2026 IL App (1st) 240529

FIRST DISTRICT
SECOND DIVISION
October 6, 2026

No. 1-24-0529

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 21CR10369
	)	
SHAUNE SPIVEY,	)	Honorable
	)	Steven Jay Rosenblum,
Defendant-Appellant.	)	Judge Presiding.

JUSTICE McBRIDE delivered the judgment of the court, with opinion.
Presiding Justice D.B. Walker and Justice Ellis concurred in the judgment and opinion.

OPINION

¶ 1 Following a bench trial, defendant Shaune Spivey was convicted of multiple counts of manufacturing child pornography, criminal sexual assault by a family member, and aggravated criminal sexual abuse by a family member. The trial court subsequently sentenced him to an aggregate term of 63 years in prison. On appeal, defendant argues that (1) the State failed to prove the "family member" element of his criminal sexual assault and criminal sexual abuse convictions beyond a reasonable doubt and (2) the trial court failed to properly admonish him pursuant to Illinois Supreme Court Rule 401(a) (eff. July 1, 1984) before defendant waived his right to counsel and proceeded *pro se*.

¶ 2 In August 2021, defendant was charged by indictment with 12 counts of child pornography, 4 counts of criminal sexual assault, and 3 counts of aggravated criminal sexual abuse. He was initially charged in three separate cases arising from the sexual assault and abuse

of the three teenage daughters of Kimberly P., his former romantic partner: E.D. (born in 2001), M.D. (born in 2004), and J.D. (born in 2005). The State elected to proceed to trial on the case involving J.D. and moved to admit evidence of the alleged assaults of the other two girls as propensity to commit sex crimes. The court granted the motion over defendant's objection.

¶ 3 At a pretrial hearing, the trial court reviewed a plea offer from the State in which defendant would receive a total sentence of 25 years to be served at 50%. The court admonished defendant regarding the potential sentences for each offense from a document prepared by the State. Defendant indicated that he understood the potential sentences he faced if he proceeded to trial. He then rejected the plea offer.

¶ 4 Defendant also informed the trial court that he wished to represent himself and proceed *pro se*. The court then admonished defendant about choosing to waive counsel and represent himself. During the discussion, defendant disclosed that he graduated from high school and completed two years of junior college but had no formal legal training. The court explained the risks of defendant representing himself and defendant responded that he understood. The court asked defendant if he understood the following: the difference between a jury trial and a bench trial, the judge's role is that of a neutral arbitrator and the judge cannot help defendant with his case, the prosecutor has formal legal training and has experience with the procedures and rules at trial, defendant would have to follow the judge's rules at trial, defendant would be responsible to request any jury instructions he wished to include, and defendant would not be allowed to complain on appeal about his own ability to defend himself. Defendant responded to the court that he understood each of these admonishments. The court also asked defendant if he would be prepared to proceed to trial in a month to which he agreed. The court then found that defendant made a knowing and intelligent waiver of his right to counsel.

¶ 5 Immediately prior to trial, defendant waived his right to a jury and elected to proceed with a bench trial. The State proceeded on four counts of manufacturing child pornography, four counts criminal sexual assault by a family member, and one count of aggravated criminal sexual abuse by a family member. Directly following is the evidence presented at defendant's trial.

¶ 6 J.D. testified that she was born in 2005. She had been diagnosed with posttraumatic stress disorder (PTSD), as well as speech and language problems. She participated in a communication development program in high school to help with her learning issues. In December 2019, J.D. lived with her aunt; her two sisters, M.D. and E.D.; her brother; and a male cousin. J.D.'s biological mother passed away when she was less than a year old and she was raised by her aunt, Kimberly. She considered Kimberly to be her mother.

¶ 7 Defendant moved in with them around January or February 2020. Defendant was in a relationship with Kimberly. J.D. identified defendant in court. The first day defendant moved into the residence, he "patted" J.D. on her buttocks. J.D. was 14 years old at this time. J.D. shared a bedroom with her sisters, her brother and cousin shared another bedroom, and Kimberly and defendant used the third bedroom.

¶ 8 Defendant later told J.D. that he wanted her to "suck his penis." He asked her to lift her shirt for him to ejaculate on her breasts, which she did. This occurred in the basement of the house when no one else was present. The next incident occurred when Kimberly was in the bathroom and defendant called J.D. to the basement. He wanted J.D. to lie down on the floor for him to perform oral sex on her, which he did.

¶ 9 J.D. described another incident in which defendant put her against a ledge in the basement, pulled down her pants, and placed his fingers insider her vagina. He called her "his

b***." Later, defendant tried to place his penis into J.D.'s anus, but he stopped when he was unable to do so.

¶ 10 J.D. also engaged in a game of "Truth or Dare" with defendant and her sisters, M.D. and E.D. Defendant had the girls remove their clothing and run back and forth in the basement. During these games, defendant touched the breasts and buttocks of all three girls.

¶ 11 While J.D. was attending Zoom classes during the pandemic, defendant would come downstairs and expose his penis to J.D. He would position himself so others on Zoom could not see him, but he would try to get J.D.'s attention. At defendant's direction, she put sleeping pills in her mother's drink to make her mother feel sleepy on more than one occasion.

¶ 12 J.D. testified that this sexual contact with defendant occurred more than once and he recorded these incidents. She saw a camera in the basement "every time" defendant engaged in sexual contact with her. The prosecutor showed J.D. a camera as exhibit 1 and she identified it as the camera she saw in the basement, and it belonged to defendant. She also identified a USB drive that contained images and videos of her with defendant. The images and video clips were then admitted and played in court. The State introduced 15 individual exhibits in both video and image form and J.D. identified each of them and described the sexual acts depicted.

