

NOTICE

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2026 IL App (5th) 240855-U

NO. 5-24-0855

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,	)	Jefferson County.
	)	
v.	)	No. 22-CF-229
	)	
JAMES A. TENNESSEN,	)	Honorable
	)	Jerry E. Crisel,
Defendant-Appellant.	)	Judge, presiding.

JUSTICE SHOLAR delivered the judgment of the court.
Justice Hackett concurred in the judgment.*

ORDER

¶ 1 *Held:* Defendant forfeited review of the introduction of other crimes evidence. The evidence was sufficient to support defendant's conviction for unlawful possession of a stolen vehicle. There was no error in defendant's sentencing.

¶ 2 Defendant, James A. Tennessen, appeals from a Jefferson County bench trial, wherein the trial court found him guilty of unlawful possession of a stolen vehicle. The trial court sentenced him to three years in the Illinois Department of Corrections (IDOC). On appeal, defendant first argues that the trial court erred by granting the State's motion to introduce other crimes evidence pursuant to Illinois Supreme Court Rule 404(b) (eff. Sept. 1, 2023). Second, he argues that the

*Justice Moore fully participated in the decision prior to his retirement. See *Cirro Wrecking Co. v. Roppolo*, 153 Ill. 2d 6 (1992).

evidence was insufficient for a finding of guilt. Third, he argues that the trial court abused its discretion by sentencing him to three years in the IDOC. For the reasons that follow, we affirm.

¶ 3

I. BACKGROUND

¶ 4 On July 14, 2022, the State charged defendant by information with unlawful possession of a stolen vehicle in that defendant, a person not entitled to possess said vehicle, possessed a Buick LeSabre belonging to Clayten White, knowing it to have been stolen or converted, in violation of section 4-103(a)(1) of the Illinois Vehicle Code (625 ILCS 5/4-103(a)(1) (West 2020)). On July 18, 2022, a grand jury indicted defendant of the same.

¶ 5 On August 21, 2023, the State filed a motion to introduce other crimes evidence. Specifically, the State sought to introduce evidence that defendant fled from law enforcement. On October 31, 2023, defendant waived his right to a jury trial. According to a docket entry in the common law record, the same day, the trial court granted the motion as to fleeing, but denied the motion as to the car theft. There is no transcript of the October 31, 2023, hearing in the record on appeal.

¶ 6 On December 15, 2023, defendant proceeded to a bench trial. Both the State and defense counsel waived opening statements. The State called Clayten White as its first witness. In June 2022, White worked at Rural King in Mt. Vernon. He drove to work in a 2003 Buick LeSabre Limited. Around 6:30 p.m., White left work to get dinner, and returned back to work after he ate. When he arrived back at Rural King, he left his wallet and keys in the vehicle. White left his keys in the ignition and his wallet in the passenger seat. When White went outside to “push in carts” he realized that his car was gone. Upon leaving work, White made a police report.

¶ 7 When White got home, he logged into his online banking account. White realized that “two or three” purchases were made with his card “that was not used by me.” White reported the information to the police department.

¶ 8 A “couple days later” the police department notified White that his vehicle was in an impound lot. White arrived at the impound and found his vehicle. There was no new damage to the exterior of the car. Inside of the car, there were shoes, alcohol, knives, gloves, and “male enhancement formulas” that did not belong to White. Deputy Parks took the alcohol, but threw away the rest of the items. White’s wallet was recovered a few weeks later. The State played People’s Exhibit 3, a video of White’s car “going into Ina Love’s Truck Stop in Ina, Illinois.”

¶ 9 Detective Justin Osborn testified. Detective Osborn was the lead investigator for the stolen vehicle. Upon receiving a report, he went to Rural King in Mt. Vernon to see if he could obtain video of the theft. Although Rural King had surveillance video, there was no footage of the theft due to the location where the vehicle was parked. Detective Olson investigated the fraudulent charges which were made at a Love’s Truck Stop in Ina, an Arby’s in Benton, and a McDonald’s in Benton. Detective Olson went to all three locations in order to match the transaction times to surveillance video. Detective Olson obtained video from Love’s. There was no video from Arby’s, and the McDonald’s video was of such poor quality that it could not be used for identification.

