

No. 1-24-1738

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

IN THE
APPELLATE COURT OF ILLINOIS
FIRST DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	18 CR 13707
	)	
WESS ARNOLD,	)	Honorable
	)	Diana L. Kenworthy,
Defendant-Appellant.	)	Judge, presiding.

PRESIDING JUSTICE QUISH delivered the judgment of the court.
Justices Lampkin and Rochford concurred in the judgment.

ORDER

- ¶ 1 *Held:* The circuit court did not abuse its discretion by admitting photographs of the murder and arson victim's burned body or by accepting defendant's waiver of counsel during post-trial proceedings.
- ¶ 2 After a jury trial, defendant Wess Arnold was convicted of first degree murder and aggravated arson. On appeal, defendant argues that (1) the circuit court abused its discretion by admitting crime scene and autopsy photographs of the victim; and (2) the circuit court failed to

ensure that defendant's waiver of counsel for post-trial proceedings was knowing and intelligent. For the following reasons, we affirm.

¶ 3 Defendant was charged in July 2018 with, *inter alia*, first degree murder and aggravated arson in connection with the death of his girlfriend, Ta'Anda Hall. The indictment included allegations that the murder was accompanied by exceptionally brutal or heinous behavior indicative of wanton cruelty. The circuit court appointed the Office of the Cook County Public Defender to represent defendant.

¶ 4 At a hearing in July 2019, defendant made a request to represent himself. The circuit court admonished defendant as to his right to an attorney and the charges and potential sentence, including the possibility of an extended term sentence, inquired as to defendant's educational and legal background, and warned defendant about the pitfalls of representing himself. The court informed defendant that it would give him time to think about whether he wanted to continue *pro se* and continued the case. On the next court date, defendant reiterated his request to proceed *pro se*, and the circuit court granted the Public Defender leave to withdraw. The court confirmed with defendant that he still wished to represent himself at the next court date and he agreed.

¶ 5 While representing himself, defendant filed a motion to dismiss the indictment based on a violation of due process, premised on alleged perjury during the grand jury proceedings. The motion was denied after a hearing. The court again asked defendant at several subsequent court appearances if he would like an attorney to represent him and he declined. The State then filed a motion to admit proof of other crimes, which was granted in part after a hearing.

¶ 6 Defendant repeatedly raised grievances to the circuit court regarding barriers he experienced while representing himself. At a hearing in April 2022, defendant asked that a Public

Defender be appointed, but requested that the court appoint a different attorney than his prior attorney. After the court explained that defendant could not choose which attorney from the Public Defender's Office would represent him and that the same attorney would likely be appointed, defendant confirmed that he still wished to have counsel appointed. The Public Defender was reappointed, and defendant's prior attorney resumed representation of defendant.

¶ 7 At a hearing in May 2023, defendant stated that his attorney refused to file a motion on his behalf, that his attorney was "ineffective," and that he wished to file the motion himself. When the court informed defendant that he could not file the motion by himself when he was represented by counsel, defendant stated that his attorney was "fired." The court recounted the record of the case, including the fact that defendant had previously represented himself for nearly three years. The court confirmed that defendant wished to represent himself again, and again admonished defendant about his right to an attorney, the charges and potential sentences, his educational background and legal experience, the benefits of having an attorney, and the pitfalls of representing himself. The court stated that it would not assist defendant and would treat him like any other litigant. The court found that defendant made a voluntary, knowing, and intelligent waiver of his right to counsel, and allowed him to proceed *pro se* once again. Defendant then filed two *pro se* motions to dismiss the arson counts based on alleged defects in the indictment. The circuit court held a hearing on the motions, and denied both.

¶ 8 Before trial, the court held a hearing on the State's motions *in limine*. During the hearing, defendant made an oral motion to limit "[c]rime scene photos and autopsy photos," stating that "[s]ince there's no dispute about the injuries, there's no need to show the pictures or anything of

that sort.” The court reserved ruling on defendant’s motion, stating that it would need to see the photographs that the State intended to introduce at trial.

¶ 9 At a subsequent hearing, the State provided the court with the photographs of Hall’s body from the crime scene and the autopsy that it would seek to admit at trial. The State argued that the photographs were admissible to prove the allegation that Hall’s murder was accompanied by exceptionally brutal or heinous behavior indicative of wanton cruelty. The circuit court reviewed the photographs and found that the State could admit four photographs from the crime scene and three from the autopsy as they were probative and relevant and would not inflame the passions of the jury, but excluded any other photographs depicting Hall’s body.

¶ 10 The matter proceeded to a jury trial.

¶ 11 Lamont Maybon testified that he was a landlord at the apartment building where Hall lived and he lived in a basement apartment. The building had two different front entrances. The entrance doors were locked and an individual either needed a key or would have to be “buzzed in” to get inside the door. Maybon testified that the building also had a back yard surrounded by a fence, which could be accessed through a steel gate that required a key or the gate could be “jumped.” Maybon stated that the building had a surveillance camera on a wall facing the back gate which captured the entire back yard, and cameras inside each of the two front entrances.