¶ 13 Exhibit 2-A was a video recording. J.D. identified herself in the video. She then provided a detailed description of what occurred in the video. In the first clip, defendant had J.D. pull her pants down "so he could see [her] butt," and then he "had [her] get down on [her] knees to suck his penis." She confirmed that his penis was inside her mouth at this time. Her knees were on the ground while defendant was standing up. The video clip next showed defendant "trying to insert his penis into [her] butt." She testified that she was "bent over" and her pants were down with defendant positioned behind her. She stated that defendant's penis made contact with her anus.

She then testified that the video showed defendant "fingering [her] vagina," with defendant inserting his fingers into J.D.'s vagina. Later in the video, J.D. testified that defendant's "penis was in [her] mouth" while she was on her knees and defendant was standing up. Exhibit 2-B was a shortened version of exhibit 2-A and showed defendant "inserting his penis in [J.D.'s] butt."

¶ 14 As the prosecutor began to introduce exhibit 2-C, the trial court stopped her to document the dates for exhibits 2-A and 2-B on the record and stated, without objection, that the date listed on the bottom was "6-13-21." The prosecutor then proceeded with exhibit 2-C.

¶ 15 Exhibit 2-C was a video and J.D. stated that the video showed her changing her clothes and removing her pants. Later, the video showed defendant "lift up" her skirt. Exhibit 2-D, dated June 13, 2021, depicted J.D. changing her clothes. She testified that it was common for her to change her clothes down to her underwear in front of defendant.

¶ 16 J.D. testified that exhibits 2-E and 2-F, dated June 12, 2021, were pictures of defendant in the basement taken by the same surveillance video camera. She also identified exhibits 2-G and 2-H, dated June 13, 2021, as photographs of herself and defendant in the basement. Exhibit 2-I, dated June 2, 2021, showed J.D. and defendant and she stated that her pants were down so defendant "could see [her] butt." J.D. testified that exhibit 2-J, dated June 6, 2021, showed her and defendant with J.D. in her underwear because defendant "told [her] to get naked."

¶ 17 J.D. further testified that defendant also took pictures of her on his phone and identified exhibit 2-K as an image of her with her "vagina showing." She identified exhibit 2-L as a photograph taken by defendant on his phone with her hand on her vagina depicting her masturbating.

¶ 18 Exhibit 2-M was a video and J.D. stated it was taken by defendant on a physical camera. She testified that it depicted her "masturbating." Another individual entered the frame, who J.D.

identified as defendant. She stated that the video showed defendant pouring oil on her vagina. J.D. also stated that exhibit 2-N depicted her "masturbating," but this image was taken from defendant's phone. For exhibit 2-O, the State introduced a screenshot from exhibit 2-M and J.D. identified herself and defendant in the image. She testified that defendant was "pouring oil" on her. When asked if the screenshot "truly and accurately" depicted what happened to her that day, J.D. answered, "Yes, it does." J.D. stated that all of the sexual incidents detailed from these exhibits occurred when she was between the ages of 14 and 15.

¶ 19 J.D. testified that defendant resided in the house continuously until July 2021, when he left to help a friend. After he left, Kimberly asked J.D. and her sisters if defendant had touched the girls inappropriately. J.D. overheard her mother talking to E.D. about this contact, and J.D. decided to tell her mother everything. She did not tell her mother earlier because she was afraid of defendant. She explained that defendant would sometimes take a knife and poke her with it, and he also put his hands on her neck. J.D. testified that the sexual contact with defendant occurred continuously from approximately January and February 2020 until July 2021. When defendant returned to the house, Kimberly called the police.

¶ 20 Kimberly testified that she is the biological aunt of J.D., M.D., and E.D. Her sister was the children's biological mother and died when the children were between 11 months and 5 years old. All three of the girls have learning disabilities: E.D. is developmentally delayed and has an intellectual disability, M.D. is autistic and is also developmentally delayed with an intellectual disability, and J.D. is developmentally delayed with language impairment and an intellectual disability. In January 2020, E.D. was 18, M.D. was 15, and J.D. was 14.

¶ 21 Kimberly grew up in the same neighborhood as defendant, and they knew each other as children. They reconnected on Facebook and rekindled their friendship. He moved into her home

in February 2020 and remained there consistently until June 2021. Kimberly had mobility issues from an injury and spent most of her time in her bedroom on the third level of the home. Defendant spent the majority of his time in the basement. During their relationship, defendant was aggressive with Kimberly, and he was "belittling" and "hurtful." She considered ending their relationship before he moved out, but she was afraid to do so.

¶ 22 Defendant left in June 2021 to help a friend out-of-state and said he would return when he finished. Later that day, Kimberly was in her bedroom when she noticed a red light flashing on defendant's laptop. She looked closer and found a camera. She removed the wires and had a conversation with J.D. Kimberly learned that defendant had been watching Kimberly in her room for "quite some time." She was "very alarmed." She then spoke with E.D., followed by conversations with all three girls. Kimberly learned that defendant had been touching the girls "inappropriately" in a sexual manner. Kimberly then called the police and filed a report.

¶ 23 Kimberly was told by one of the girls that defendant had another camera in the basement. The police subsequently came to the home and recovered the memory card from the basement camera. The police contacted her to identify images of the girls from the recovered memory card.