¶ 10 On the Love’s video, Detective Olson observed the car that was reported stolen. He observed a white male exit the vehicle. At one point, the driver was laying on the ground. He wore a hat, white shirt, and dark colored shorts.

¶ 11 Priscilla Brozowski testified. Brozowski grew up with defendant. On June 19, 2022, defendant came to Brozowski’s home unexpectedly. Defendant “apologized” to Brozowski “for everything that has happened to [her]” in their “past.” Defendant told Brozowski that he was scared

and needed to go somewhere. Brozowski was concerned, because her three children were home with her at the time. Defendant said that “people were out after him” and Brozowski was concerned that he was under the influence of drugs. She wanted defendant to leave in order to keep her children safe.

¶ 12 Brozowski offered to go outside with defendant to smoke cigarettes. She observed a tan vehicle in her driveway. Defendant told Brozowski that someone “had a hit out on his head for a million dollars.” Brozowski attempted to keep defendant calm. Defendant told Brozowski that he stole the vehicle from another county.

¶ 13 Brozowski advised defendant that she needed to use the restroom. She went inside and “messed the last person who had called me” to tell them that defendant was there with a stolen car. She asked the person to call 911. As she exited the home, she told her children to go to their bedroom and lock the door. The police arrived ten or fifteen minutes later, at approximately 10:30 or 11:30 in the morning.

¶ 14 Brozowski testified that Officers Parks and Fann arrived. Brozowski stated that upon their arrival, she told law enforcement that she did not call 911, because she was afraid of defendant. However, she “winked” at the police officers to let them know that she initiated contact with law enforcement. Defendant “took off running” and both officers pursued him. Brozowski did not see defendant or speak with law enforcement since. Brozowski stated that defendant wore a white tee shirt, a pair of blue shorts, tennis shoes, and a black hat.

¶ 15 Officer Christopher Parks, a deputy sheriff with the Williamson County sheriff’s office, testified. On June 19, 2022, he responded to a call at Brozowski’s residence at approximately 11 o’clock in the morning. Officer Parks asked if anyone called 911. Both defendant and Brozowski

said no, but Brozowski winked at him. Officer Parks sought to separate the two. Officer Parks “assumed that she was under some sort of distress and didn’t want to talk in front of” defendant.

¶ 16 Officer Parks asked Brozowski to go inside to retrieve her identification information, and defendant was escorted across the street. He provided law enforcement with identification information. Defendant told Officer Parks that he was dropped off at Brozowski’s home by a friend. The information was reported to dispatch, and Officer Parks received information that there was a warrant for defendant’s arrest. Officer Parks “went to grab his arm” but defendant “let out a squeal” and “took off running” towards a field. Officer Parks and Deputy Fann chased defendant. Deputy Fann attempted to tase him, but the taser did not make contact. Officer Parks yelled at defendant to stop. However, after searching for several hours, they were unable to locate defendant.

¶ 17 Officer Parks testified that the vehicle in front of Brozowski’s home was identified as stolen. They recovered the vehicle and towed it. After an inventory, law enforcement located White’s possessions. The vehicle was not processed for fingerprints at the request of the owner. The trial court asked additional questions of Officer Parks. Officer Parks described the vehicle as an “older white Buick Le Sabre vehicle” with “personalized license plates.” When the plates were run, the vehicle came back registered to Clayton White.

¶ 18 The State’s final witness was Detective Bobby Wallace from the Jefferson County Sheriff’s Office. Detective Wallace testified about the “chirp” system, which is a text messaging service for inmates housed at the jail. Detective Wallace pulled the “chirps” for defendant, which the State admitted as People’s Exhibit 5. On July 19, 2023, defendant sent a chirp that stated: “I hate Priscilla and Mike and Stephanie. Either way I am lying and denying everything, then suing the fuck out of the courts for wrongful imprisonment.”