¶ 12 Maybon testified that Hall lived in a second floor apartment and had lived there for approximately four months by July 2018. Hall lived alone, but he regularly saw defendant at Hall’s apartment. Maybon testified that defendant “walked like a penguin” with his feet turned out, and that he always wore a distinct style of pants.

¶ 13 On the evening of July 11, 2018, Maybon was in his apartment when someone knocked on his door and told him that the building was on fire. He went outside and saw the fire department and fire coming from Hall's bedroom window on the second floor. All tenants made it out of the building except Hall.

¶ 14 Maybon downloaded copies of surveillance video recordings from that date and provided them to Chicago Police Department. He identified defendant in the video showing the rear of the building, which is part of the record on appeal. The video shows defendant walking down the rear stairs from the second floor and walking out the rear gate at 11:49 p.m. Maybon identified defendant based on his pants and distinctive walk. Approximately five minutes later in the video, defendant returns, jumps over the rear gate, and walks back up the rear stairs towards the second floor.

¶ 15 Lucas Estelle testified that on July 11, 2018, he went to Hall's apartment with another friend, Alfreda Henderson. When they arrived around 8:00 p.m., defendant was there with Hall. Estelle had met defendant once before. Estelle testified that the four of them started playing games and drinking. Estelle and Henderson left at around 11:00 p.m. The next morning, Estelle saw a news report of a fire in the area of Hall's apartment that showed Hall's picture.

¶ 16 Henderson testified consistently with Estelle's account. She added that defendant seemed "agitated" when she and Estelle were at the apartment and he acted "like a spoiled brat" when things did not go his way. Henderson testified that, since it was her birthday and she originally wanted to go to a cigar bar that evening, Hall allowed Henderson to smoke a cigar in the apartment. Defendant stated that if Henderson was allowed to smoke a cigar, he was going to smoke marijuana, but Hall would not allow him to do so. Henderson stated that Hall put on music to

lighten the mood, but defendant changed it to a different artist. When Henderson and Estelle left, Estelle asked Hall for \$40 for the alcohol. In response, defendant tried to offer them \$20 and a rideshare home. When Hall insisted on giving Estelle \$40, defendant got even more agitated and told Estelle and Henderson to leave. When Henderson and Estelle left the apartment, Henderson heard the door lock immediately behind them.

¶ 17 Robert Mansfield was a battalion chief with the Chicago Fire Department (“CFD”) who responded to the fire at Hall’s apartment. When he arrived, there was “heavy fire” blowing through a second floor window of the building. After extinguishing the fire, CFD searched the apartment and located a human body between the bed and the window in the bedroom.

¶ 18 Bradley Batka was an assistant commanding fire marshal with CFD who was responsible for investigating the fire. He explained his process for determining the origin and cause of the fire, which was usually the area where the fire had burned the longest and created the most damage. He concluded that the fire in Hall’s apartment was caused by an “open flame ignition of available combustibles, fabric, cloth, clothing and bedding.” Batka explained that “open flame ignition” was used to describe a device with an open flame such as a match or lighter, but could also include a cigarette or cigar. He stated that the fire originated in the bedroom, based on the severity of damage in that room as compared to the rest of the apartment. Batka acknowledged that one of the knobs on Hall’s stove was turned on, but he did not believe it had a significant impact on the fire given the limited damage to the kitchen area. The fire damage in Hall’s apartment could happen in three to five minutes.

¶ 19 Batka identified photographs depicting the damage to the apartment. These photographs included People’s Exhibits 31 through 34, all of which depict Hall’s burned body after the fire.

Defendant renewed his objection to the admission of the photographs, which was overruled. The photographs are part of the record on appeal and have been reviewed by this court.

¶ 20 People's Exhibit 31 shows the damage to the bedroom. In the corner of the room is a brown and black mass that, due to the lighting in the photograph, is not clearly identifiable as human remains. Batka testified that Exhibit 31 showed that the wall on the left of the photograph had less damage and was protected from the fire by a mattress which had been removed by CFD. Batka also identified the mass in the corner of the room as a "civilian victim."

¶ 21 People's Exhibit 32 is a closer view of the corner of the room, and the mass is identifiable as a severely burned human body. Exhibit 32 shows the severity of the burns and demonstrates that the head is facing the corner of the room. Batka testified that a line in the photograph demonstrated a "line of demarcation" where the fire damage stops due to the protection from the mattress. Batka stated that the burn patterns on the body suggested that the fire had been burning longer near the body's legs, as that end of the body sustained more damage such that "[t]he skin is actually burned away *** [t]here is muscle tissue there that is exposed."