¶ 24 Kimberly subsequently obtained an order of protection against defendant. When defendant returned to Kimberly's home in July 2021, she called 911. She reported that defendant had returned to the residence and was driving a black SUV. Defendant, though, was gone by the time the police arrived.

¶ 25 M.D. testified that, in December 2019, she was 15 years old. She stated that defendant used to live with her family and she identified him in court. While defendant was living at her house, he engaged in inappropriate actions with her in the basement. She testified that defendant told her to perform fellatio on him and he would suck on her breasts, buttocks, and vagina. He

had M.D. and her sisters play "Truth or Dare" in the basement. She stated that if she picked dare, she would take her clothes off and run back and forth in the basement while naked. He also told M.D.'s sisters to touch M.D.'s breasts and body. M.D. stated that she performed fellatio more than once with defendant's penis in her mouth. Defendant also touched her vagina with both his mouth and fingers.

¶ 26 Defendant also took pictures and videos of M.D. He told her to lift her bra and lower her pants before taking a picture of her nude. In her testimony, she then identified nude photographs and a video of her. M.D. observed defendant touch J.D. inappropriately, including placing his mouth on her vagina and breasts. She did not tell anyone about this abuse earlier because defendant told her not to tell anyone.

¶ 27 Oak Forest Detective David Lowisz testified that on July 8, 2021, he was a patrol officer and responded to a domestic disturbance on Beth Court in Oak Forest. As he approached that location, he observed a black Chrysler Aspen SUV, which was similar to the vehicle described leaving that location. He recognized the driver from prior information given to the officer. Detective Lowisz then "effected" a high-risk traffic stop of that vehicle. In a high-risk traffic stop, the driver and/or occupants are removed from the vehicle with the officers' weapons drawn. He identified defendant in court as the individual who exited the vehicle. Defendant was then taken into custody. Detective Lowisz admitted that there was no warrant for defendant's arrest, but he was wanted for questioning.

¶ 28 Oak Forest Sergeant David Devries testified that he was previously assigned to the investigation division of the Oak Forest Police Department. In June 2021, he was assisting Detective William Engle, the officer in charge of investigating defendant. He attended the forensic interviews for J.D., M.D., and E.D. During the interviews, defendant was identified as

the offender. On July 8, 2021, he was made aware of a call related to defendant and then proceeded toward the location of the call. While en route, he observed an SUV driving in front of an Oak Forest patrol car with its lights on. Sergeant Devries then positioned his vehicle behind the patrol car. He saw defendant exit the SUV and identified him in court. The sergeant recognized defendant from photographs in his investigation. He searched the vehicle and recovered a cellphone and a tablet, which he later learned belonged to defendant.

¶ 29 Sergeant Devries, along with Detective Engle, interviewed defendant at the police station. Defendant was given his *Miranda* warnings (see *Miranda v. Arizona*, 384 U.S. 436 (1966)), which he waived and agreed to speak with the officers. Defendant told them that he had a recording of one of the girls, stating that another male family member had abused them. Defendant then unlocked his phone to play the audio recording. Sergeant Devries stated that during the forensic interviews the victims identified defendant as the perpetrator.

¶ 30 Oak Forest Detective Engle testified that he was assigned to investigate a sexual assault case in June 2021. On June 18, 2021, he met with Kimberly at her residence. She gave the detective two surveillance cameras, two SD cards for the cameras, a silver laptop, a black laptop, and a Samsung Galaxy Note 5 cell phone. Based on the information he learned from Kimberly, he arranged for forensic interviews of J.D., M.D., and E.D. Detective Engle explained that a forensic interview is conducted by a specially trained forensic interviewer. These interviews are conducted for children under 18 but can include people with mental disabilities. He viewed the live stream of the forensic interviews of all three victims.

¶ 31 Based on the statements in the interviews as well as Kimberly's statement, Detective Engle obtained search warrants for the SD cards and the silver laptop. The data was then extracted, and he reviewed the evidence. He observed images and video files related to J.D. He

also saw a male individual in the files and identified defendant in court as the male depicted. Some of the files were taken to the Chicago Regional Computer Forensics Laboratory to help enhance the files for identification of the individuals depicted. Detective Engle later obtained a search warrant for the cell phone recovered from defendant's vehicle. He also observed images of J.D. on defendant's cell phone.

¶ 32 Oak Forest Detective Adrian O'Donnell testified that he was previously a member of the Internet Crimes Against Children task force. There, he received training on examining electronic devices. Detective O'Donnell was asked to perform digital forensic extractions on a "cellular device" and two SD cards. He identified the digital forensic extraction from each of the items he was assigned.

¶ 33 Jordan Graves testified that he was employed as a senior digital forensic examiner with the Federal Bureau of Investigation. With no objection, the trial court declared Graves as an expert in the field of digital forensic video and imaging enhancements. In November 2021, he was asked "to observe and identify images and videos that had been marked as important or relevant or of interest and then to apply enhancements or attempt to apply enhancements to those files." These enhancements were "to aid the case agent in obtaining more information or understanding more about the pictures and videos." He explained that it was easier to view videos on a frame-by-frame basis to "observe it exactly as it is." Graves then identified the enhanced images.

