveillance footage from 1604 South Maple was defendant.

¶ 45 Detective Pipkins testified that by January 18, 2022, five days after the shooting, officers began looking for defendant, and it was on that date that they spoke to his mother. Police were unable to locate defendant until March 5, 2022, when defendant was discovered near Atlanta, Georgia.

¶ 46 Other lab reports were entered into evidence per a stipulation as well. Those reports stated in part that the only DNA identified in the vehicle belonged to Philpotts.

¶ 47 During cross-examination, defense counsel attempted to question Detective Pipkins about his interview with defendant, asserting after a hearsay objection was raised, “My understanding is any statement given by the defendant which is—contains admissions of matters revolving around the defense is admissible.” The State objected, asserting that this hearsay exception applied to party-opponents and therefore could not be used by a defendant on his own behalf. The trial court sustained the objection and defense counsel was not allowed to question Detective Pipkins substantively about that interview.

¶ 48 Video from Detective Pipkins’s police body camera was admitted. Detective Pipkins testified that when he first spoke to Fenderson on May 4, 2022, Fenderson said he removed the firearm from the Lyft vehicle and hid it. Prior to that, officers did not know who had removed the firearm from the Lyft vehicle. Fenderson also said he removed defendant’s shoes from the car and dropped the shoes in the yard of the residence where the firearm was disposed of. The shoes were also never recovered.

¶ 49 Detective Pipkins testified that, prior to taking Fenderson and Dyer out to attempt to find the firearm, he spoke with the administrator of the Champaign County Juvenile Detention Center and confirmed that the two were being housed in separate facilities. However, prior to that, staffing or other administrative issues required the two be housed in Chicago, and Detective Pipkins was unaware of how they were housed then. He conceded that Fenderson and Dyer may have been able to speak with one another while housed in Chicago. Detective Pipkins asserted that they were not housed together when he initially spoke to Fenderson in May 2022, as the move to Chicago facilities did not happen until after that interview.

¶ 50 Detective Pipkins testified that, on the date he spoke to Nicholson, there was still an active search for the murder weapon and he made at least a cursory search of Nicholson's property for the firearm, but did not find it. He also testified that when he spoke to defendant's mother on January 18, 2022, Vashti Brown was with her. Brown claimed to have been the one to pick up defendant from Nicholson's house on January 12, 2022. Brown told Detective Pipkins that, after she picked defendant up that night, defendant jumped out of the vehicle near a Meijer grocery store, although she later identified the location as being near the intersection of Windsor and Neil Streets in Champaign, which did not have a Meijer located nearby. Brown said she was heading either to or from Skateland in Savoy, Illinois. Williams told Detective Pipkins that she ordered the Lyft so defendant could go to a hair appointment. Both Brown and Williams said they did not know defendant's whereabouts, and both appeared forthcoming. Prior to that conversation, Detective Pipkins received an anonymous tip through Crime Stoppers that Williams facilitated defendant leaving town.

¶ 51 Detective Pipkins testified that with regard to defendant's Facebook Messenger conversation with Markham, there had been no conversation specifically about robbing a Lyft driver. Based on that, he agreed that the conversation appeared to be about a different crime planned for later in the evening.

¶ 52 During redirect examination, Detective Pipkins was asked again about the first time he spoke to Fenderson. The recording of that interview was admitted into evidence over defense counsel's objection, pursuant to the trial court's previous ruling. During recross-examination, Detective Pipkins testified that Fenderson was not under oath during that statement and did not display any behavior that he considered unusual or indicative of mental health issues. He had

witnessed Fenderson just prior to testifying and described his behavior as different from that displayed during his interview.

¶ 53 In the video interview, Fenderson and his attorney met with Detective Pipkins in what appears to be a police interview room. Fenderson indicated that he wanted to give a statement and asked if Detective Pipkins had questions. Detective Pipkins then asked Fenderson to tell him what happened “that night” and indicated they would “go from there.” Fenderson said he would start a “couple” of hours before “it” took place.

¶ 54 In the video interview, Fenderson stated that at first it was just him and defendant at defendant’s house, then defendant got a call either from Dyer or a “Hezekiah,” indicating they would come over to defendant’s house as well. Fenderson stated that defendant made a call to get some marijuana, but that they were unable to smoke it because they did not have any “rellos or nothing.” Fenderson said that defendant’s mother came in the room talking about defendant’s hair appointment and ordered them a Lyft. After calling the Lyft, Williams left in her vehicle, and Fenderson thought she was taking defendant’s younger sister somewhere. At that point, Fenderson stated it was just himself, defendant, Hezekiah, and Dyer. Hezekiah wanted to go home, and was able to get a ride of his own to do so. Fenderson said he wanted to go with Hezekiah, but Hezekiah told him he could not, as he was supposed to have been at school for basketball practice but had skipped. Hezekiah’s mother knew Fenderson did not go to his school, so it would have looked strange for him to show up with Fenderson.

¶ 55 Fenderson said that when a car pulled up, he informed defendant their ride had arrived. Defendant, Fenderson, and Dyer then went to the Lyft. Dyer got into the Lyft directly behind the driver, Fenderson took the rear middle seat, and defendant sat in the right rear seat. Fenderson stated that in the middle of the ride, defendant got a call from the woman who was supposed to be

doing his hair, whom Fenderson thought was called “Tay” or “Tavia.” Fenderson said he could not actually hear what was said, but that he had an idea of what was happening because “she always do this *** for some reason she always cancel the hair appointment. Like, right at the end.”

¶ 56 Defendant then requested the Lyft driver turn the vehicle around and take them back to his house, explaining to the driver that he was going to a hair appointment, but that it had been canceled. The Lyft driver refused, so Fenderson suggested they simply exit the car and call defendant’s mother. Defendant then offered the marijuana he had to the Lyft driver to take them back to his house, which the Lyft driver refused. When the driver refused, defendant began to cry and beg the driver not to drop him off at the original destination. Defendant offered to pay the driver \$80, saying his mother had the money and he would call her to arrange for it to go to the Lyft driver. The Lyft driver agreed and “started driving” back. Later in the interview, Fenderson stated that the Lyft made it nearly all the way to the apartment where the hair appointment was supposed to take place, but that no one exited the vehicle or approached the apartment because the appointment had been canceled. After the Lyft driver agreed to take them back to defendant’s house, defendant made a call, which Fenderson believed was to his mother. However, Fenderson was trying not to pay attention to the call and was instead talking to the Lyft driver.

¶ 57 Fenderson then said defendant started “tweaking” and “looking back.” Fenderson described Dyer as doing the same and said that he began “looking back” as well, trying to figure out what defendant was looking at. Fenderson looked back, then looked forward and heard a sound, which he vocalized as “bwah!” He then looked at the Lyft driver and could tell that he “got hit,” gesturing at his right side under his arm. Fenderson “snatched the gun” from defendant and defendant “jumped” into the driver’s seat, although defendant moved into the front of the vehicle only after the Lyft driver “jump[ed] out the car.” He asked defendant, “why would you do that?”

and Dyer accused defendant of being “dumb.” Defendant answered Fenderson’s question by stating, “that’s O.T. in the other car,” but Fenderson did not know who O.T. was and asked defendant, “who the fuck is O.T.?” Fenderson said that defendant never explained who O.T. was.

¶ 58 Defendant then jumped out of the car and ran. Fenderson stated at that point it was just him and Dyer in the car, and he grabbed the firearm, demonstrating by placing it under his right arm. Fenderson said he told Dyer that his cousin was “dumb” then both jumped out of the Lyft vehicle. The car was still moving when defendant initially jumped out of the vehicle, as well as when Dyer and then Fenderson jumped out of it. Fenderson was worried about being caught with the firearm, reasoning that if he was caught with it, police would think that he shot the Lyft driver. Fenderson asked Dyer where defendant was and attempted to find him to give defendant’s firearm back. However, he was unable to find defendant. Fenderson discarded the firearm by throwing it and it landed on top of “this metal thing,” which he later described as a metal shed of some sort in a back yard, and then he and Dyer ran, jumping a series of gates.

¶ 59 Fenderson stated that he and Dyer decided they needed to “call somebody” and began knocking on doors. Finally, they circled back to a home near the Lyft vehicle, which “crashed” into another vehicle. Fenderson approached the man at the house and asked to use his phone. Fenderson called defendant’s mother and asked if she had heard from defendant. She stated she had not. He walked away a bit so his conversation would not be overheard and told Williams that defendant had shot the Lyft driver, at which point Williams began crying and hung up. Fenderson gave the man his phone back and told him his ride was coming, even though he had not gotten an answer from Williams about getting a ride. Then, the man told Fenderson that he received a call back asking for the address so “she” could pick them up. They waited for an hour and a half to two hours for Williams to pick them up, but she never came. Eventually, Dyer asked for a Wi-Fi

connection so he could call his mother to pick them up. Fenderson explained that Dyer's phone could not make calls without Wi-Fi.