¶ 22 People's Exhibit 33 shows a closer view of the body from a similar angle as Exhibit 31 with better lighting. Batka testified that the photograph showed that the body's head touched both walls in the corner of the room.

¶ 23 People's Exhibit 34 is an even closer view, demonstrating that the skin of the front half of the body is largely intact, while the back of the body had more severe burns. Batka testified that the photograph showed more damage to the back of the body as compared to the front. He stated that the photograph showed that the body was in that location at the time of the fire. He also identified the leg of an end table underneath the body's torso.

¶ 24 Batka identified multiple photographs taken of the same area of the bedroom after the body was removed. These photographs showed blood where the body was located and more clearly showed the broken end table on which the body was positioned.

¶ 25 After Batka's testimony and outside the presence of the jury, the circuit court acknowledged defendant's prior objection to the photographs depicting Hall's body and reiterated that it found that their probative value outweighed any undue prejudice to defendant.

¶ 26 Lauren LaPree worked at the regional computer forensic laboratory with the Federal Bureau of Investigation ("FBI"). LaPree testified that she examined and extracted data from a cell phone that was recovered from Hall's apartment. The phone contained login information for multiple accounts and documents tied to defendant.

¶ 27 Dr. Michael Eckhardt, a forensic pathologist with the Cook County Medical Examiner's office, performed an autopsy of a then-unidentified female. He observed extensive thermal injuries and multiple blunt force injuries. He testified that approximately 90% of the surface area of the body had "full thickness burns," such that "all layers of the skin have essentially burned off." The injuries also reached the soft tissue under the skin in some areas of the body.

¶ 28 Dr. Eckhardt testified that the blunt force trauma injuries were primarily to the head and neck, with minor injuries to the chest, abdomen, and pelvis and lacerations on her lips. He also observed that the mandible, or jaw bone, was fractured to the point where "the jaw was no longer connected to the skull." He found hemorrhages to the side of the face and in multiple portions of the brain. Dr. Eckhardt stated that the injuries were consistent with homicide and stated that "[a] significant amount of force would be needed" to cause the hemorrhages to the brain and the mandible fracture. He observed hemorrhages on the hyoid bone in the neck area, which was

consistent with manual strangulation. He also found hemorrhages near the rib cage on the left side of the chest and the rear portion of the back.

¶ 29 Dr. Eckhardt identified three photographs from his examination of the body, which were admitted as People's Exhibits 45, 46, and 47. Those photographs are part of the record on appeal. People's Exhibit 45 depicts the body face down and shows severe burns on the back of the body. Dr. Eckhardt testified that the photograph demonstrated "the extensive amount of thermal injuries that she had" including a loss of skin and charring.

¶ 30 People's Exhibits 46 and 47 depict her mouth and lacerations to the upper and lower lip. Dr. Eckhardt testified that the photographs showed injuries to the top of the lip, and that the fracture to the mandible bone was visible in Exhibit 47. Dr. Eckhardt also identified images from an x-ray which demonstrated the injury to the mandible.

¶ 31 Blood tests indicated that Hall had an elevated concentration of carbon monoxide in her blood. Due to the carbon monoxide levels and the fact that soot was observed in Hall's trachea, Dr. Eckhardt concluded that Hall was alive when the fire started. Dr. Eckhardt concluded that the cause of death was "multiple injuries due to assault with multiple thermal injuries and carbon monoxide intoxication due to" the fire. He stated that each of those causes alone could have caused Hall's death, and that the blunt force injuries could have rendered Hall unconscious when the fire was started. He determined that the manner of death was homicide.

¶ 32 Chicago Police Department ("CPD") Detective Takia Washington was the lead detective assigned to investigate the arson and Hall's death. When she arrived at the apartment, she observed that a knob on the kitchen stove had been turned on and she smelled gas. She entered the bedroom and observed the remains of a victim in the corner on top of a collapsed nightstand. Two cell

phones were recovered, including one that did not belong to Hall. She testified that CPD obtained a fingerprint from the body, which was checked against CPD records and matched Hall.

¶ 33 On August 29, 2018, defendant was arrested. Defendant was given *Miranda* warnings and agreed to speak with Washington. During the interview, defendant stated that he and Hall had an argument about defendant washing the dishes and the fact that defendant wanted to smoke marijuana. Defendant stated that Hall was “treating him badly.” When he left the apartment, Hall was “fine and well” and smoking near the bathroom. He denied any physical altercation or struggle. Defendant denied leaving anything in the apartment. After Washington showed defendant still photographs from the surveillance footage showing that he returned to the apartment, he stated that “he probably forgot something,” but did not state what he may have forgotten. Defendant denied that the phone recovered from the apartment was his.

¶ 34 Detective James Moloney recovered the surveillance video from Maybon. He testified that the original copy that was turned over was “fragmented and incomplete,” and the second copy only had footage from the front surveillance cameras. When Moloney obtained a third copy that included the back yard surveillance cameras, he discovered that the footage ended at midnight on July 12, 2018. Moloney was unable to obtain footage of the rear of the building from after midnight as the retention period for the footage had already passed.