¶ 19 The State rested. Defense counsel made an oral “motion for a finding of not guilty.” In support, he argued that there was no video of the crime or a link to defendant being inside of the vehicle. Defense counsel argued that the vehicle was not processed, and the witnesses were unable to link defendant to driving the vehicle, operating the vehicle, or being in the vehicle. The State argued that the circumstantial evidence supported the charges.

¶ 20 The trial court noted that the vehicle was found at Brozowski’s house. Defendant told Brozowski that he stole the vehicle. The description of the vehicle matched the vehicle reported stolen. The items in the car were identified as belonging to the vehicle’s owner. The court also observed that the vehicle was identified in the Love’s security footage, and the person driving the vehicle was dressed in the same way that defendant was dressed when he was arrested. Viewing the evidence in the light most favorable to the State, the court denied defendant’s motion.

¶ 21 Defendant presented no evidence. Defendant did not testify. The parties presented closing arguments. In rendering its verdict, the trial court noted that the witnesses were all credible. The court observed that the automobile was identified by the owner, Clayton White. White identified his vehicle in the Love’s security footage. The driver of the vehicle in the footage wore clothes that were “generally the same as what was being worn” by defendant when Brozowski encountered him at her home. The trial court looked to the testimony of Brozowski, and noted that she “unequivocally stated” that defendant told her that he stole the vehicle. Defendant fled the scene, which the court considered as evidence of guilt. The court determined that the evidence was “pretty strong” that defendant possessed the stolen vehicle. For these reasons, the court found defendant guilty.

¶ 22 On January 18, 2024, the matter proceeded to sentencing. The trial court noted that defendant was being sentenced for unlawful possession of a stolen vehicle, a Class 2 felony. The

sentencing range was three to seven years in prison, followed by one year of mandatory supervised release. Alternatively, defendant could be sentenced to 18 to 30 months of periodic imprisonment, or up to 4 years of probation or conditional discharge. He was also eligible for a fine of up to \$25,000 and restitution.

¶ 23 Defense counsel called defendant's sister, Heather Tennesen, at sentencing as a witness in mitigation. Heather testified that defendant served in the Army, and was deployed to Bahrain as a missile command launcher. Heather indicated that defendant was directly involved in combat, and he suffered from post-traumatic stress disorder (PTSD). Prior to his incarceration, he was receiving treatment for PTSD, and his treatment involved medication. Heather testified that defendant was very paranoid and thought "people are out to get him." He acted erratically and had suicidal thoughts. Heather hoped for defendant to receive a sentence of probation so that he could continue to receive the medical treatment that he needed. On cross-examination, Heather testified that defendant sought treatment from 2011 until approximately 2022. Defendant was in inpatient treatment in Missouri.

¶ 24 While the State gave its sentencing recommendation, defendant became disruptive and hostile to the prosecutor and the court. The trial court ultimately held defendant in contempt and had him removed from the sentencing hearing. Upon defendant's removal from the courtroom, defense counsel gave a sentencing recommendation. Defense counsel argued that defendant's behavior "was a direct result of the mental condition that probation, when they did the presentence report, totally missed." Defense counsel argued that defendant's presentence investigation report lacked information about defendant's PTSD diagnosis. Defense counsel argued that defendant "needs psychological help." In mitigation, counsel argued that defendant served his country,

struggled with his mental health, and already spent over a year in the county jail. Defense counsel requested a sentence of probation.

¶ 25 Following argument from the parties, the trial court first considered factors in aggravation. The court noted that defendant had a history of prior delinquency, including a Class 4 felony in Sangamon County for which he was on probation, with a petition to revoke probation and a bench warrant issued. Defendant had a history of traffic offenses and a misdemeanor retail theft. He also had a prior battery conviction. In aggravation, the trial court noted that a sentence was necessary to deter others from committing the same crime. The court also noted that defendant was on probation when the offense occurred.