¶ 60 Fenderson stated that before he and Dyer got into Dyer's mother's vehicle, they encountered a police officer who asked if they had seen anything. Fenderson stated that he "lied to him; I told him no." The police officer followed up with questions about whether Fenderson had heard anything, and Fenderson again lied, claiming to have been walking down the street and having heard a crash. Fenderson also admitted he gave a false name to the officer, "Shown Fender."

¶ 61 Once Fenderson and Dyer got to Dyer's mother's vehicle "a little way away from the scene," Dyer's mother asked what happened. She had apparently already heard some account of what occurred, having overheard Fenderson tell defendant's mother that defendant had shot the Lyft driver. However, Dyer's mother wished to hear the account again straight from either Fenderson or Dyer, so he told her directly that defendant shot the Lyft driver. Dyer's mother then asked why, to which Fenderson stated that he did not know. When Dyer was asked by his mother what happened, Dyer affirmed what Fenderson said. Dyer's mother then started talking about taking Dyer and Fenderson to talk to police. However, when she spoke to defendant's mother on the phone and told her she was planning to take Dyer and Fenderson to speak to police, Williams asked her not to and said she wanted to speak to them first.

¶ 62 After that, Fenderson told Detective Pipkins that they "went to a store" then went to the home of Dyer's mother. Once there, Fenderson and Dyer spoke more about what had happened before Williams arrived. When they spoke to Williams, she claimed to have spoken to defendant and already heard his account of what occurred. However, she told Fenderson that she wanted to hear his account before she told him what defendant told her. Fenderson told Detective Pipkins that he "told her everything I just told you, literally." Williams then told Fenderson that defendant

claimed the Lyft driver was on another phone. Fenderson was uncertain what it was that defendant was claiming the Lyft driver was doing with the second phone. Fenderson disputed the account defendant allegedly gave his mother during the interview, stating he saw no other phone, other than the one the driver was using to navigate. However, Fenderson told Detective Pipkins that he was not going to tell Williams that her son had just shot the Lyft driver for no reason.

¶ 63 Williams then told Dyer and Fenderson to change clothing, which they did. Fenderson believed the clothes he changed into belonged to Dyer. The clothes they changed out of were put into a bag and then into Williams's car. Williams then offered to take Fenderson to join defendant, although she did not mention where he was, but Fenderson refused. After that, he left Dyer's home and alluded to being arrested, telling Detective Pipkins, "y'all already know what happened."

¶ 64 Detective Pipkins clarified that Fenderson did not see defendant again after defendant jumped out of the car. Detective Pipkins also asked about a phone left in the Lyft vehicle, asking if it was defendant's. Fenderson agreed, clarifying it was defendant's younger sister's phone. When asked, Fenderson confirmed that he believed defendant was on the phone with his mother when he shot the Lyft driver, and that defendant quietly told her that they were being followed during that phone call.

¶ 65 Fenderson did not know where defendant acquired the firearm, and said he did not realize that defendant even possessed the firearm until he pulled it out and shot the Lyft driver. Fenderson described the house with the shed where he discarded the firearm as being "down the street" from the house where he and Dyer ultimately ended up borrowing a phone. He thought it likely that the firearm would still be where he left it, as the shed had a high enough roof that the firearm would not have been visible while standing on the ground. Fenderson also stated that defendant's shoes should be in the same yard as the shed where the firearm was abandoned, stating he had discarded

the shoes into a child-sized boat in the yard at the same time he discarded the firearm. Fenderson said that defendant “jumped out” of his shoes in the Lyft vehicle, then Fenderson grabbed the shoes when he exited the Lyft vehicle. Fenderson identified the shoes as “Off-White.” Detective Pipkins eventually brought out a map in the hopes of identifying where the firearm may have been discarded. He initially suggested one area where Dyer and Fenderson borrowed a phone and made calls, but Fenderson thought that was too far from the Lyft’s crash site, and a check of the police report for the correct address prompted Detective Pipkins to remark that Fenderson was right about the house’s proximity to the crash site. Fenderson also identified the yard with the shed as being near an empty lot. Fenderson was certain it was an empty lot and not the park across the street from where the Lyft vehicle ultimately crashed and stopped moving. Fenderson was able to identify a group of about four houses that he thought could be where the firearm was abandoned.

¶ 66 Detective Pipkins asked Fenderson whether defendant had consumed any drugs prior to the Lyft ride, which Fenderson denied, stating the only thing any of them smoked was tobacco. Detective Pipkins also asked Fenderson if there was any truth to the rumor that defendant had mistaken Philpotts for someone he had a previous disagreement with. Fenderson denied the possibility, stating he knew who people were saying Philpotts had been mistaken for, but the lighting in the Lyft vehicle was too good for defendant to have made that mistake. Fenderson also denied the possibility that defendant might have known Philpotts.

¶ 67 The State’s final witness was defendant’s mother, Tia Williams. Williams testified that she ordered a Lyft for defendant so he could get his hair done in Urbana. She was going to give defendant a ride to this appointment as part of transporting herself, defendant’s sisters, and two of their friends to Skateland at 6 o’clock. While she was getting everyone into the vehicle, Fenderson and Dyer approached on foot and asked where defendant was going. When defendant answered

that he was going to get his hair done, Fenderson and Dyer offered to go with. With the addition of Dyer and Fenderson, there was not enough room in the car, so she obtained a different ride for them to the appointment. Williams planned to pick them up herself after the appointment. Williams testified that defendant was picked up by the Lyft and she went to Skateland as previously planned.

¶ 68 While Williams was at Skateland, she received a call from defendant stating that his hair appointment was canceled because he was late and asked Williams to pick him up. Williams responded that it might take some time to pick him up because she had just reached Skateland with the other children and offered to “reroute” the Lyft to take defendant home. Defendant agreed and she heard him say, “oh, no, no, no, mom” and the phone went dead. Williams estimated the entire conversation lasted maybe four to five minutes. She attempted to call defendant back, but the calls went straight to voicemail.

¶ 69 Approximately 10 minutes later, Fenderson called and told her that the driver was just shot. When she received the call from Fenderson, she was with her sister, Latasha Williams, and Vashti Brown. Williams denied being the recipient of the calls defendant made from the house on Maple Street. Rather, defendant spoke to Brown, who answered Williams’s phone after Williams went outside to smoke. Brown went to pick up defendant. Brown told Williams she was attempting to bring defendant to Williams’s location, but defendant jumped out of the car in the area of Windsor and Neil. After that, she did not speak to defendant until after he was arrested in Georgia. She did not know how defendant got to Georgia and had not paid for the trip. She also denied having driven defendant to her brother, Jermaine Williams’s, residence.

¶ 70 Williams testified that she remained at Skateland until it closed, at 9 p.m. After that she went to Belon Taylor’s home at 906 South State Street to pick up her daughters and their friends. Fenderson and Dyer were present when she arrived, as were other family members. Williams

attempted to ask Dyer and Fenderson what happened, but neither wanted to talk about it. She later testified on cross-examination that Fenderson went onto the porch with Brown to have a conversation she did not hear. Williams denied ever telling them to change clothes or offering to take them to defendant. Williams said she was worried but did not call the police. Before defendant was arrested, she looked for him by “calling around, asking friends,” but never called the police.

¶ 71 On cross-examination, Williams testified that Fenderson was living at her house after having been living on the streets. Williams observed him to have a fanny pack, which he wore across his shoulder “all the time.” The fanny pack appeared to contain something heavy. Fenderson would watch videos about putting firearms together and the shooting range. Williams tried to kick Fenderson out several times over the videos, but was unsuccessful. She said Fenderson wore the fanny pack on January 12, 2022. She claimed Fenderson was also wearing a yellow-gold “bubble coat” and jeans.

¶ 72 On redirect, Williams stated she did not know if Fenderson kept a firearm in the fanny pack. She denied ever seeing defendant with a firearm. Williams identified defendant appearing to hold a firearm in a photo extracted from the phone defendant was using on January 12, 2022.

¶ 73 Defendant made a motion for a directed verdict which the trial court denied. Defendant called his first witness, Latasha Cross, who testified that she was Williams’s sister and lived with Williams and her children, including defendant and Fenderson in the fall of 2021. Fenderson would watch YouTube videos on the television describing how to put together or shoot firearms.

¶ 74 Cross also testified that in October of 2021, she saw Fenderson in the garage, standing over defendant’s mother’s shoulder, and pointing a firearm at another friend of defendant’s who was present that night. She could not identify the type of firearm. Cross also saw Fenderson with a fanny pack, which he wore around his waist. Cross described Fenderson and Dyer as “not very

honest,” although she described Brown as “truthful.” She said both Fenderson and Dyer had a reputation within the community for dishonesty. Upon cross-examination, Cross testified that she was concerned about seeing Fenderson with a firearm. Police were called, but he was not arrested. Cross denied defendant had a firearm.