¶ 35 Carla Sawyer testified regarding other-crimes evidence that was the subject of the State’s pre-trial motion. Sawyer dated defendant in July and August of 2018, before his arrest. Sawyer was with defendant at her home in Waukegan on August 26, 2018. Sawyer thought that defendant was “acting a little strange” and was uncomfortable around him, so she asked him to leave. He stated that he had a warrant for his arrest, and she responded that “now you really need to leave.”

In response, defendant stated “you black b**ches” and punched Sawyer in the face. Sawyer lost consciousness.

¶ 36 When Sawyer woke up, she tried to run out of the house, but defendant pulled her back inside. Sawyer eventually convinced defendant to give her the car keys. Once she obtained the keys, she ran to her car. Sawyer drove to a nearby gas station and asked the attendant to call the police, as she did not have her phone. Sawyer was taken to the hospital where she had a “slight concussion” and cuts on her face. When Sawyer returned to her home, she saw that her television was “hanging off the wall,” her laptop was in the kitchen sink, and one of the doors was off the hinges.

¶ 37 Defendant testified that he met up with Hall earlier on July 11, 2018 and went to Hall’s apartment to hang out with Estelle and Henderson. After Estelle and Henderson left, Hall began to “nag” defendant about cleaning up a mess in the kitchen that they made two days prior. Defendant responded that Hall could have cleaned up the kitchen in the meantime instead of waiting until defendant returned to the apartment. Hall “got mad” and flicked the cigar that she was smoking in defendant’s face. Defendant stated that they were both drunk. He “reacted” and “struck her,” then Hall fell. Defendant grabbed his belongings and left. Defendant testified that he returned to the apartment to grab some food, then left again. Defendant testified that he did not go back to the bedroom or check on Hall. He testified that they “got into it” and she “was down,” but he did not know that “her injuries were even that extensive” as he was drunk and “[i]t was an accident.” Hall “was instigating the whole situation.” Defendant stated that he left his phone in Hall’s apartment because he “just left” and did not go back into the bedroom where his phone was recovered.

¶ 38 On cross-examination, defendant admitted that he punched Hall in the face with a closed fist and that when he hit her, they were the only people in the apartment. He denied being aware that he broke any bones in Hall's face or that he saw any blood. Defendant stated that he hit Hall twice and they were in the bedroom at the foot of the bed. Hall fell on the side of the bed and may have fallen on top of the nightstand, but defendant could not say for sure because he left immediately afterwards. He stated that after Estelle and Henderson left, he and Hall were just "hanging out talking" in the living room. Defendant testified that he was drinking and Hall was smoking a cigar. Defendant stated that when Hall threw the cigar at him, he deflected it off his hand and did not see where it went. He admitted that he jumped the gate to return to Hall's apartment. He did not see fire or smell smoke when he returned to get his food.

¶ 39 Defendant testified that he learned about the fire the next day when he walked towards Hall's building, where he saw people gathered. He acknowledged that he did not contact police or Hall's family. Defendant denied making multiple statements during his interview with Washington that conflicted with his trial testimony, but admitted to lying to police on several occasions. He also admitted to hitting Sawyer.

¶ 40 Defendant rested. The State recalled Washington in rebuttal. Washington testified that defendant made multiple statements during his interview which contradicted or differed from his trial testimony.

¶ 41 The jury returned a verdict of guilty of first degree murder and aggravated arson. The jury also found that the State proved that the first degree murder was accompanied by exceptionally brutal or heinous behavior indicative of wanton cruelty. After the verdict, the court asked defendant

if he wanted the court to reappoint the Public Defender for post-trial motions and sentencing and defendant agreed. The court noted that defendant's prior attorney would represent him again.

¶ 42 At the next hearing, defendant indicated that he had a "draft" post-trial motion which he had written *pro se*. The court allowed defendant to file his *pro se* post-trial motion and stated that he could work together with counsel to file an amended motion. The *pro se* motion argued, among other claims, that counsel was ineffective for refusing to file motions on defendant's behalf. Defendant stated that he was not sure if it would be a conflict of interest for counsel to represent him for post-trial motions based on his allegation that counsel was ineffective. Defendant stated that he just wanted those issues preserved. The court allowed defendant to file his *pro se* motion, and stated that it could appoint a different attorney to represent him for post-trial motions if there was a conflict of interest.

¶ 43 At a later court date, the court stated that it would appoint a different attorney because defendant wanted to raise issues regarding his attorney's performance in his post-trial motion. In response, counsel filed a "Motion to Reconsider Appointment of Alternative Counsel," stating that the proper procedure would be to conduct an initial hearing pursuant to *People v. Krankel*, 101 Ill. 2d 181 (1984), to evaluate defendant's *pro se* allegations of ineffective assistance of counsel and determine whether new counsel needed to be appointed to investigate the claims.