¶ 26 Turning to the factors in mitigation, the trial court was “inclined to agree” that defendant suffered from mental illness. The court observed that defendant self-reported PTSD for his presentence investigation report, however, he “blames it on being raped in 2011, not on combat in the Army or any other thing[.]” After discussion about credit for time-served, the court noted that it was “ ‘not going to give him probation’ because “that will just be wasting everyone’s time.” The court stated:

“I have considered his history, his character, and his condition. I don’t think that imprisonment would protect—I wouldn’t sentence him to imprisonment for the protection of the public, but I do believe that probation or conditional discharge would, number one, deprecate the seriousness of the conduct and would be inconsistent with the ends of justice. I mean, what he did, I’m not convinced that he’s learned anything from it. Maybe it’s from his mental condition. I don’t know. I’m not a psychiatrist. I don’t have that in front of me.

I have sentenced him to two counts of contempt of court for his outbursts. I have sent him away from the courtroom because he’s waived his 6th Amendment right to be present because he was so disruptive. We wouldn’t have any progress here. So he will be serving two back-to-back contempt citations at six months each for which he’ll get day-for-day good time on those, but he won’t get credit for time served, of course. But I’m going to sentence him a minimum term to Department of Corrections, and he may only be there—he may beat them home, I don’t know, because he’s got all this credit.”

For these reasons, the trial court sentenced defendant to three years in the IDOC.

¶ 27 On February 2, 2024, defendant filed a motion for a new trial and motion for reconsideration of sentence. In the motion, defendant argued that the evidence was insufficient to find him guilty. Defendant also argued that his sentence was “unfair” given defendant’s criminal record, medical condition, lack of treatment while in jail, and his military service.

¶ 28 On June 26, 2024, the trial court held a hearing on defendant’s motion. At the hearing, defendant addressed the trial court and apologized for his “disruptive and disrespectful” behavior. Defendant asked to “go home.” The court noted that it accepted defendant’s apology and abated defendant’s sentence in the contempt case. The court noted that at the time of the hearing, defendant’s sentence was already served.

¶ 29 This timely appeal followed.

¶ 30 II. ANALYSIS

¶ 31 On direct appeal, defendant raises three issues. First, he argues that the trial court erred by granting the State’s motion to introduce other crimes evidence, specifically as to fleeing. Second, he argues that the evidence was insufficient for the trial court to find him guilty. Finally, he argues

that the trial court abused its discretion by sentencing him to three years in the IDOC. We disagree and consider each argument in turn.

¶ 32 A. Other Crimes Evidence

¶ 33 First, defendant argues that the trial court erred by granting the State’s motion to introduce other crimes evidence. The State responds, arguing that this issue is forfeited where defendant failed to preserve it in his posttrial motion. We agree with the State.

¶ 34 Illinois courts have long held that an issue is forfeited on appeal unless a party makes an objection at the time of the purported error and specifically raises the issue in a written posttrial motion. *People v. Bowens*, 407 Ill. App. 3d 1094, 1108 (2011); *People v. Thompson*, 238 Ill. 2d 598, 611 (2010). The plain-error doctrine, however, is a narrow and limited exception to the general rule of procedural default which allows plain errors or defects affecting substantial rights to be noticed although the error or defect was not brought to the attention of the trial court. *People v. Hillier*, 237 Ill. 2d 539, 545 (2010).

¶ 35 As noted by the State, defendant does not acknowledge forfeiture, nor does he raise the issue under the plain-error doctrine. We note that defendant did not file a reply brief and therefore did not respond to the State’s forfeiture argument. Additionally, there is no transcript from the hearing wherein the other crimes evidence motion was argued. A docket entry from October 31, 2023, indicates that the State’s motion to introduce other crimes evidence was argued. The docket entry states: “The court grants said motion with regard to D fleeing but denies it with regard to D’s theft of motor vehicle in Williamson County.” Other than this docket entry, the record is devoid of any underlying argument from defendant or the court’s reasoning.

¶ 36 “This court is not a repository into which a party may dump the burden of argument and research.” *In re Marriage of Reicher*, 2021 IL App (2d) 200454, ¶ 33. A court of review is entitled

to have issues on appeal clearly briefed and legal argument presented. *Holmstrom v. Kunis*, 221 Ill. App. 3d 317, 325 (1991). The record on appeal does not contain either a bystander's report or a transcript of proceedings from the hearing from which defendant appeals. Because defendant is the appellant, it is his responsibility to provide us with a record sufficiently complete to support his claim. As such, we must resolve any gaps in the record against him, and we must presume that the trial court's decision was correct. *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391-92 (1984). For these reasons, we find defendant forfeited this issue on appeal and presume that the trial court's decision was proper.