¶ 75 Cross testified that she was living with her brother Jermaine at that time of the shooting, but was the only person present at the time. She specifically denied defendant coming there that night, or staying there for two weeks after the shooting. Cross stated she did not find out about the murder until four to five days after it occurred. She talked to defendant on the phone three days after the murder, but they did not discuss the events of that day. She denied knowing defendant was reported as missing until a week or two after the murder.

¶ 76 Fenderson was then recalled by defendant to testify. Fenderson testified that after the shooting, he and Dyer were picked up by Dyer’s mother, and she stopped by a liquor store on the way to Dyer’s residence. Fenderson denied saying he did not want to talk about what had occurred that night while at that residence. He also denied going out on the porch to speak with Brown. Fenderson specifically denied telling Brown that he “fucked up” and shot the driver.

¶ 77 During cross-examination, Fenderson was shown two pictures later admitted into evidence, in which he identified himself and agreed that it showed the clothing he was wearing at the time of the murder. The State identified those pictures as coming from the police body camera of Officer Gardner. Neither picture showed Fenderson wearing a yellow puffy jacket or a fanny pack.

¶ 78 Defendant’s last witness was Vashti Brown, the paternal aunt of defendant. Brown testified that she went to Skateland on the day of the shooting around 6 or 7 o’clock. While at Skateland, Williams’s phone rang and Brown answered it. There was a “gentleman” on the other end of the phone and he asked if she could come get defendant, who had asked to use his phone and whom

he described as “hysterical.” Brown got the address from the caller and left to get defendant. Prior to leaving, Brown spoke to Williams, who was outside smoking a cigarette. During cross-examination, Brown denied telling Williams that she was going to get defendant. Instead, Brown said she only asked for Williams to watch her niece and nephew and told her that she would be right back. Brown also clarified that she answered only one phone call on Williams’s phone.

¶ 79 Brown testified she went to the address the caller provided and arrived between 7:30 and 8. Defendant was present when she arrived, and got into Brown’s vehicle. Brown was planning to take defendant to Skateland. She characterized defendant as “hysterical” and “scared,” rambling and claiming “they” were going to kill him. Eventually he fled from her vehicle. She attempted to find him, but could not, and that was the last time she saw him.

¶ 80 Brown testified that she went to the home of Belon Taylor to pick up her niece and nephew. When she arrived, several adults were seated at the table, including Taylor and Williams. Fenderson and Dyer then came out of a bedroom. Fenderson tapped her on the shoulder and asked her to come onto the porch to speak. While on the porch, Fenderson told her, “I fucked up,” and when she asked what he was talking about, he said, “I fucked up and shot” the Lyft driver. Brown stated that she did not know what Fenderson was talking about. After that, Fenderson asked Brown to drop him off at his mother’s house. Brown agreed, and Fenderson then got into a vehicle with Brown and Williams. Soon after leaving, all three of the vehicles that left the residence were pulled over by police.

¶ 81 A few days later, around January 18, Brown and Williams spoke to a police officer at Williams’s house. Brown testified that she told the officer that the last time she saw defendant was on the night of the murder, and that she picked him up and he fled from her car. Brown stated that the officer never asked about her conversation with Fenderson.

¶ 82 Brown testified that she had known Fenderson for a long time and considered him to be a “complete liar.” She had known Dyer for a long time as well, and stated that “he lies as well.” On cross-examination, she was asked about defendant’s truthfulness, and stated that “all kids lie” but denied that he was a “liar.”

¶ 83 Brown was asked on cross-examination why she had not told police that Fenderson told her he shot someone. She responded that police would not answer questions about why they had been pulled over. The State then asked about the conversation with the officer on January 18. Brown said she was still not entirely aware of what was going on. She saw a news report about the Lyft driver being shot, but had not been told why Dyer and Fenderson were arrested. Brown asserted that the officer asked about defendant, not Fenderson, so she did not say anything at that time.

¶ 84 Brown was questioned about where defendant jumped out of the vehicle, and reiterated that it was at the intersection of Neil and Windsor. When asked why she initially told the officer that defendant had jumped out in the area of the Meijer, she claimed it was because, “that’s by Windsor. That’s coming up—coming up off of Philo by Windsor. *** I was coming up that back way, coming up going to Skateland.” The State noted it would be “much quicker” to cross Vine Street to go back to Skateland, and characterized going up Philo as taking “the long way around.” Brown agreed that she went “out of [her] way by Meijer in Urbana to go the back way to Skateland.” She disagreed with the characterization that she changed where defendant jumped out of her vehicle during the interview. Brown denied having taken defendant to Jermaine’s house, and denied even knowing where Jermaine lived, noting that Jermaine was not her brother, but was Williams’s brother.

¶ 85 At first, Brown stated she was unclear on how long she stayed at Taylor's home, but agreed that she was there for approximately three hours. During that time, Brown asserted that nobody spoke about someone having been shot. Brown agreed that defendant was her nephew and she would not want anything bad to happen to him. She also agreed that the first time she told anyone other than defense counsel Fenderson that defendant was the real killer was during her testimony at trial.

¶ 86 In rebuttal, the State recalled Detective Pipkins. Detective Pipkins testified that he spoke with Brown during his investigation, and that she never told him that Fenderson had confessed to the murder. She had told him about picking defendant up from 1604 South Maple in Urbana, then attempting to take him to Skateland in Savoy.

¶ 87 Detective Pipkins also testified about his recorded interview with defendant on May 23, 2022. During the interview, defendant claimed his mother picked him up from the house on Maple and took him to his uncle's house, where he stayed for two weeks. Defendant also spoke during that interview about how he was able to flee to Georgia. When the State asked that the interview be entered into evidence, defense counsel objected, stating, "It doesn't rebut anything that was said during the case of the defendant." The trial court overruled that objection based on Detective Pipkin's testimony regarding the contents of the interview, and it was entered into evidence.

¶ 88 In the recorded interview, defendant was asked where he went after he got into the driver's seat, stopped the car, and ran out of the vehicle. Defendant stated that he went up to someone's house, told him to call his mother, which he did, then his mother came and took him to his uncle's house. Defendant said he did not tell the man what happened, or that someone had been shot. He said he did tell his mother what happened. When asked how he got to Georgia, defendant claimed he was contacted by a friend, who said he had a birthday coming up and bought him a ticket to go down "there" for the occasion. When asked, defendant denied that his mother was involved in

getting him a ticket to Georgia. Defendant stated he went down to Georgia a couple of weeks after the murder and that he had been staying at his uncle's house until then. Defendant claimed it took him some time to find out that he was wanted for murder, and that he did not find out until a phone call with an unnamed girl who told him he was on the news in association with the murder.

¶ 89 During the recorded interview, Detective Pipkins asked defendant why his mother and aunt would have told him that Brown picked him up, and that defendant jumped out of the vehicle. At first defendant said he did not know why, then he asserted that Detective Pipkins must be confused.

¶ 90 During cross-examination, defense counsel asked whether defendant had told Detective Pipkins that Fenderson shot the Lyft driver. The State immediately objected, claiming hearsay. Defense counsel asserted in response that the doctrine of completeness allowed the entire interview to come in once a portion had been admitted. The trial court noted that the interview had been entered into evidence for the "limited purpose of impeachment," then asked defense counsel how its use of other portions of the interview in this instance would not be hearsay. Defense counsel responded that "[h]is description of his involvement with the crime is a declaration against penal interest." The trial court disagreed with the characterization, and sustained the State's objection.

¶ 91 Evidence was then closed and defense counsel made a motion for acquittal at the close of evidence. The trial court denied the motion, and closing arguments were made. After a recess, the trial court found defendant guilty of first degree murder and that the State had proven the allegations of the firearm enhancement as well.

¶ 92 In explaining its judgment, the trial court noted the burden was on the State to prove its case, that burden never shifted to the defense, and that defendant's failure to testify was in no way being considered by the trial court. The trial court went through several of defense counsel's criticisms of the investigation and the State's case and found them wanting. It found that any

assertion that Dyer and Fenderson could have been talking while in custody together to be “speculative,” noting there was “really no evidence that they actually had a conversation and concocted this story.”

¶ 93 The trial court went through Fenderson and Dyer’s accounts of how the shooting occurred and found them to be corroborated by the evidence in the case, noting the bullet casing was found in the back passenger seat footwell and that the trajectory of the bullet through Philpotts suggested the person sitting in the rear passenger seat of the vehicle was the shooter. The trial court also noted that, during his police interview, Fenderson stated defendant was on the phone “kind of tweaking out” when the firearm went off, and Dyer described defendant as somewhat paranoid when the firearm went off. The trial court stated those accounts were potentially corroborated by Williams’s testimony that defendant was on the phone with her, stated “oh, no, oh, no,” and then got disconnected. The trial court reasoned the disconnection could have been caused by defendant shooting a firearm.