¶ 44 At the next hearing, the court acknowledged that it "skipped a step" and that it would hold an initial *Krankel* hearing. The court inquired as to defendant's *pro se* allegations of ineffective assistance of counsel raised in his post-trial motion. Defendant stated that he "never really wanted to represent himself" and that counsel refused to file motions that he wanted to file. Defendant wanted counsel to file a motion to dismiss the indictment for due process violations and a motion

to dismiss the arson counts of the indictment. Defendant acknowledged that he filed each motion *pro se* and that both motions were denied. Defendant stated that there were no other reasons that he was not happy with counsel's representation.

¶ 45 The court found that, based on its exchange with defendant, defendant's ineffective assistance claims did not warrant the appointment of new counsel, and defendant's original attorney would be allowed to remain for post-trial motions and sentencing. Defendant stated that he wanted his original motion to stand because he wanted "to portray this case as accurately as possible, let the appeals court decide if he was ineffective or not." The court informed defendant that counsel would not be filing his *pro se* motion, and that counsel could add allegations that the court erred by denying defendant's *pro se* pretrial motions.

¶ 46 A separate attorney from the Public Defender's Office, who the court had asked to attend the hearing due to the possible conflict, added that defendant's original counsel could not argue that he was ineffective for failing to file the motions "because in our opinion he was not ineffective." She added that if defendant wanted to include those allegations in a post-trial motion, he would have to do so *pro se*, because "[n]o person from our office would argue that [counsel] was ineffective for not filing those two motions."

¶ 47 The court added that the purpose of the *Krankel* hearing was to see if there was a basis to appoint new counsel to investigate defendant's *pro se* claims, and the court found none. The court asked defendant if it was sufficient for counsel to argue that the court erred in denying defendant's *pro se* pretrial motions in a post-trial motion to preserve those issues for appeal, or if defendant wanted to continue to allege that counsel was ineffective for failing to file the motions. In response, defendant stated that he "want[ed] assistance" but still wanted to allege ineffective assistance of

counsel in his post-trial motion. The court stated that it would not appoint new counsel to allege those issues because they were “not enough” to appoint a new attorney.

¶ 48 The court then stated the following:

“You cannot present in your motion with [counsel] that he was ineffective for failing to file. You can still argue that I was wrong to deny the motions that you filed because the Public Defender’s Office, their position is that it was not ineffective to not file those, and I do agree with that, so I will not be appointing another attorney for you.

So, your options would be to stay with [counsel] and he will argue my error and then argue and put in other things, but not that he was ineffective for failing to file those two things; or you may represent yourself in post-trial motions and sentencing and then you can allege both ineffectiveness of [counsel] and error by the Court.”

¶ 49 Defendant stated that he was objecting “to all of this” and that he wanted assistance of counsel and his motion “to portray accurately exactly what happened.” The court reiterated that defendant only had the two choices it had previously stated, or he could hire a private attorney. After a prolonged back-and-forth, where defendant repeatedly asserted he was being denied the assistance of counsel, the court continued the matter to the next day.

¶ 50 The next day, defendant repeated that he was being denied his right to the assistance of counsel, and the court reiterated that it would not appoint a different attorney. The court asked defendant if he wanted counsel to represent him “under the parameters that I said yesterday, yes or no?” Defendant responded “no.” The court then stated “[y]ou will represent yourself” and

defendant responded “[n]o, I want assistance.” After an additional back-and-forth, the court concluded that defendant would represent himself. The court granted the Public Defender leave to withdraw and continued the matter for post-trial motions.

¶ 51 Defendant filed an amended *pro se* post-trial motion, raising numerous claims including, relevant to this appeal, that his counsel was ineffective for failing to file various motions, the court erred in denying defendant’s *pro se* motions, he was prejudiced by the admission of crime scene and autopsy photographs, and the court denied him his right to counsel during post-trial proceedings. During a hearing on defendant’s motion, he repeatedly accused the circuit court of being biased, not following the law, and engaging in *ex parte* communications with the State. During the State’s argument, defendant repeatedly interrupted the Assistant State’s Attorney. The circuit court told defendant not to interrupt again or he would forfeit his right to make any additional argument.

¶ 52 During defendant’s rebuttal argument, the court made a record regarding defendant’s disagreement with counsel and stated that counsel had an ethical obligation not to file frivolous motions and defendant chose to represent himself at trial. Defendant interrupted and accused the court of “making this up.” The court warned defendant about interrupting, and defendant asked to leave the courtroom. Defendant continued to accuse the court of “lying” and said he was “the only one obeying the law.” The court continued to state that defendant was offered counsel for post-trial motions and sentencing, but “did not wish to agree to the parameters of that representation and continues to represent himself.” The court noted that defendant had been escorted out of the courtroom due to his repeated interruptions.