¶ 34 Defendant testified that he met Kimberly in grammar school but reconnected in 2019 and began a relationship with her. He stated that he moved into Kimberly's house in March 2020. When he moved into the home, he found out that the children were being neglected and Kimberly's son was "beating" the girls. Defendant saw E.D. being sexually assaulted by

Kimberly's son. When defendant asked E.D. about this, she told him that it had been going on since she was 14, and she was then 20 years old. She also told him that the contact was not consensual. Defendant then spoke with the "other children," and they confirmed what E.D. had said. He confronted Kimberly with this information, and Kimberly responded that her son was "just playing." After this confrontation, defendant ended his relationship, moved into the basement, and decided to pay rent until he found another residence. Defendant presented audio recordings in which defendant had the girls discuss the alleged abuse of E.D. by Kimberly's son.

¶ 35 Defendant left in June 2021 to help a friend paint a family bed and breakfast. Afterwards, defendant decided to move out and returned to the home on July 8, 2021, with a friend and a U-Haul to pack his belongings. When his key did not work to open the front door, he knocked but no one answered. He left and was subsequently pulled over by the police. He stated that he contacted the Department of Children and Family Services about Kimberly's son and the condition of the home, but no one ever contacted him. He testified that he "wound up in jail" because "Kimberly did not want anyone to find out any of the things her son was doing to the kids in the house," especially E.D.

¶ 36 Defendant denied that the surveillance camera from the basement was his. Defendant also denied that he was the individual in an image in which J.D.'s vagina was exposed. He did admit, however, that M.D. took her clothes off in front of him.

¶ 37 Following arguments, the trial court found defendant guilty of the following: four counts of criminal sexual assault based on J.D. being under 18 years of age when it was committed and defendant was a family member who resided in the same household continuously for at least six months, one count of aggravated criminal sexual abuse based on J.D. being under the age of 18 and defendant having resided in the same household continuously for at least six months, two

counts of child pornography based on moving images, and two counts of child pornography based on still images. In its findings, the court stated that it had viewed the videotapes, photographs, and enhanced photographs, as well as the extractions from the SD cards. It was "very clear" to the court after hearing the testimony from J.D. and M.D. that they have "some mental disabilities."

¶ 38 The court discussed the video evidence, noting that defendant admitted some images were him. Defendant denied being present in a video of J.D. masturbating, but the court found "[i]t could not be clearer who that is in the video. Out of all of the shots of the defendant throughout this case it is the clearest that it is the defendant in that video." The court observed that the video "speaks for itself." The court also found the other crimes evidence involving M.D. corroborated J.D. The court specifically found that visual evidence depicted "the sex acts as clear as day that were occurring" with M.D. and there was "no ambiguity."

¶ 39 Further, the court found defendant's testimony about the alleged assault of E.D. was not relevant to this case and was "not a defense to the child pornography charges against the defendant." The court listened to defendant's audio recording with the children and found them to have been "choreographed by" defendant. The court also observed that defendant never denied having sex with the victims. The court concluded that the evidence was "extremely overwhelming" and it was obvious that J.D. was in one video and M.D. was in another, with both girls identifying themselves.

¶ 40 Defendant filed a motion for a new trial, alleging the following: (1) he was arrested without a warrant or probable cause in violation of his fourth amendment rights, (2) the police did not have a search warrant when they seized his belongings from Kimberly's house, (3) the State withheld discovery from him in violation of *Brady v. Maryland*, 373 U.S. 83 (1963),

(4) Kimberly and J.D. provided perjured testimony, (5) the State failed to show a chain of custody of defendant's belongings. (6) the ineffective assistance of counsel during preliminary proceedings, (7) Kimberly illegally videotaped defendant, and (8) the State failed to prove defendant guilty beyond a reasonable doubt. The trial court subsequently denied defendant's motion.

¶ 41 At the February 2024 sentencing hearing, the State argued in aggravation and J.D. read her victim impact statement, while defendant denied there was any video of him sexually assaulting J.D. The court concluded that the child pornography convictions were required to be served consecutively, as well as the criminal sexual assault convictions. Then, after reviewing all the evidence, as well as defendant's presentence investigation report, the court imposed an aggregate sentence of 63 years, which included two consecutive terms of 15 years for each count of child pornography based on moving images, two consecutive terms of 5 years for the child pornography based on still images, four consecutive terms of 5 years for the criminal sexual assault convictions, and a 3-year term for aggravated criminal sexual abuse to be served after defendant completed the terms of his other convictions. The child pornography and aggravated criminal sexual abuse convictions were to be served at 50% while the criminal sexual assault convictions were to be served at 85%.

¶ 42 On appeal, defendant argues that the State failed to prove him guilty beyond a reasonable doubt of criminal sexual assault and aggravated criminal sexual abuse of a family member. Specifically, defendant contends that the State did not prove that he was a "family member" residing with J.D. for at least six months prior to committing the alleged offenses. The State responds that it established a continuing course of illegal sexual conduct with J.D. during the entire time defendant resided in the home, which included the period satisfying the statutory

definition of "family member."