¶ 94 With regard to what the trial court referred to as Fenderson’s “unique” testimony, specifically his demeanor on the witness stand, the trial court found that, while it could be asserted that Fenderson was faking his behavior or acting, Fenderson was instead “terrified to be testifying.” The trial court explicitly found Fenderson’s taped interview with Detective Pipkins to be credible. The trial court also found Dyer’s testimony credible. Further, the trial court characterized Dyer’s testimony and Fenderson’s interview with Detective Pipkins to be consistent with one another. Specifically, the trial court noted that the two accounts were consistent about who sat where in the vehicle, defendant’s general behavior preceding the shooting, the overall sequence of events from the time of the shooting until the two were picked up, and that defendant was the shooter. The trial court did note that Dyer lied to police on the night of the shooting, but

noted the nature of the lie was adding the existence of “Buddy,” and that otherwise Dyer had given a truthful account of what occurred.

¶ 95 The trial court noted that defendant ran and “was gone for months down in Georgia, which shows consciousness of guilt” and contrasted that with Fenderson, the person the defense pointed to as the shooter, who “stuck around,” “talked with the police,” and “didn’t flee or do anything like that.” The trial court found that Dyer and Fenderson waiting for someone to pick them up on the same street where the shooting occurred did “not seem like consciousness of guilt.”

¶ 96 Overall, as to what the trial court referred to as the “hypothesis” that Fenderson was the shooter, the trial court found there was “really very little corroboration” of that hypothesis. Furthermore, the trial court found that “every civilian witness lied” at some point, whether “to a police officer, whether it was in a video statement, whether it was in court.” The trial court indicated that some made “absurd and fanciful statements about what happened” while some “may only have stretched the truth on a few small things” but that there were at least some inconsistencies from all of the civilian testimony.

¶ 97 With regard to specific defense witness testimony, the trial court found the testimony of Cross not very believable, in that she testified that after seeing the incident with Fenderson and the firearm, she did not call police and Fenderson continued to live at the residence. The trial court also found her testimony that Fenderson always carried a fanny pack to be inconsistent with the testimony of both Fenderson and Dyer, as well as images of Fenderson on January 12, 2022. The trial court gave limited weight to her assessment of the truthfulness of witnesses, noting she had an “interest and believes her nephew is truthful and doesn’t believe Fenderson or Dyer.”

¶ 98 The trial court likewise found that Brown’s testimony was inconsistent with the evidence, noting that she testified that she was told over the phone that defendant was “hysterical” when she

was asked to pick him up from the house on Maple, but the video showed him looking “very calm.” It also noted Brown’s testimony that she picked defendant up was contradicted by defendant’s statements to police that Williams picked him up. The trial court also noted that while Brown claimed Fenderson had confessed to shooting Philpotts, she never told that to police, during two different encounters, finding her explanation that she said nothing because she was never asked while someone sat in jail for the crime “unfathomable.” The trial court also found Brown’s testimony that over three hours at Taylor’s house, where Fenderson and Dyer even changed clothing, that no one spoke about what happened to be “incredible.”

¶ 99 In evaluating Williams’s testimony, the trial court noted that she had testified for both the State and the defense, but overall characterized her as a defense witness. The trial court found it “more logical” that Williams and not Brown picked defendant up and took him to his uncle’s house, rather than that he jumped out of Brown’s vehicle and disappeared. This finding was based on the fact that Williams appeared to have “no concern whatsoever to tell the police” that defendant had jumped out of the vehicle and fled or “to help find him.” The trial court also noted that while Williams testified about multiple phone calls made to defendant, that was not supported by cell phone records and that her testimony about Fenderson wearing a yellow coat on January 12, 2022, was contradicted by the images of him from that night. It further noted that despite her testimony about Fenderson always wearing a fanny pack, it was also not in the images. The trial court found that despite Williams’s claim that no one talked about what happened while at Taylor’s home, it was clear that they were talking about it, trying to figure out what to do, and that was why Dyer and Fenderson changed clothing. The trial court did not find Williams “all that credible.”

¶ 100 In looking at the physical evidence the trial court noted that DNA evidence confirmed defendant’s presence at Nicholson’s residence, and that the phone extractions generally

corroborated the State's case, including defendant's access to firearms and that he was "in the mood for committing a robbery and the like." The trial court also noted defendant's lack of shoes when he was at Nicholson's home. The trial court found that the timelines of phone calls corroborated the testimony of Dyer and Fenderson, and therefore the State's case.

¶ 101 Ultimately the trial court found that the State had proven its case beyond a reasonable doubt for the offense of first degree murder. It also found that the State had proven the additional allegation that defendant had personally discharged the firearm that killed Philpotts. Defendant's bond was revoked and the matter was continued for posttrial motions and a sentencing hearing.

¶ 102 On November 25, 2024, defense counsel filed two posttrial motions. The first attacked the sufficiency of the charge and jurisdiction. The second alleged errors made during the trial itself, including, specifically, allowing portions of defendant's recorded interview to be played, which defendant alleged were improperly admitted on multiple bases, including that the statements were made as part of the plea bargaining process. The motion also challenged the trial court's decision to disallow the rest of defendant's recorded statement into evidence once the objected-to portions were admitted. The second motion also challenged the admission of Fenderson's recorded interview as substantive evidence.

¶ 103 Defendant's motions were heard and ruled on prior to sentencing. During that hearing, the State noted that no representatives from the state's attorney's office were present for defendant's interview and that the detective noted at the beginning of the interview that he was not in a position to "make any promises whatsoever." The trial court denied defendant's motions and proceeded to sentencing.

¶ 104 The trial court noted that there was a potential sentencing enhancement that could be applied depending on how it applied certain factors applicable to those who committed offenses

prior to the age of 18. During the hearing, the State presented several written victim impact statements and written letters from various family members and family friends of Philpotts. Two of those, that of Philpotts's mother and aunt, were read aloud during the hearing. Defendant presented documentation of defendant's schooling and the testimony of a youth pastor who knew and had positive things to say about defendant.

¶ 105 The State requested that defendant be given the maximum sentence and that defendant's youth be taken into account by acknowledging that he would be eligible to go in front of a parole board in 20 years and prove his rehabilitation. The State argued that defendant's behavior showed a glorification of violence and that it had only been a matter of time before defendant committed a crime such as the one he was convicted of.

¶ 106 Defense counsel argued that several mitigating factors weighed in defendant's favor, noting his age, lack of prior convictions, good behavior while in custody, and family support. He argued that defendant's sentence should be rehabilitative as a goal in conformity with the Illinois Constitution. He argued the 2020 global pandemic had negatively impacted defendant's education and that the presentence investigation reported diagnoses of depression, anxiety, and schizophrenia, all of which could be addressed as part of a rehabilitative sentence.

¶ 107 In sentencing defendant, the trial court stated that it had to consider statutory factors in both aggravation and mitigation. The trial court said there was a clear need for a message of deterrence in this case, so that people did not glorify firearms or violence or view offenses like the one at issue as "fun" or "cool." It also noted the deep pain of Philpotts's family as something that must be taken into account in crafting a sentence. In mitigation, the trial court found that with regard to defendant's criminal history, he had "really nothing in aggravation for that," as his only prior convictions were for traffic offenses. The trial court further found that defendant had

“behaved himself” while in custody. It also cited defendant’s youth and mental health issues, noting he “does have some mental health issues with respect to prior diagnoses for depression, anxiety, schizophrenia at the time he was out before he was in jail, although he wasn’t taking medication, which he really needed to be doing.”

¶ 108 With regard to special statutory mitigating factors for offenders under the age of 18, the trial court stated that “some of these factors apply, some don’t really apply, but many of them apply and are helpful to the defendant. Such as his age and impetuosity” but that “many of these cut against him.” Specifically, the trial court noted that defendant did not have cognitive or developmental disabilities, did not appear to be subject to outside pressure, had a good family history, had participation in that offense that “really was 100 percent” as “[i]t really was all him,” there was no indication defendant had ever been in the child welfare system and that he did not have any mitigating community involvement. The trial court summarized the factors with the conclusion that “very few of them are truly mitigating for the defendant and most of them cut against him,” and found that in looking at those factors “as well as everything else I know about the defendant and his background, what I’ve heard here completely, the court is of the opinion that the enhancement should in fact be applied in this particular case.”

¶ 109 The trial court characterized the murder defendant was being sentenced for as not “the most egregious, but it’s far from the most innocent” and as a “senseless crime.” It noted that defendant was “seen with guns glorifying violence, weapons” and that he had “shown no remorse. He has said he is innocent. That is his right. But it is appropriate for the court to consider that he has shown no remorse for his actions.” The trial court then imposed a total sentence of 55 years, stating it was taking into account “the nature and circumstances of the offense and to the history, character, and rehabilitative potential of the defendant” in so doing.

¶ 110 Defendant then filed a motion to reconsider his sentence on March 14, 2025, asking that the firearm enhancement discretionarily applied by the trial court based on the finding that defendant had personally discharged the firearm that killed Philpotts be removed, reiterating facts about defendant's youth and the ways youth affected culpability and arguing the sentence was disproportionate to the sentences of other juveniles convicted of first degree murder. That motion was heard and denied on June 9, 2025. A timely notice of appeal was filed.