¶ 53 The court continued to explain its ruling on defendant's post-trial motion, which it denied. Relevant to this appeal, the court found that the crime scene and autopsy photographs of Hall were relevant and that the court "properly balanced the admission of relevant and probative evidence without causing undue prejudice to the defendant." The court also stated that it found that defendant's *pro se* allegations of ineffective assistance of counsel did not warrant appointing new counsel and that defendant "did not wish to work with [counsel] under those parameters so he continued to represent himself." The matter was continued for sentencing.

¶ 54 At the sentencing hearing, defendant continued to be disruptive and ultimately requested to be removed from the courtroom. The circuit court imposed a sentence of natural life for first degree murder and 50 years for aggravated arson, to be served consecutively. At a subsequent hearing, defendant's sentence for aggravated arson was reduced to 25 years, as the initial sentence exceeded the maximum possible sentence for that charge. At defendant's request, the court appointed the Office of the State Appellate Defender to represent him on appeal. This appeal follows.

¶ 55 On appeal, defendant argues that (1) the circuit court abused its discretion by admitting crime scene and autopsy photographs depicting Hall's burned body; and (2) the circuit court failed to obtain a knowing and intelligent waiver of counsel from defendant for post-trial proceedings when defendant's waiver was based on a mistake of law.

¶ 56 With respect to the first issue, a photograph of the decedent is admissible to "prove the nature and extent of injuries and the force needed to inflict them, the position, condition and location of the body, the manner and cause of death, *** and to aid in understanding the testimony of a pathologist or other witness." *People v. Richardson*, 401 Ill. App. 3d 45, 52 (2010).

Photographs that are relevant to prove facts at issue are admissible and may be shown to the jury unless their prejudicial nature outweighs their probative value. *People v. Colone*, 2024 IL App (1st) 230520, ¶ 123 (quoting *People v. Chapman*, 194 Ill. 2d 186, 219 (2000)). Even gruesome or disgusting photographs may properly be admitted if they are relevant to establish any fact at issue in the case. *Id.* Such photographs can also be admitted to aid the jury in understanding a witness's testimony, even if the photographs are cumulative of that testimony. *Id.* The decision to admit photographs of the decedent rests within the discretion of the trial judge and is reviewed for an abuse of discretion. *Id.* An abuse of discretion occurs only when the court's decision is arbitrary, fanciful, or unreasonable to the point where no reasonable person would agree. *People v. Bush*, 2023 IL 128747, ¶ 57.

¶ 57 Defendant argues that the photographs had no probative value, were cumulative to the testimony of Batka and Dr. Eckhardt, and were unnecessary to prove the extent of Hall's injuries. He argues that some of the photos were duplicative and risked inflaming the emotions of the jury. He also asserts that the photographs were unnecessary to show blunt force injuries sustained by Hall because defendant did not deny inflicting those injuries.

¶ 58 Defendant relies on *People v. Garlick*, 46 Ill. App. 3d 216 (1977), and *People v. Lefler*, 38 Ill. 2d 216 (1967). In *Garlick*, the circuit court allowed the admission of a photograph depicting "the deceased's massive head wound." *Garlick*, 46 Ill. App. 3d at 224. This court found that, given that defendant admitted to committing the offense and relied on an insanity defense, the photograph "could serve no purpose other than to inflame and prejudice the jury in the grossest manner." *Id.* In *Lefler*, the circuit court admitted an autopsy photograph of an infant victim. *Lefler*, 38 Ill. 2d at 222. Our supreme court held that the admission of the photograph was an abuse of

discretion given that the photograph did not depict any of the victim's injuries, which were solely internal, and noted that "the gruesome nature of the pictures was caused almost entirely by the autopsy procedure." *Id.*

¶ 59 Both cases are distinguishable. In *Garlick*, the defendant admitted causing the victim's death, and therefore, the photographs were unnecessary to prove a fact at issue. Similarly, the photographs in *Lefler* had little probative value as they did not portray the victim's injuries and had no other discernable purpose, particularly because the nature and extent of the injuries was not disputed. Here, defendant admitted punching Hall twice, but denied any other physical altercation, denied causing the fire and denied committing the murder. Thus, the State was entitled to prove every element of the crime charged and every relevant fact, even if that fact is not disputed. *Colone*, 2024 IL App (1st) 230520, ¶ 131; *People v. Tatum*, 2019 IL App (1st) 162403, ¶ 113. The photographs were relevant to demonstrate the nature and extent of Hall's injuries, which included multiple facial injuries as well as extensive burns.