¶ 43 "Where a criminal conviction is challenged based on insufficient evidence, a reviewing court, considering all of the evidence in the light most favorable to the prosecution, must determine whether any rational trier of fact could have found beyond a reasonable doubt the essential elements of the crime." *People v. Brown*, 2013 IL 114196, ¶ 48 (citing *Jackson v. Virginia*, 443 U.S. 307, 318-19 (1979)). It is the responsibility of the trier of fact to "fairly *** resolve conflicts in the testimony, to weigh the evidence, and to draw reasonable inferences from basic facts to ultimate facts." *Jackson*, 443 U.S. at 319. Accordingly, the reviewing court will not substitute its judgment for that of the trier of fact on issues involving the weight of the evidence or the credibility of the witnesses. *Brown*, 2013 IL 114196, ¶ 48. While these findings by the trier of fact are entitled to deference, they are not conclusive. A court of review will reverse a criminal conviction when the evidence is so unreasonable, improbable, or unsatisfactory as to justify a reasonable doubt of the defendant's guilt. *Id.* This standard of review is applied regardless of whether the defendant opted for a bench or jury trial. *Id.*

¶ 44 Defendant was convicted of four counts of criminal sexual assault by a family member. That statute provides:

> "(a) A person commits criminal sexual assault if that person commits an act of sexual penetration and:
>
> ***
>
> (3) is a family member of the victim, and the victim is under 18 years of age." 720 ILCS 5/11-1.20(a)(3) (West 2020).

The term "sexual penetration" is defined in the Criminal Code of 2012 as:

> "any contact, however slight, between the sex organ or anus of one person and an

> object or the sex organ, mouth, or anus of another person, or any intrusion, however slight, of any part of the body of one person or of any animal or object into the sex organ or anus of another person, including, but not limited to, cunnilingus, fellatio, or anal penetration." *Id.* § 11-0.1.

¶ 45 The term "family member," as applicable here, is defined as the following: "an accused who has resided in the household with the child continuously for at least 6 months." *Id.*

¶ 46 Defendant was also convicted of one count of aggravated criminal sexual abuse. That statute provides: "A person commits aggravated criminal sexual abuse if that person commits an act of sexual conduct with a victim who is under 18 years of age and the person is a family member." *Id.* § 11-1.60(b). "Sexual conduct" is defined, in relevant part, as: "any knowing touching or fondling by the victim or the accused, either directly or through clothing, of the sex organs, anus, or breast of the victim or the accused ***, for the purpose of sexual gratification or arousal of the victim or the accused." *Id.* § 11-0.1.

¶ 47 The indictments for criminal sexual assault and aggravated criminal sexual abuse all alleged that J.D. was under 18 years of age when the act was committed and defendant was a family member who "resided in the same household continuously with J.D. for at least 6 months." See *id.* §§ 11-1.20(a)(3), 11-1.60(b).

¶ 48 Defendant limits his claim to whether the State proved that he was a family member residing with J.D. for at least six months "prior to the conduct that he was convicted of committing." According to defendant, the State failed to provide the specific dates when these acts took place. He asserts that it is "impossible" to determine if any of the charged sexual conduct occurred more than six months after he moved into the home, as required under the statute.

¶ 49 The State responds that it was not required to prove a specific date of the sexual acts because defendant was charged with a continuing course of conduct for the entire time that he resided in the home. The State further argues that it was not required to prove defendant was a "family member" prior to the start of the sexual contact with J.D.

¶ 50 Defendant cites *People v. Turner*, 2024 IL App (3d) 220473-U, ¶ 17, to support his assertion that "an accused must reside with the victim for six months previous to unlawful conduct in order to qualify as a family member." However, the reviewing court in *Turner* specifically rejected defendant's argument that the State was required to prove defendant was a "family member" before he began his sexual contact with J.D.

¶ 51 In *Turner*, the defendant was convicted of two counts of criminal sexual assault and two counts of aggravated criminal sexual assault. *Id.* ¶¶ 4, 11. The indictments alleged that the acts occurred during a three-month period and that the defendant was a family member of the victim. *Id.* ¶ 4. The defendant was in a long-term relationship with the victim's mother and moved into the victim's home in the winter of 2014 and lived there continuously until January 2016. The victim testified that beginning in November 2015, the defendant initiated sexual intercourse with her, and they continued to have sexual intercourse every other week until January 2016 when she informed the defendant that she was pregnant. *Id.* ¶¶ 5-7. The victim was unable to specify the exact dates on which the sexual penetration occurred. *Id.*

¶ 52 The defendant argued on appeal that the State failed to prove him guilty beyond a reasonable doubt because the State did not establish he was a "family member" residing in the home continuously for at least six months "prior to the onset of the sexual assaults." *Id.* ¶ 13. The *Turner* court specifically rejected this argument and found that the defendant had been living with the family for at least 10 months prior to the beginning of the sexual relationship with the

victim. *Id.* ¶¶ 16-17.

¶ 53 The reviewing court also rejected the defendant's argument that "the State must prove that he was a 'family member' of the victim *before* the onset of his sexual conduct with the victim." (Emphasis in original.) *Id.* ¶ 19. After reviewing the relevant statutes, the court observed that "[t]he plain language of the applicable statutes prohibits an individual who has resided with a child continuously for at least six months from committing an act of sexual penetration on a victim under the age of 18." *Id.* The court concluded "[n]othing in the statute indicates that the onset date of the initial sexual assault must occur *after* the defendant becomes a 'family member.' " (Emphasis in original.) *Id.* The *Turner* court held that any time after a defendant has lived with the victim continuously for six months, acts of sexual penetration constitutes criminal sexual assault by a family member. *Id.*; see 720 ILCS 5/11-1.20(a)(3) (West 2020).

¶ 54 We agree with the analysis in *Turner* and reach the same conclusion. The onset of the sexual contact does not affect when defendant qualifies as a "family member" under the statute. Accordingly, after a defendant has lived with the minor victim continuously for six months, he commits criminal sexual assault and aggravated criminal sexual abuse through any act of sexual penetration or sexual conduct, respectively. See 720 ILCS 5/11-1.20(a)(3), 11-1.60(b) (West 2020).