¶ 111

II. ANALYSIS

¶ 112 On appeal, defendant challenges his conviction and sentence by making four different claims of error. First, he claims the trial court erred by admitting Fenderson's recorded interview, both because it failed to meet the statutory requirements and because it violated his rights under the confrontation clause. Second, he claims that the trial court erroneously admitted clips of his own recorded interview, as those statements were inadmissible hearsay. Third, he claims there was insufficient evidence to convict him of first degree murder. Finally, he claims errors in sentencing, alleging the trial court considered improper aggravating factors, defense counsel was ineffective, and that his 55-year sentence was excessive given his age.

¶ 113

A. Admission of Fenderson's Recorded Interview

¶ 114 Defendant's first claim of error was that the admission of Fenderson's recorded interview was erroneous, which he argues on two bases: first, that the statutory requirements for such admission were not met because the State did not properly establish that Fenderson's testimony was inconsistent with his recorded statement, and secondly that Fenderson was not sufficiently available for cross-examination during trial, which both failed to meet the statutory requirements and violated defendant's confrontation clause rights. We address each alleged error in turn.

¶ 115

1. Establishment of Inconsistency

¶ 116 Defendant asserts that Fenderson’s recorded statements were erroneously admitted under section 115-10.1 of the Code of Criminal Procedure of 1963 (725 ILCS 5/115-10.1 (West 2022)) because the statutory requirements for admission under that section were not met. Specifically, defendant first argues that Fenderson was not properly confronted with the substance of his prior statements, meaning that the State did not adequately establish that Fenderson’s testimony and recorded statement were inconsistent for the purposes of section 115-10.1. Defendant argues this error is a matter of statutory interpretation and should thus be reviewed *de novo*, citing *People v. Hall*, 195 Ill. 2d 1, 21 (2000). The State counters that the defendant challenges the application rather than interpretation of the statute, and thus the normal abuse of discretion standard applies, citing *People v. Flores*, 128 Ill. 2d 66, 87-88 (1989). We agree with the State that the applicable standard of review is abuse of discretion as the “determination of whether a witness’ prior testimony is inconsistent with his present testimony is left to the sound discretion of the trial court.” *Id.*

¶ 117 Section 115-10.1 states in relevant part:

“In all criminal cases, evidence of a statement made by a witness is not made inadmissible by the hearsay rule if

- (a) the statement is inconsistent with his testimony at the hearing or trial, and
- (b) the witness is subject to cross-examination concerning the statement, and
- (c) the statement—

- (2) narrates, describes, or explains an event or condition of which the witness had personal knowledge, and

* * *

(C) the statement is proved to have been accurately recorded by a tape recorder, videotape recording, or any other similar electronic means of sound recording.” 725 ILCS 5/115-10.1 (West 2022).

A witness’s prior statement is inconsistent for the purposes of section 115-10.1 not only when it directly contradicts their in-court testimony, but also when the witness professes memory loss as to the events described in the prior statement and/or provides “evasive answers, *** silence, or changes in position.” (Internal quotation marks omitted.) *Flores*, 128 Ill. 2d at 87-88; *People v. Russell*, 2024 IL App (5th) 230067-U, ¶ 30. There can be instances where the State fails to adequately establish that a statement is inconsistent for the purposes of section 115-10.1, when it fails to ask about the substance of the recorded statement. *People v. Grayson*, 321 Ill. App. 3d 397, 404-06 (2001). Foundation for the admission of a prior inconsistent statement under section 115-10.1 requires, generally, that the statement’s proponent “ ‘direct the attention of the witness to the time, place, and circumstances of the statement and its substance’ ” so that the witness has an opportunity to explain the inconsistency. *Id.* (quoting *People v. Hallbeck*, 227 Ill. App. 3d 59 (1992)). However, this foundational requirement of sufficient questioning to show inconsistency is met if the witness professes a sufficient level of memory loss. *Russell*, 2024 IL App (5th) 230067-U, ¶¶ 33-34.

¶ 118 Here, Fenderson’s statement was sufficiently inconsistent to qualify for admission under section 115-10.1 and the State’s questioning of Fenderson adequately demonstrated that inconsistency. During direct examination, Fenderson expressed a great amount of what the trial court characterized as “recalcitrance” to testifying that is aptly described as the sort of memory loss, evasiveness, silence, or change in position that our jurisprudence has characterized as

inconsistent for the purposes of section 115-10.1. Indeed, the purpose of section 115-10.1 has been stated to be “ ‘to protect parties from “turncoat” witnesses who back away from a former statement made under circumstances indicating that it was likely to be true.’ ” (Internal quotation marks omitted.) *Id.* ¶ 30 (quoting *People v. Martin*, 408 Ill. App. 3d 891 (2011)). While the trial court credibly found that Fenderson’s reluctance to testify was based in fear, Fenderson is clearly the sort of “turncoat” witness contemplated by section 115-10.1; he gave a full accounting of what occurred during a police interview, with his attorney present, then when it came time to repeat those statements at trial on the State’s behalf, he shut down completely. In the face of that memory loss, evasiveness, silence, or change in position, the State then asked Fenderson directly about the recorded interview, including asking him specific questions about what he said to Detective Pipkins during the interview, which defense counsel objected to. The State was able to elicit from Fenderson that he made the statements, and even that he was telling the truth in that interview. Fenderson also testified somewhat to the substance of the statements, indicating they concerned “what happened in the car, and *** where [he] went afterwards.”

¶ 119 To rule that this is somehow inadequately inconsistent or that the foundation laid for that inconsistency is inadequate would be to utterly eviscerate section 115-10.1’s use in all but the most narrow of circumstances. Fenderson acknowledged making the statements, endorsed the truth of them, and was able to generally describe what the statements concerned. We decline to rule this level of foundation inadequate. The trial court did not abuse its discretion in finding that the recorded statement was inconsistent with Fenderson’s trial testimony and that the State had adequately laid a foundation showing that to be the case.

¶ 121 Defendant also asserts that Fenderson’s recorded statement was improperly admitted as Fenderson was not available for cross-examination for either the purpose of meeting the statutory requirements of section 115-10.1 or the confrontation clause, despite having testified and answered questions on cross-examination. Defendant specifically argues that because “the State never introduced the content of [Fenderson]’s prior statements during his testimony, [defendant] was denied the opportunity for ‘full and effective’ cross-examination concerning these prior statements and could not rigorously test the accusations against him.” Defendant cites no case law for this last assertion that the substance of the statement at issue must be admitted prior to cross-examination in order for the witness to be constitutionally or statutorily available for cross-examination. As such, we do not consider this contention to have any merit and instead consider defendant’s arguments which are based in law rather than bare assertion, as this court is “ ‘not a repository into which an appellant may foist the burden of argument and research.’ ” *Velocity Investments, LLC v. Alston*, 397 Ill. App. 3d 296, 297 (2010) (quoting *Stenstrom Petroleum Services Group, Inc. v. Mesch*, 375 Ill. App. 3d 1077, 1098, (2007)).

¶ 122 Section 115-10.1 requires that the declarant of a statement admitted under its auspices be subject to cross-examination. 725 ILCS 5/115-10.1(b) (West 2022). Similarly, a defendant’s rights under the confrontation clause of the United States Constitution are not violated when a defendant testifies and is subject to cross-examination. *Flores*, 128 Ill. 2d at 88. A witness is subject to cross-examination “ ‘when he is placed on the stand, under oath, and responds willingly to questions.’ ” *People v. Redd*, 135 Ill. 2d 252, 311-12 (1990) (quoting *United States v. Owens*, 484 U.S. 554, 561 (1988)). It is also required that the declarant-witness be “ ‘subject to questioning that in some way relates to the prior statement itself,’ ” as being subject to cross-examination requires something

more than “ ‘that the witness is present and can be required to sit still long enough for questions to be put.’ ” *Id.* at 309 (quoting *United States v. DiCaro*, 772 F.2d 1314, 1323 (7th Cir. 1985)). However, this does not mean that to be subject to cross-examination the defendant is entitled to cross-examination “ ‘that is effective in whatever way, and to whatever extent, the defense might wish.’ ” (Internal quotation marks omitted.) *Id.* at 311 (quoting *Owens*, 484 U.S. at 559). For instance, the fact that a witness professes memory loss does not make that witness not subject to cross-examination. *Flores*, 128 Ill. 2d at 88-90.

¶ 123 Here, Fenderson was subject to cross-examination for the purposes of both section 115-10.1 and the confrontation clause. Defense counsel’s cross-examination of Fenderson was far more extensive than the State’s direct examination, as Fenderson demonstrated a greater willingness to answer questions from the defense than from the State. Over the course of cross-examination, and in nonlinear fashion, Fenderson gave a relatively complete description of the events that occurred after the shooting. He admitted to removing defendant’s shoes and the firearm from the vehicle, and to disposing of them before leaving the Vine Street area in Taylor’s car, even briefly describing the firearm. He admitted going to Dyer’s house and changing clothing there, then subsequently being arrested in relation to the murder. Fenderson even described defendant as using a pink phone in the Lyft vehicle. All of those were the same events described by Fenderson during his recorded interview with police. As such, Fenderson was certainly both questioned about, and, perhaps more importantly, answered, questions regarding the substance of his prior statement. While it may not have been cross-examination that was “ ‘effective in whatever way, and to whatever extent’ ” he might have wished, Fenderson was certainly subject to cross-examination pursuant to both section 115-10.1 and the confrontation clause, and thus no error occurred. (Internal quotation marks omitted.) *Redd*, 135 Ill. 2d at 311 (quoting *Owens*, 484 U.S. at 559).