¶ 60 The photographs were also relevant to prove that the murder was accompanied by exceptionally brutal or heinous behavior indicative of wanton cruelty, an allegation the State was required to prove beyond a reasonable doubt to establish defendant's eligibility for an extended term sentence. See 730 ILCS 5/5-5-3.2(b)(2) (West 2024); *People v. Williams*, 2022 IL App (2d) 200455, ¶ 138 (photographs of victim's injuries were "highly probative" in evaluating allegations of exceptionally brutal or heinous behavior indicative of wanton cruelty in indictment and assisted the jury in understanding the medical examiner's testimony). The photographs were also relevant to show that Hall suffered great bodily harm as a result of the fire, which was an element of the aggravated arson charge. See 720 ILCS 5/20-1.1(a)(2) (West 2024).

¶ 61 While defendant argues that the photographs were cumulative to the testimonies of Batka and Dr. Eckhardt, the photographs were relevant to aid the jury in understanding their testimony. *Colone*, 2024 IL App (1st) 230520, ¶ 123-28; *Williams*, 2022 IL App (2d) 200455, ¶ 138. Batka testified that the crime scene photographs demonstrated the burn patterns on Hall’s body, which was relevant to his testimony that the fire originated in the bedroom, particularly where defendant denied setting the fire and suggested it may have started with the stove in the kitchen. Dr. Eckhardt testified that the autopsy photographs demonstrated Hall’s severe thermal injuries and the blunt force injuries to her face and head, including the broken mandible bone visible in one of the photographs.

¶ 62 While we agree with defendant that the photographs are gruesome, that fact alone does not preclude their admission. See *Colone*, 2024 IL App (1st) 230520, ¶¶ 123-28 (no abuse of discretion in admitting photographs of victim’s “maggot-infested” body, as they were relevant to aid jury in understanding the medical examiner’s testimony). The photographs had significant probative value to demonstrate the extent of Hall’s injuries, which was relevant to the allegations against defendant and to aid the jury in understanding the testimony of two of the State’s witnesses. The circuit court properly considered the probative value of the photographs and weighed them against potential prejudice, and limited the number of photographs the State could admit into evidence. We do not find that the circuit court abused its discretion by admitting the photographs.

¶ 63 Next, in his initial brief, defendant argued that the circuit court failed to re-admonish him pursuant to Supreme Court Rule 401(a) before allowing him to represent himself for purposes of post-trial motions and sentencing. However, in his reply brief, defendant concedes that he forfeited

this argument and that neither prong of plain error review applies and thus, he withdrew the argument. Therefore, we need not address it.

¶ 64 Lastly, defendant contends that he did not knowingly and intelligently waive his right to counsel for post-trial proceedings when his waiver was based on a mistake of law, as he believed that he was required to include his ineffective assistance of counsel claims in a post-trial motion to preserve the issues for appeal.

¶ 65 A defendant may waive his constitutional right to counsel if the waiver of counsel is voluntary, knowing and intelligent. *People v. Wright*, 2017 IL 119561, ¶ 39. In order to obtain a waiver of counsel, the circuit court must admonish defendant of the nature of the charges, the potential penalties, and that the defendant has the right to an attorney. Ill. Sup. Ct. R. 401(a) (eff. Jul. 1, 1984). Even if the court's admonishments are not in strict compliance with Rule 401(a), substantial compliance is sufficient if the record reflects that the defendant's waiver is knowing and voluntary. *Wright*, 2017 IL 119561, ¶ 41. The circuit court's determination that a defendant knowingly and intelligently waived his right to counsel is reviewed for an abuse of discretion. *People v. McNutt*, 2020 IL App (1st) 173030, ¶ 85.

¶ 66 We note that defendant never expressly waived his right to counsel after counsel was reappointed for post-trial motions and sentencing. Instead, defendant refused to proceed with appointed counsel unless counsel would argue his own ineffectiveness for failing to file two motions on defendant's behalf. The circuit court addressed defendant's allegations of ineffective assistance based on these two motions at a *Krankel* hearing and found that they lacked merit and did not warrant the appointment of new counsel to investigate defendant's claims. See *People v. Roddis*, 2020 IL 124352, ¶ 35 ("If the court determines that the claim lacks merit or pertains only

to matters of trial strategy, then the court need not appoint new counsel and may deny the *pro se* motion.”). Defendant does not argue that the court made any errors in its handling of the *Krankel* hearing.

¶ 67 However, defendant apparently believed that he needed to include his claims of ineffective assistance in his post-trial motion to preserve the issue for appeal, and refused to accept that counsel would not argue his own ineffectiveness. After a prolonged back-and-forth, the circuit court concluded that, since defendant refused the assistance of appointed counsel unless counsel would argue his own ineffectiveness and defendant’s claims did not warrant the appointment of new counsel, defendant would proceed *pro se*.

¶ 68 Defendant argues that his mistaken belief that he needed to include his ineffective assistance claims in his post-trial motion to preserve them for appeal meant that his waiver of counsel was not knowing and intelligent. He argues that the court did not correct his misunderstanding by informing him that he was not required to include the issue in a post-trial motion to preserve them for appeal, and that this information “would have likely influenced” defendant’s decision on whether to proceed with counsel.