¶ 55 Here, it is undisputed that defendant resided continuously in the home with J.D. for at least 15 months, from March 2020 at the latest to June 2021. Even if we use defendant's timeframe and his own testimony that he moved into the home in March 2020, he became a statutory family member by October 2020. After that October, he continued to reside continuously in the home for another eight months. J.D. explicitly testified that the sexual conduct with defendant, including oral, digital, and anal penetration, continued the entire time

defendant resided in the home. J.D. was 14 and 15 years old during this time period. M.D.'s testimony also corroborated J.D.'s account of the ongoing sexual contact with defendant. No contrary evidence was presented to dispute this ongoing course of sexual contact between defendant and J.D.

¶ 56 Despite this unrebutted testimony, defendant asserts that J.D.'s account is "too vague" to establish proof beyond a reasonable doubt. However, defendant fails to cite any authority to support his assertion that the State was required to present evidence of the specific dates on which the sexual contact occurred. Illinois Supreme Court Rule 341(h)(7) (eff. Oct. 1, 2020) requires an appellant to adequately develop his argument with citation of relevant authority. It is well settled that conclusory contentions unsupported by argument violate Rule 341(h)(7) and are deemed forfeited. *People v. Fretch*, 2017 IL App (2d) 151107, ¶ 132; see *People v. Rosalez*, 2021 IL App (2d) 200086, ¶ 170. The reviewing court is not a repository into which an appellant may foist the burden of argument and research. *People v. Edwards*, 2012 IL App (1st) 091651, ¶ 29. Defendant fails to offer any relevant authority holding that the State is required to establish the dates of the sexual contact, including cases involving a continuous course of conduct. Thus, this argument is forfeited.

¶ 57 Forfeiture aside, in cases involving child sexual abuse, the precise date of the offense "is not an essential factor" and the State is not required to prove it. *People v. Guerrero*, 356 Ill. App. 3d 22, 27 (2005). "The inability to remember exact dates and times merely affects the weight to be given the testimony and, taken alone, does not create reasonable doubt." *People v. Foley*, 206 Ill. App. 3d 709, 715 (1990); see *People v. Letcher*, 386 Ill. App. 3d 327, 333 (2008) (noting that a victim of repeated abuse by an individual inside the home is typically "unable to furnish many specific details, dates or distinguishing characteristics as to individual acts or assaults" (internal

quotation marks omitted)).

¶ 58 Moreover, when the State has proceeded under a continuous course of conduct theory, the offense is not complete until the last act has concluded. *People v. McDade*, 345 Ill. App. 3d 912, 915 (2004). In that case, the defendant was convicted of one count of predatory criminal sexual assault based on numerous assaults that occurred between December 1997 and June 1999. *Id.* at 913. The issue on appeal was whether the defendant was eligible for the harsher restrictions on sentencing credit that became effective in June 1998. *Id.* at 914. This court determined that he was eligible, reasoning that the defendant was charged under a theory that he engaged in a continuous course of conduct that did not end until 1999, after the effective date of the relevant statute. *Id.* at 915-16.

¶ 59 Here, the State did not need to establish the dates on which the sexual contact occurred. J.D. detailed multiple types of sexual penetration, *i.e.*, digital, oral, and anal, and defendant was only charged with one count of criminal sexual assault for each type of penetration. Similarly, defendant was only charged with one count of aggravated criminal sexual abuse. J.D.'s testimony established that these sexual acts occurred many times while defendant resided in the home. Under the continuous course of conduct, as charged, the offenses were not complete until defendant left the home in June 2021. See *id.*

¶ 60 Additionally, Illinois courts have rejected a similar argument requiring proof of an exact date in cases involving general jury verdicts. In each of these cases, the defendant argued on appeal that he was denied his constitutional right to a unanimous jury verdict because the verdict form did not require the jurors to agree on which specific instance of a sexual act constituted the guilty verdict. See *People v. Reynolds*, 294 Ill. App. 3d 58, 70-71 (1997); *People v. Alvarado-Morales*, 2025 IL App (1st) 240134-U, ¶¶ 61, 68; *People v. Dean*, 2026 IL App (5th) 240201-U.

While the basis of these cases was juror unanimity, the crux of the claims related to an ongoing course of conduct of criminal sexual assault. For this reason, we find the reviewing courts' analyses relevant to our discussion.

¶ 61 In *Reynolds*, the defendant was charged with multiple counts of criminal sexual assault, aggravated sexual abuse, and child pornography arising from his sexual relationship with a 16-year-old victim for over a year. *Reynolds*, 294 Ill. App. 3d at 60-61. The criminal sexual assault charges alleged that the defendant " 'held a position of trust, authority or supervision in relation to the victim.' " *Id.* at 64 (quoting 720 ILCS 5/12-13(a)(4) (West 1994)). The jury received general verdict forms for each offense and returned a guilty verdict for each of the charges. *Id.* at 63.

¶ 62 The defendant argued on appeal that the jury should have been given separate verdict forms for each type of sexual penetration and for each identifiable instance of sexual contact to ensure a unanimous jury verdict for the specific conduct. *Id.* at 70. The *Reynolds* court found that the jury was not required to agree on the specific type of penetration or the specific incident of sexual interaction because the State proceeded on a theory of a continuous course of criminal conduct. The court concluded that the general verdict forms were proper because the evidence "established an ongoing sexual relationship" between the defendant and the victim. *Id.* at 71.