¶ 124 B. Admission of Portions of Defendant’s Recorded Interview

¶ 125 Defendant next claims that the trial court erred in admitted the clips of his own recorded interview as impeachment, claiming the interview was inadmissible hearsay. In support of this argument, defendant cites *People v. Virgin*, 302 Ill. App. 3d 438 (1998).

¶ 126 In *Virgin*, the First District Appellate Court held that the State’s use of a hearsay statement, admitted in the form of an officer testifying about the contents of that statement, was an impermissible form of impeachment. *Id.* at 447-48. In so holding, the court reasoned that when an out-of-court statement made by the witness themselves is used as impeachment, the truth of that statement is immaterial as it is the contradiction that impeaches the witness and undermines their credibility. *Id.* However, when the impeaching statement comes not from the witness themselves but rather from another declarant, the impeachment value of the statement relies on the statement being used for the truth of the matter asserted, making it hearsay. *Id.*

¶ 127 Unlike the statement at issue in *Virgin*, defendant’s statement at issue here is not hearsay pursuant to Illinois Rule of Evidence 801. Rule 801 defines several terms, including hearsay, and in so doing specifically carves out a “Statement by Party-Opponent” as not being hearsay, stating that when such a “statement is offered against a party and is *** the party’s own statement,” it is not hearsay. Ill. R. Evid. 801(d)(2) (eff. Oct. 15, 2015).

¶ 128 Defendant argues this does not apply to defendant’s statements as they are not “admissions,” citing to the definition of an admission as a “statement or conduct from which guilt may be inferred, when taken in connection with other facts, but from which guilt does not necessarily follow.” *People v. Stewart*, 105 Ill. 2d 22, 57 (1984), *abrogated on other grounds by People v. Gacho*, 122 Ill. 2d 221 (1988). However, Rule 801 does not require an “admission” to apply. While it is true that the applicable subsection of Rule 801 used to be titled “Admission by

Pary-Opponent,” the most recent amendment to the rule, made on October 15, 2015, changed it to “Statement by Party-Opponent,” removing the only textual reference to an admission from the rule. Furthermore, the Third District ruled in *People v. Aguilar*, 265 Ill. App. 3d 105, 110 (1994), a decision we adopted in *People v. Layne*, 286 Ill. App. 3d 981, 989 (1997), that Rule 801’s definition of a defendant’s “admissions” as not hearsay applied to “[a]ny statement by an accused person, unless excluded by the privilege against self-incrimination or other exclusionary rules.” In doing so, the *Aguilar* court overruled the trial court, which had excluded a defendant’s statement for not fitting the very definition defendant cites here, noting, “The court might have been confusing the admissions exception to the hearsay rule with the exception for declarations against interest. There is no requirement that an admission be inculpatory or against interest when made or when offered, because the theory of the admissions exception is based upon the view that the admissibility of a party’s own statement is a product of the adversary system.” *Aguilar*, 265 Ill. App. 3d at 110. While it is true that the Second District, in *People v. Milka*, 336 Ill. App. 3d 206, 232 (2003), declined to follow *Aguilar*, as defendant argues, until the Illinois Supreme Court provided “further guidance” on the issue, we note both that *this* court adopted *Aguilar* prior to *Milka* in *Layne*, 286 Ill. App. 3d at 989, and also that the Illinois Supreme Court has since provided further guidance by changing the name of the applicable evidentiary rule to no longer include any mention of an “admission.”

¶ 129 In light of *Aguilar*, our adoption of that decision in *Layne*, and the amendment of Rule 801 to remove any references to admissions, we find defendant’s argument that his recorded statement was hearsay specious. Defendant’s statements were definitionally not hearsay under Rule 801. As such, the fact that, under *Virgin*, it was required that they be used for the truth of the matter asserted

in order to serve as impeachment is of no import. The statements were not hearsay, and could be used substantively as impeachment. Thus, no error occurred.

¶ 130

C. Sufficiency of the Evidence

¶ 131 Defendant finally challenges his conviction by claiming that there was insufficient evidence to support it. He claims that his conviction is based nearly entirely on the testimony of Fenderson and Dyer, whom he characterizes as unreliable accomplice witnesses whose unreliable testimony was garnered through plea deals, and that this testimony alone cannot support his conviction. The State challenges defendant's characterization of Dyer and Fenderson as defendant's accomplices, arguing that they do not meet the legal definition of accomplices and that by the time they testified, they had not been convicted of nor faced any charge pertaining to Philpotts's murder.

¶ 132 Due process requires the State to prove each element of an offense beyond a reasonable doubt. U.S. Const., amends. V, XIV; Ill. Const. 1970, art. I, § 2; *In re Winship*, 397 U.S. 358, 364 (1970). When reviewing the sufficiency of the evidence, it is not our function to retry defendant or "substitute our judgment for that of the trier of fact." *People v. McLaurin*, 2020 IL 124563, ¶ 22. Rather, we must determine whether any rational trier of fact could have found the essential elements of the offense beyond a reasonable doubt. *People v. Rudd*, 2012 IL App (5th) 100528, ¶ 11. In doing so, we view the evidence and reasonable inferences thereof in the light most favorable to the State. *People v. VanHoose*, 2020 IL App (5th) 170247, ¶ 24. Under this standard, circumstantial evidence can be sufficient to sustain a conviction. *People v. Jackson*, 2020 IL 124112, ¶ 64. "A criminal conviction will not be set aside on a challenge to the sufficiency of the evidence unless the evidence is so improbable or unsatisfactory that it creates a reasonable doubt of the defendant's guilt." *Id.*

¶ 133 In challenging the testimony of Dyer and Fenderson as a basis for conviction, defendant points out that the testimony of accomplices is suspect, as it “ ‘has inherent weaknesses, being testimony of a confessed criminal and fraught with dangers of motives such as malice towards the accused, fear, threats, promises or hopes of leniency, or benefits from the prosecution’ ” and should be accepted “ ‘only with utmost caution and suspicion.’ ” *People v. Williams*, 147 Ill. 2d 173, 232-33 (1991) (quoting *People v. Young*, 128 Ill. 2d 1, 47-48 (1989)). The State challenges this characterization of Fenderson and Dyer, arguing that none of the evidence at trial actually supported them being accomplices as it did not show them to know defendant was planning to engage in criminal activity or even possessed a firearm. We see no reason to determine whether Dyer and Fenderson were truly accomplices whose testimony is subject to skepticism, as even applying defendant’s requested skepticism, we find that the evidence in this matter is sufficient to support defendant’s conviction for first degree murder as even accomplice testimony “whether corroborated or uncorroborated” can be sufficient to sustain a criminal conviction. (Internal quotation marks omitted.) *Id.*

¶ 134 Here, Dyer’s testimony and Fenderson’s recorded statement largely corroborated each other. Both placed defendant in the rear passenger seat of the car, where both the shell casing and the angle of Philpotts’s fatal injury indicated the shooter was sitting, and characterized the course of events and defendant’s behavior similarly. These accounts are also partially corroborated by the phone defendant was using being found in the vehicle in a spot consistent with Dyer and Fenderson’s accounts of defendant jumping into the front driver’s seat, the bag of cannabis found in the rear passenger seat, and Philpotts’s phone showing a Lyft ride ordered by defendant’s mother and departing from his residence. These facts place defendant within the vehicle at the time of the murder and the bag of cannabis specifically corroborates Dyer and Fenderson’s assertions that

defendant was seated in the vehicle at the spot where the firearm was discharged. Defendant also fled to Georgia following the murder, which is evidence of consciousness of guilt.

¶ 135 Evidence of defendant's guilt is further bolstered by the what the trial court found to be the untruthful testimony of his mother and aunt. Both attempted to characterize Fenderson as firearm-obsessed and carrying one at all times in a fanny pack worn constantly. However, only their testimony supported this inference. Furthermore, Williams's testimony that Fenderson was wearing the fanny pack at issue on January 12, 2022, was directly contradicted by images from Sergeant Gardner's police body camera. Brown also gave inconsistent statements regarding where defendant had jumped from her vehicle and her testimony about defendant's emotional state on the night of the murder was at odds with the video of defendant from that same night. These inconsistencies cast a pall over the entirety of both women's testimony, especially in light of their familial connection to defendant, and further imply defendant's guilt.