¶ 37 B. Sufficiency of the Evidence

¶ 38 Next, defendant argues that the evidence was insufficient for the trial court to find him guilty. Specifically, defendant argues that he was not observed at the location where the vehicle disappeared, he could not be positively identified from truck stop surveillance footage, and there was no evidence that he drove or was in actual possession of the vehicle. Defendant argues that the evidence was circumstantial, and that Brozowski's testimony was unreliable, where she and defendant had a negative prior history. Defendant also argues that his flight from Deputy Parks was unrelated to the stolen vehicle. The State responds, arguing that the evidence was sufficient for a rational trier of fact to conclude that defendant was guilty of unlawful possession of a stolen vehicle beyond a reasonable doubt. We agree with the State.

¶ 39 The State has the burden of proving beyond a reasonable doubt each element of an offense. *Jackson v. Virginia*, 443 U.S. 307, 315-16 (1979); *People v. Siguenza-Brito*, 235 Ill. 2d 213, 224 (2009). When a defendant challenges the sufficiency of the evidence, a court of review must determine "whether, [after] viewing the evidence in the light most favorable to the State, 'any rational trier of fact could have found the essential elements of the crime beyond a reasonable

doubt.” ‘ (Emphasis omitted.)’ *People v. Belknap*, 2014 IL 117094, ¶ 67 (quoting *People v. Collins*, 106 Ill. 2d 237, 261 (1985), quoting *Jackson*, 443 U.S. at 319). This standard of review “is applicable in all criminal cases, regardless of whether the evidence is direct or circumstantial.” *People v. Campbell*, 146 Ill. 2d 363, 374 (1992) (citing *People v. Pintos*, 133 Ill. 2d 286, 291 (1989)). Circumstantial evidence is sufficient to support “a conviction if it satisfies proof beyond a reasonable doubt of the elements of the crime charged.” *Id.* at 379. It is not the role of the reviewing court to retry the defendant. *In re Q.P.*, 2015 IL 118569, ¶ 24. Rather, it is the responsibility of the trier of fact to resolve conflicts in the testimony, weigh the evidence, and draw reasonable inferences from the facts. *People v. Bradford*, 2016 IL 118674, ¶ 12. Therefore, a court of review will not substitute its judgment for that of the trier of fact on questions involving the weight of the evidence or the credibility of the witnesses. *Id.*

¶ 40 A criminal conviction will not be reversed for insufficient evidence unless the evidence is so unreasonable, improbable, or unsatisfactory that it justifies a reasonable doubt of the defendant’s guilt. *Belknap*, 2014 IL 117094, ¶ 67. Although a fact-finder’s determination of witness credibility is entitled to great deference, it is not conclusive and does not bind the reviewing court. *People v. Cunningham*, 212 Ill. 2d 274, 280 (2004).

¶ 41 A person commits unlawful possession of a stolen motor vehicle when he or she possesses it “knowing it to have been stolen.” 625 ILCS 5/4-103(a)(1) (West 2022). “Knowledge that a vehicle *** is stolen *** may be inferred: (A) from the surrounding facts and circumstances, which would lead a reasonable person to believe that the vehicle *** is stolen ***; or (B) if the person exercises exclusive unexplained possession over the stolen *** vehicle.” *Id.*

¶ 42 In the case before us, the evidence demonstrated that White left his truck in the Rural King parking lot in Mt. Vernon with the keys and his personal possessions inside. Upon leaving work, he realized that his truck was missing. He notified law enforcement accordingly.

¶ 43 Brozowski testified that defendant arrived at her home in a vehicle that matched the description of White's stolen vehicle. According to Brozowski, defendant admitted to her that he stole the vehicle. Brozowski testified about defendant's clothing, which included a white tee shirt, blue shorts, and a hat. The State introduced surveillance footage from Love's gas station, wherein White's vehicle is visible on camera. Although defendant cannot be made out with certainty, the individual in the camera footage matched Tennessen's description.