¶ 63 The reviewing court in *Alvarado-Morales* similarly rejected a defendant's argument that his right to a unanimous jury verdict had been violated. *Alvarado-Morales*, 2025 IL App (1st) 240134-U, ¶ 61. There, the defendant was convicted of the predatory criminal sexual assault of his stepdaughter over the course of 3 years when she was under the age of 13. *Id.* ¶¶ 2-4. The defendant argued that his constitutional right to a unanimous verdict had been violated because the jury instructions and verdict forms did not require the jurors to agree on a specific instance of

sexual contact for each of his convictions. *Id.* ¶ 55. Relying on *Reynolds*, the reviewing court observed that no separate verdict forms were required when the trial testimony established a continuous course of conduct. *Id.* ¶ 61. The *Alvarado-Morales* court held that because the defendant was not charged with multiple counts of each type of sexual contact, the jury was not required "to pinpoint which specific instance" of contact supported their guilty verdicts. *Id.* ¶ 68.

¶ 64 Recently, the Fifth District in *Dean* likewise considered this issue and reached the same conclusion. *Dean*, 2026 IL App (5th) 240201-U, ¶ 94. In that case, the defendant was convicted of the predatory criminal sexual assault of his autistic daughter. *Id.* ¶¶ 2-6. He argued on appeal that his convictions should have been vacated because the jury instructions did not require the jury to unanimously agree on a specific occurrence of the sexual act underlying each of his convictions. *Id.* ¶ 85. The reviewing court agreed with that court's analysis in *Alvarado-Morales*. *Id.* ¶ 86. The *Dean* court concluded that "the signed verdict forms show that the jurors unanimously found defendant guilty of predatory criminal sexual assault" based on separate counts for oral, vaginal, and anal contact between the defendant and the victim. *Id.* ¶ 94. The court also observed that because the defendant was not charged with multiple counts on any specific type of contact, the jury was not required to determine a precise instance of that contact. *Id.*

¶ 65 While the present case does not involve an issue related to jury instructions, we find the reasoning in these cases to be instructive to our analysis. The State pursued a theory that defendant committed numerous sexual assault offenses against J.D. based on a continuous course of conduct. The indictment for each count set forth a time frame of "on or about January 01, 2020 and continuing on through July 08, 2021." The criminal sexual assault counts varied by alleging a different type of sexual penetration over the same continuous time period, *i.e.*, oral,

anal, and digital penetration. Similarly, the aggravated criminal sexual abuse count alleged contact between defendant's hand and J.D.'s breast for sexual arousal or gratification over the same time frame. As in the above cases, the State did not charge defendant with multiple counts for each type of sexual contact, but rather each count set forth a continuous course of conduct for each type of sexual penetration. Since the State presented evidence of an ongoing course of conduct, it was not required to "pinpoint" which specific acts occurred after defendant became a qualifying family member.

¶ 66 After viewing the evidence in the light most favorable to the prosecution, we conclude a rational trier of fact could have found that the State proved defendant guilty beyond a reasonable doubt of criminal sexual assault by a family member and aggravated criminal sexual abuse by a family member. As noted above, the credibility of the witnesses and the weight to be given their testimony rests solely within the province of the trier of fact. *People v. Jones*, 2023 IL 127810, ¶ 36. Further, the testimony of a single witness is sufficient to convict if the testimony is positive and credible. *People v. Gray*, 2017 IL 120958, ¶ 36. Here, J.D.'s testimony established numerous ongoing sexual offenses committed against her throughout the entire time defendant resided in her home. M.D. provided further testimony corroborating these assaults and ongoing sexual abuse by defendant.

¶ 67 In addition to the live testimony, the State presented the documentary evidence of this sexual contact between defendant and J.D. in the videos and photographs recovered from the cameras placed in the basement of the home, as well as defendant's cell phone. In her testimony, J.D. thoroughly detailed what each exhibit depicted. She described videos and images in which defendant placed his penis in J.D.'s mouth, inserted his fingers into J.D.'s vagina, and had his penis make contact with J.D.'s anus. She further described instances in which she was unclothed

and masturbating that defendant photographed and recorded. She identified an image in which defendant was seen pouring oil onto her vagina. These images and videos were dated between June 2, 2021, and June 13, 2021, more than a year after defendant moved into the home. This evidence clearly depicted all of the charged sexual assaults and corroborated J.D.'s testimony that the sexual misconduct continued the entire time defendant resided in the home.

¶ 68 Defendant attempts to avoid the evidence of the date stamps by arguing for the first time in his reply brief that these dates were inadmissible hearsay and lacked a proper foundation. We find, however, that this claim is specious for multiple reasons. To begin, this claim violates Rule 341(h)(7). See Ill. S. Ct. R. 341(h)(7) (eff. Oct. 1, 2020) ("Points not argued are forfeited and shall not be raised in the reply brief, in oral argument, or on petition for rehearing."). Thus, defendant has forfeited this argument on appeal.

¶ 69 Even if this claim was not forfeited, defendant did not object at trial to the admission of these images and videos on any grounds, nor did he raise this claim in his posttrial motion. A defendant must both specifically object at trial and raise that claim again in a posttrial motion to preserve any alleged error for review. *People v. Sebby*, 2017 IL 119445, ¶ 48. Defendant forfeited his objection to the dates for this reason as well.