¶ 136 Overall, we cannot find this body of evidence "so improbable or unsatisfactory that it creates a reasonable doubt of the defendant's guilt." *Jackson*, 2020 IL 124112, ¶ 64. The trial court was the trier of fact in this case, and made certain determinations as to the credibility of witnesses and the inferences to be drawn from the evidence, which we see no reason to disturb. The evidence in this matter was sufficient to support defendant's conviction for first degree murder.

¶ 137 D. Sentencing

¶ 138 Defendant also challenges his sentence, raising five sentencing errors which he argues entitle him to resentencing. Defendant first contends that the trial court considered improper aggravating factors in imposing sentence, specifically in that it (1) considered factors delineated as mitigating in aggravation, (2) held defendant's continued assertions of innocence against him at sentencing, and (3) found a need for deterrence based on a misunderstanding of the evidence

regarding the pictures of defendant with a firearm. Defendant further argues that defense counsel was ineffective at sentencing, both for failure to assert the alleged errors regarding improper sentencing factors, as well as for failing to investigate and present evidence at sentencing regarding defendant's mental health issues. Finally, defendant contends his sentence was excessive.

¶ 139

1. Use of Mitigating Factors in Aggravation

¶ 140 Defendant claims that the trial court erred in that it considered the statutory mitigating factors for individuals under the age of 18 as aggravating factors. In support of this argument, defendant points to two comments made by the trial court in discussing those factors: (1) "So some of these factors cut in his favor, but many of these cut against him" and (2) "So when I look at these factors, I really come to the conclusion that very few of them are truly mitigating for the defendant and most of them cut against him." Defendant argues that the trial court's use of the phrase "cut against him" shows that the trial court was treating the absence of those factors as aggravating factors. The State counters that these were isolated statements made during a lengthy discussion of the trial court's sentencing decision and that, once the overall context of the trial court's statements are taken into account, it is clear that what the trial court was saying was that the factors that "cut against" defendants were those that did not apply and thus did not help defendant, rather than that they were being treated as aggravation.

¶ 141 The mitigating factors at issue here are found in section 5-4.5-105(a) of the Unified Code of Corrections (730 ILCS 5/5-4.5-105(a) (West 2024)), which states that "when a person commits an offense and the person is under 18 years of age at the time of the commission of the offense, the court, at the sentencing hearing conducted under Section 5-4-1, shall consider the following additional factors in mitigation in determining the appropriate sentence." Where the legislature has chosen to list a factor as being one of mitigation rather than aggravation, it is improper for a trial

court to use it as aggravation. *People v. Heider*, 231 Ill. 2d 1, 20 (2008). This is true of all the factors listed under section 5-4.5-105 in particular, which should only be considered in mitigation with the courts using none of them “as an opportunity to consider nonmitigating evidence.” *People v. Reyes*, 2025 IL App (2d) 210423-B, ¶ 44. “A sentence based on improper factors will not be affirmed unless the reviewing court can determine from the record that the weight placed on the improperly considered aggravating factor was so insignificant that it did not lead to a greater sentence.” *Heider*, 231 Ill. 2d at 20. Whether a trial court relied on an improper factor or interpreted a statutory factor correctly is reviewed *de novo*. *Reyes*, 2025 IL App (2d) 210423-B, ¶ 37. “ ‘There is a strong presumption that the trial court based its sentencing determination on proper legal reasoning, and a court of review should consider the record as a whole, rather than focusing on a few words or statements by the trial court.’ ” *People v. Williams*, 2018 IL App (4th) 150759, ¶ 18 (quoting *People v. Canizalez-Cardena*, 2012 IL App (4th) 110720). It is the defendant’s burden to “ ‘affirmatively establish that the sentence was based on improper considerations.’ ” *Id.* (quoting *People v. Dowding*, 388 Ill. App. 3d 936 (2009)).

¶ 142 It is clear when looking at the trial court’s complained-of statements in context that the trial court was not utilizing those factors in aggravation. It is true that the trial court speaks of certain of the factors as “cutting against” defendant. However, it becomes clear when looking at the trial court’s statements as a whole that for these factors to “cut against” defendant meant that they did not help defendant. It is apparent that the trial court did not consider those factors, such as defendant having a good family history or that there was no indication that he had ever been involved in the child welfare system, as aggravation. In looking at the trial court’s statements as a whole, the trial court was simply going through each mitigating factor one by one, and deciding whether they were “helpful” to defendant, or mitigating. When looking at the trial court’s

comments in their entirety, it is clear that the trial court did not base its sentence on improper factors, but rather on proper legal reasoning, as it is presumed to have done. Defendant has not met his burden of affirmatively establishing that his sentence was based on consideration of improper factors.

¶ 143 2. Improper Consideration of Defendant’s Claims of Innocence

¶ 144 Defendant next claims that the trial court erroneously held against him the fact that he continued to maintain his innocence at sentencing, stating as it pronounced the sentence:

“He has shown no remorse. He has said he is innocent. That is his right. But it is appropriate for the court to consider that he has shown no remorse for his actions.”

The State counters that this statement clearly acknowledged that defendant had the right to maintain his innocence, and that it should not be held against him and was instead a statement regarding defendant’s lack of remorse.

¶ 145 A trial court may not sentence a defendant more severely simply because he maintains his innocence after being convicted at trial. *People v. Speed*, 129 Ill. App. 3d 348, 349-50 (1984). A court may, however, consider a defendant’s “lack of a penitent spirit in determining the appropriate sentence to be imposed upon a defendant, since this is a factor which may have a bearing on the defendant’s potential for rehabilitation.” *Id.* Thus, a simple reference or mention of the fact that a defendant maintains his innocence will not cause a sentence to be reversed. *Id.* Instead, reversal is required when the record shows that “the sentencing court indicated, either expressly or impliedly, that there would be better treatment on sentencing if the defendant abandoned his claim of innocence.” *Id.*

¶ 146 Here, there was no indication, either explicitly or impliedly, that defendant would have been treated better had he abandoned his claim of innocence. The statement was a commentary on

defendant's lack of remorse, which is expressly allowed, and openly noted defendant's right to maintain his innocence. The trial court's words make it clear that it understood the distinction between lack of remorse and continued claims of innocence, and was well aware of how it may consider those factors, or not, in issuing its sentence. The trial court did not err by taking into account defendant's continued claims of innocence, as it explicitly did not penalize defendant for those continued professions.

¶ 147

3. Misunderstanding of the Evidence

¶ 148 Defendant also claims that the trial court based its sentence on a misunderstanding of the evidence at sentencing, claiming that the State had “erroneously argued that [defendant] was posting photos of himself with guns, ‘showing off on social media and sharing these photos amongst friends’ ” and the trial court had erred in going along with that interpretation by finding that there was a need for deterrence in this case to keep defendant and others like him from “glorifying” guns and violence. Defendant argues this was a misunderstanding of the evidence, because defendant never posted any pictures of himself with firearms, but instead received such photos via direct, private messaging in Facebook Messenger. In support of this argument, defendant cites a single case, *People v. Crews*, 38 Ill. 2d 331 (1967), in support of the proposition that a sentencing court abuses its discretion in sentencing a defendant by relying on inaccurate information.

¶ 149 The applicability of *Crews* to this case, that is, its ability to act as a basis for granting defendant's relief, is questionable. In *Crews*, the defendant was convicted of the murder of a child in her care, the two-year-old niece of that defendant, whom she and her husband were seeking to adopt. *Id.* at 333-34. At sentencing, the trial court stated it “had searched the files of the Juvenile Division of the court and there had found what was apparently a case-worker's report.” *Id.* at 336.

The report indicated the defendant's elder adopted son had told the woman in whose custody he was temporarily placed of "horrific mistreatment of [the child murder victim] on other occasions by the defendant." *Id.* at 336-37. The *Crews* defendant denied the mistreatment attributed to her by the caseworker's report. *Id.* at 336. Our supreme court determined that reliance on this report was improper, as neither the elder child, the woman to whom he spoke to, or the caseworker who wrote the report had been called to testify. *Id.* at 338-39. The supreme court found the lack of the child's testimony particularly troubling, as this meant there was "no opportunity to appraise his relative maturity or immaturity, his understanding or incapacity to understand the necessity that truth be told and to consider other qualities going to the question whether reliance could properly be placed on what he said or might say." *Id.* at 338. The supreme court found that the caseworker's report had not had its reliability sufficiently verified for the trial court to have properly relied upon it for the purposes of sentencing. *Id.* at 338-39. Thus, the defendant had been prejudiced by the court's improper consideration of the report and her sentence was vacated. *Id.* at 339.

¶ 150 While defendant's summary of *Crews* as standing for the principle that a trial court abuses its discretion "by relying on inaccurate information" is accurate, the massive factual difference between this case and *Crews* does not support the proposition that the alleged error here would support a reversal of defendant's sentence. Indeed, *Crews* is a case more concerned with the provenance of the information relied on by a trial court and how that may impact its accuracy than any other issues. *Id.* at 336-39.