¶ 44 Deputy Parks testified that defendant fled upon law enforcement's arrival at Brozowski's home. As aptly noted by the trial court in its ruling, evidence of flight, defined by Illinois courts as "the evading of the course of justice by voluntarily withdrawing oneself in order to avoid arrest or detention, or the institution or continuance of criminal proceedings," has long been admissible as circumstantial evidence of guilt, otherwise known as evidence of consciousness of guilt. *People v. Griffin*, 23 Ill. App. 3d 461, 463 (1974). Finally, while in jail, defendant sent a "chirp" message that stated, "I hate Priscilla and Mike and Stephanie. Either way I am lying and denying everything, then suing the fuck out of the courts for wrongful imprisonment."

¶ 45 Viewing all of the evidence in the light most favorable to the prosecution, coupled with the reasonable inferences that may be drawn therefrom, we conclude that a rational trier of fact could have found defendant's guilt beyond a reasonable doubt. For the foregoing reasons, we hold that the State presented sufficient evidence to prove defendant guilty.

¶ 47 Finally, defendant argues that the trial court abused its discretion by sentencing him to three years in IDOC. Defendant sets forth a mere paragraph of unclear argument for this contention of error. He argues: “It is clear from the Trial Court’s statements at sentencing that the Trial Court did not see the offense as one which requires imprisonment over probation as the seriousness of the offenders conduct would be inconsistent with the ends of justice.” Defendant appears to argue that the trial court erred by failing to “consider probation” where “it appears that the Court didn’t want to do a shorter sentence and probation due to his substantial pre-trial incarceration.”

¶ 48 The State aptly observes that defendant does not challenge the court’s findings in aggravation or mitigation, nor does defendant argue that the court improperly weighed any factors. In response to defendant’s “sole undeveloped argument” the State interprets defendant’s argument as a complaint that “the court’s discussion of jail credits reveals it rejected probation not for legitimate reasons, but merely to ensure the defendant served additional time beyond his pretrial incarceration.” We agree with the State and again note that “[t]he appellate court is not simply a depository into which an appealing party may dump the burden of argument and research.” *People v. Greer*, 336 Ill. App. 3d 965, 980 (2003).

¶ 49 A trial court’s sentencing decision is entitled to great deference. *People v. Stacey*, 193 Ill. 2d 203, 209 (2000). Such deference is granted “because the trial court is generally in a better position than the reviewing court to determine the appropriate sentence.” *Id.* “If a sentence falls within the statutory limits, it will not be overturned on appeal absent an abuse of discretion.” *People v. Bunning*, 2018 IL App (5th) 150114, ¶ 16. “An abuse of discretion occurs only if a sentence greatly varies from the spirit and purpose of the law or where it is manifestly disproportionate to the nature of the offense.” *Id.*

¶ 50 In the case before us, the record demonstrates that the court considered the evidence and arguments of the parties, the PSI, including defendant’s history of PTSD, and the relevant statutory factors in aggravation and mitigation. The court observed that a sentence of probation would result in defendant’s immediate release from jail. In discussing credits for time served and the possibility of probation, the court advised the attorneys for the parties that it was “thinking out loud” when fashioning its sentence. The comments by the court indicated that the court did not think probation was an appropriate sentence, where the court explicitly determined that a term of imprisonment was necessary based on the facts and circumstances of this case. This is especially so in light of defendant’s outburst during his sentencing hearing, which resulted in findings of contempt and his removal from the proceedings. The factors considered by the sentencing court provide a sufficient basis for the sentence imposed in this matter, and the court’s sentence was within the statutory range of sentences permissible. For these reasons, under the facts and circumstances of this case, we do not find that defendant’s sentence was excessive or that the court abused its discretion in sentencing defendant.

¶ 51 III. CONCLUSION

¶ 52 For the foregoing reasons, we affirm the judgment and sentence of the trial court of Jefferson County.

¶ 53 Affirmed.