¶ 69 Defendant relies on our supreme court’s decision in *People v. Belcher*, 199 Ill. 2d 378 (2002). In *Belcher*, the defendant was evaluated for fitness, found fit for trial, and shortly afterwards, pled guilty to first degree murder. *Id.* at 380. At defendant’s sentencing, the physician who evaluated defendant opined that he would have been found insane under a prior version of the insanity statute, but not under the version in effect at the time of the offense. *Id.* Our supreme court held that, since the amended insanity defense statute had later been found unconstitutional, “the court’s expert, the court and defendant may have been operating under a misapprehension of law.”

Id. at 383. The court found that “[t]hese unusual circumstances lead us to believe that defendant should be given an opportunity to file a motion to vacate his guilty plea.” *Id.* at 384.

¶ 70 We find *Belcher* distinguishable from the present case, as it involved a defendant’s attempt to withdraw his guilty plea based on an intervening change in the law which may have impacted his plea. The *Belcher* court acknowledged that the case presented “unusual circumstances” which warranted allowing the defendant to withdraw his plea. *Id.* We do not interpret *Belcher* to establish a rule that any mistake of law by the defendant may undermine an otherwise knowing and voluntary relinquishment of rights.

¶ 71 Here, defendant waived his right to counsel based on his refusal to accept continued representation from appointed counsel under the terms set out by the circuit court. Defendant was previously admonished according to Rule 401(a), and thus was aware of the charges against him and the potential penalties, and his right to appointed counsel. While defendant asserts his waiver was not knowing and intelligent because of his mistake, a defendant’s mistaken belief regarding the law is not a basis to find that he did not knowingly and intelligently waive his right to counsel. See *People v. Williams*, 2025 IL App (1st) 231820-U, ¶ 64 (rejecting argument that because defendant’s waiver rested on his mistaken belief that the assistant public defender had violated his right to a speedy trial, it was not knowing or voluntary).

¶ 72 We agree with the State’s position that the circuit court was not required to give defendant legal advice regarding how to preserve issues on appeal or correct his misunderstanding that his ineffective assistance claims needed to be included in a post-trial motion. During its prior admonishments, the court repeatedly informed defendant of the pitfalls of representing himself and stated that it could not help him. This is a common admonishment to give a defendant who

seeks to represent himself. See, *e.g.*, *People v. Maxey*, 2018 IL App (1st) 130698-B, ¶ 8. The court also held a *Krankel* hearing and determined that there was no reason, based on defendant's ineffective assistance of counsel claims, to appoint new counsel. Defendant was informed of the pitfalls of representing himself, and cannot now complain that his waiver of counsel during post-trial proceedings was not knowing and intelligent due to the court's failure to give him legal advice regarding whether an issue was properly preserved for purposes of appeal.

¶ 73 Additionally, “[o]nce a defendant is granted the right to proceed *pro se*, he does not have an unequivocal right to revoke his *pro se* status.” *People v. Jones*, 2015 IL App (2d) 120717, ¶ 36. Rather, this rests with the trial court's discretion. *Id.* Here, defendant chose to represent himself at his jury trial. Defendant admits that he “validly waived counsel at the pre-trial phrase.” Once he did so, he did not have the unequivocal right to revoke his *pro se* status. *Id.*

¶ 74 Defendant also cites to a concurring opinion in *People v. Stoops*, 313 Ill. App. 3d 269, 275-80 (2000) (Steigman, J., specially concurring), for the proposition that the circuit court cannot force a waiver of counsel upon a defendant if the defendant does not knowingly and voluntarily waive his right to counsel. Initially, we note that while special concurrences may be persuasive, they are not binding authority. *People v. Rubio*, 2023 IL App (1st) 211078, ¶ 29. *Stoops* is also distinguishable, as it involved a defendant who sought to hire private counsel but was unable to do so, was denied appointed counsel based on his earnings, and was never admonished pursuant to Rule 401(a) prior to representing himself at trial. *Stoops*, 313 Ill. App 3d at 274-75. Here, we do not find that the circuit court forced defendant to waive his right to counsel. While defendant maintained that he wanted “assistance,” he refused to proceed with counsel under the terms set forth by the court, and the court repeatedly informed defendant that it would not appoint new

counsel to investigate his claims of ineffective assistance of counsel because it determined, following a *Krankel* hearing, that they were meritless. Defendant ultimately chose to continue *pro se* and raise the issues he wanted to include in his post-trial motion.

¶ 75 We cannot find that defendant's waiver was not knowing and intelligent solely because the circuit court did not give him legal advice as to whether he properly preserved certain issues for appeal. Under these circumstances, defendant's waiver of counsel for post-trial proceedings was knowing and intelligent, and the circuit court did not abuse its discretion by accepting defendant's waiver.

¶ 76 For the foregoing reasons, we affirm defendant's conviction and sentence.

¶ 77 Affirmed.