¶ 151 *People v. Nooner*, 2021 IL App (1st) 190334-U, stands for the proposition of law defendant seeks to apply and provides a usable standard for review of such errors. Per *Nooner*, a sentence should be vacated and a cause remanded for resentencing when a trial court "relies on improper factors contrary to the evidence in the record" and the use of a manifest error of fact is an abuse of

the trial court's discretion in issuing a sentence. *Id.* ¶¶ 22-23. In deciding whether such error has occurred, "[a] reviewing court should not focus on a few words or statements of the trial court but should make its decision based on the entire record." *Id.* ¶ 23. Where the "weight accorded to the improperly considered evidence was so insignificant that it did not lead to an increase in the defendant's sentence," reversal is not required. *Id.*

¶ 152 We find that the record does not support a finding that the trial court misunderstood the evidence as defendant contends. The evidence at issue involves pictures that were sent to defendant rather than sent out by defendant or posted to a public social media feed. However, the trial court never characterized them as anything other than photos sent to defendant that depicted him with a firearm. The only thing the trial court said regarding the photos at sentencing was that defendant "was seen with guns glorifying violence, weapons." Earlier in the proceedings, as it rendered its verdict, the trial court spoke more directly about that evidence, stating, "The day before the murder, [defendant]'s asking for pictures, which come in, which include him with guns." Those were the only two statements the trial court made throughout the proceedings referencing the photos at issue, and it is thus clear when looking at the entire record as a whole that the trial court had an accurate command of exactly what the photos were and how they had been digitally transferred. As such, it is clear that the trial court did not in any way base its sentence on a misunderstanding of the evidence. Thus, there was no error.

¶ 153 4. Ineffective Assistance of Counsel

¶ 154 Defendant also alleges that his trial counsel was ineffective in two ways. First, for failing to preserve the errors he alleged at sentencing regarding the use of mitigating factors in aggravation, the improper consideration of defendant's continued claims of innocence, and the misunderstanding of evidence presented at sentencing. With regard to this first claim of ineffective

assistance, defendant claims that plain error also applies. Second, defendant argues trial counsel was also ineffective at sentencing because he failed to investigate and present mitigating evidence regarding defendant's mental health issues.

¶ 155 To establish a claim of ineffective assistance of counsel, the defendant must show (1) that counsel's performance was deficient and (2) that this deficient performance prejudiced the defendant. *Strickland v. Washington*, 466 U.S. 668, 687 (1984). In judging trial counsel's performance and determining whether such performance was deficient, the court must look at whether counsel's performance "fell below an objective standard of reasonableness" based on "prevailing professional norms." *Id.* at 687-88. In finding deficiency, there is a "strong" presumption that the challenged action or inaction was the product of sound trial strategy rather than incompetence. *Id.* at 690. Prejudice occurs when there is a "reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different," with reasonable probability being defined as "a probability sufficient to undermine confidence in the outcome." *Id.* at 694. This right applies not only at trial but also at sentencing, and prejudice with regard to ineffective assistance of counsel at a sentencing hearing is shown when "a reasonable probability exists that the sentence was affected" by counsel's deficient performance. *People v. Steidl*, 177 Ill. 2d 239, 257 (1997). A defendant must show both deficient performance and prejudice in order to prevail on a claim of ineffective assistance of counsel. *Strickland*, 466 U.S. at 694. A failure to establish either deficient performance or prejudice will thus be fatal to the claim. *People v. Richardson*, 189 Ill. 2d 401, 411 (2000).

¶ 156 We first consider defendant's claim that trial counsel was ineffective for failing to preserve various sentencing errors. We find that trial counsel was not ineffective, as, per our analysis above, we have found that none of the errors raised by defendant occurred. Where there were no errors,

defense counsel cannot have performed deficiently by failing to preserve them, nor can a defendant be prejudiced by such failure. The same analysis applies with regard to plain error. To determine whether there is plain error, a court must first determine whether any error occurred. *People v. Glasper*, 234 Ill. 2d 173, 203-04 (2009). As there was none, plain error likewise does not apply.

¶ 157 Defendant also claims that defense counsel was ineffective as he failed to investigate and thus present evidence of defendant's mental health at sentencing. During the sentencing hearing, it was noted in the presentence report that defendant reported prior diagnoses of depression, anxiety, and schizophrenia, for which he had taken no medication prior to his arrest but was now taking Remeron, Abilify, and a medication he did not know the name of. However, this evidence from the presentence report was the sole evidence presented regarding defendant's mental health, and on appeal defendant contends that defense counsel should have further investigated these mental health issues in order to present any potential evidence about whether defendant was experiencing symptoms of these mental health issues at the time of the offense, which he asserts would have been mitigating. The State counters that there is no evidence to support defendant's contention that trial counsel did not, in fact, investigate these mental health issues. Rather, based on the record, the State argues it is equally likely that defense counsel did so investigate them but then made the strategic decision not to present what evidence counsel may or may not have found.

¶ 158 We need not speculate about how much defense counsel may or may not have investigated defendant's mental health, as this issue may be decided solely on the basis of the prejudice prong. Here, whatever the nature of defendant's mental health, the trial court apparently took defendant at his word, stating as part of a recitation of applicable mitigating factors that defendant "does have some mental health issues with respect to prior diagnoses for depression, anxiety, schizophrenia at the time he was out before he was in jail." The trial court noted defendant was not taking

medication for those issues at the time of the offense. In recognition of the seriousness of the prior diagnoses, the trial court acknowledged that the unmedicated nature of those diagnoses was problematic, stating that he “really needed” to have been taking medications. Given, again, that this was part of a recitation of mitigating factors, it is clear that the trial court did take defendant’s mental health and purported diagnoses into consideration in rendering its sentence and that it did so in defendant’s favor. Thus, defendant was not prejudiced by defense counsel’s alleged lack of investigation into his mental health issues. There is no reasonable probability that defendant would have received a lesser sentence from further investigation and presentation of evidence regarding those issues where the trial court had already taken this factor into account in defendant’s favor.

¶ 159

5. Excessive Sentence

¶ 160 Defendant’s final assertion of error is that his sentence is excessive given his age, rehabilitative potential, and the mitigating evidence presented. In particular, defendant emphasizes that he was a juvenile when this offense was committed and that his 55-year sentence is out of line with his juvenile status and still-developing brain. Defendant frames this challenge as one under the Illinois Constitution, alleging a violation of its clause requiring that a court take into account a defendant’s rehabilitative potential, and thus requiring *de novo* review. Ill. Const. 1970, art. I, § 11; *People v. House*, 2021 IL 125124, ¶ 18. The State, however, contends that this is not a true constitutional challenge requiring *de novo* review, but rather simply a claim of an excessive sentence challenging whether the trial court properly weighed aggravating and mitigating factors and thus should be reviewed on an abuse of discretion standard. *People v. Cavazos*, 2023 IL App (2d) 220066, ¶¶ 66-73. We agree with the State that defendant’s claim is, at its heart, an excessive sentence claim and that an abuse of discretion standard applies here. Much like the defendant in *Cavazos*, defendant is not arguing that the trial court did not consider the proper factors, but rather

challenges the length of sentence after consideration of those factors. *Id.* This is a challenge to the weight the trial court gave to different factors by another name and thus the standard for that review will be applied. *Id.*

¶ 161 A reviewing court may reduce a defendant's sentence when it finds that a lower court abused its discretion and that the sentence imposed was “ ‘greatly at variance with the spirit and purpose of the law, or manifestly disproportionate to the nature of the offense.’ ” *People v. Alexander*, 239 Ill. 2d 205, 212 (2010) (quoting *People v. Stacey*, 193 Ill. 2d 203, 210 (2000)). A lower court's sentence is entitled to great deference and a reviewing court should not substitute its judgment for that of the lower court, as that court was in the best position to weigh the factors relevant to sentencing, such as “ ‘the defendant's credibility, demeanor, general moral character, mentality, social environment, habits, and age.’ ” *Id.* (quoting *Stacey*, 193 Ill. 2d at 209). A sentencing court has broad discretion in fashioning an appropriate sentence, and where a sentence falls within statutory bounds, it is presumed that the sentence is appropriate. *People v. Gooch*, 2014 IL App (5th) 120161, ¶¶ 8-9.

¶ 162 Here, defendant's challenge essentially asks this court to give greater weight to his preferred factors—those of his youth, rehabilitative potential, mental health, lack of criminal history prior to this offense, and strong family and community support—than the trial court did. We decline to do so. Certainly, the trial court gave great weight to the facts of the underlying offense, but that is the province of the trial court, and it is not ours to second-guess. Defendant, even with the application of what was, due to his youth, a discretionary firearm enhancement, was given a sentence that was within the nonenhanced 20 to 60 years sentencing range for first degree murder. This was a lengthy sentence, to be sure, but well within statutory limits and appropriate to

the facts of the case and applicable factors in aggravation and mitigation. Defendant's sentence was not excessive.

¶ 163

III. CONCLUSION

¶ 164 For the foregoing reasons, we affirm the judgment of the circuit court of Champaign County.

¶ 165 Affirmed.