¶ 70 Further, "[i]t is well established that when hearsay evidence is admitted without an objection, it is to be considered and given its natural and probative effect." *People v. Banks*, 378 Ill. App. 3d 856, 861 (2007) (citing *People v. Akis*, 63 Ill.2d 296, 299 (1976)). Even if the listed dates were hearsay, which we do not find, the trial court properly gave this evidence its proper probative effect. The court did not err in considering the dates to establish the sexual assaults were committed after defendant became a statutory "family member."

¶ 71 Additionally, forfeiture is "particularly appropriate when a defendant argues that the State

failed to lay the proper technical foundation for the admission of evidence, and a defendant's lack of a timely and specific objection deprives the State of the opportunity to correct any deficiency in the foundational proof at the trial level." *Woods*, 214 Ill. 2d at 470. Here, defendant cannot now assert that the dates on the documentary evidence lacked a proper foundation when his failure to object denied the State the chance to cure any issues. We reject his belated argument challenging this evidence.

¶ 72 After our thorough review of the trial record, we find the evidence of defendant's guilt was overwhelming. Even though the State is not required to pinpoint the exact date of the sexual assaults, there is overwhelming evidence that defendant was sexually assaulting J.D. as late as June 2021. Significantly, these sexual assaults occurred more than eight months after defendant was considered a "family member" under the statute. The trial court's findings were not so unreasonable, improbable, or unsatisfactory as to justify a reasonable doubt of the defendant's guilt. See *Jones*, 2023 IL 127810, ¶ 36. Given this substantial evidence, the trial court reasonably found defendant guilty of criminal sexual assault by a family member and aggravated criminal sexual abuse by a family member. We affirm these convictions.

¶ 73 Defendant next contends that the trial court failed to properly admonish him prior to waiving his right to counsel in violation of Illinois Supreme Court Rule 401 (eff. Jul. 1, 1984). Specifically, he asserts that the court failed to admonish him about the nature of the charges against him and misinformed him that the sentence for aggravated criminal sexual abuse would be served concurrently rather than consecutive to his other sentences. The State responds that defendant forfeited this claim because he failed to allege a violation of Rule 401 or any error in the court's admonishments in his motion for a new trial.

¶ 74 As previously observed, to preserve an error for appeal, a defendant must object to the

error at trial and raise the error in a posttrial motion. *Sebby*, 2017 IL 119445, ¶ 48. Defendant argues that he preserved this claim when he made an objection before the trial court. During the sentencing hearing, the court explained that the sentences for the child pornography and criminal sexual assault convictions were required to be served consecutively. The court observed that the sentence for the aggravated criminal sexual abuse conviction did not trigger a consecutive sentence but was required to be served consecutively because the other offenses triggered consecutive sentences. When the court asked defendant if he agreed with the court's reading of the law, defendant stated that he did not agree. Defendant then stated that prior to trial the State had given him a "contract" about sentencing guidelines and the State was changing these guidelines. The court explained that there was no contract from the State, but rather the State had offered a plea agreement, which defendant rejected. The court then asked defendant if he had an objection to the sentencing range or the consecutive nature of the sentences. No objection was made regarding the potential sentences. Rather, defendant asked about credit for time served and requested standby counsel, which the court denied. Defendant also failed to raise this claim in a posttrial motion. Thus, this claim has been forfeited.

¶ 75 Despite defendant's failure to preserve this issue, he asks this court to review his claim under the plain error rule. Rule 615(a) states that "[a]ny error, defect, irregularity, or variance which does not affect substantial rights shall be disregarded. Plain errors or defects affecting substantial rights may be noticed although they were not brought to the attention of the trial court." Ill. S. Ct. R. 615(a) (eff. Jan. 1, 1967). The plain error rule

> "allows a reviewing court to consider unpreserved error when (1) a clear or obvious error occurred and the evidence is so closely balanced that the error alone threatened to tip the scales of justice against the defendant, regardless of the

> seriousness of the error, or (2) a clear or obvious error occurred and that error is so serious that it affected the fairness of the defendant's trial and challenged the integrity of the judicial process, regardless of the closeness of the evidence." *People v. Piatkowski*, 225 Ill. 2d 551, 565 (2007) (citing *People v. Herron*, 215 Ill. 2d 167, 186-87 (2005)).

However, the plain error rule "is not 'a general saving clause preserving for review all errors affecting substantial rights whether or not they have been brought to the attention of the trial court.' " *Herron*, 215 Ill. 2d at 177 (quoting *People v. Precup*, 73 Ill. 2d 7, 16 (1978)). Rather, "Illinois's plain error rule is a narrow exception to forfeiture principles." *People v. Jackson*, 2022 IL 127256, ¶ 18.

¶ 76 Defendant carries the burden of persuasion under both prongs of the plain error rule. *People v. Lewis*, 234 Ill. 2d 32, 43 (2009). Defendant contends that this claim is reviewable under both prongs of the plain error doctrine. However, our supreme court has previously held that a Rule 401 violation "is not akin to structural error, such a violation, if not raised in a postplea or posttrial motion, is not cognizable as second-prong plain error but only as first-prong plain error." *People v. Ratliff*, 2024 IL 129356, ¶ 46; see *People v. Williams*, 2025 IL App (1st) 230584-B, ¶¶ 37-41 (holding that this court is bound by the pronouncement in *Ratliff* that Rule 401 errors cannot be raised under the second prong of plain error). Accordingly, defendant can only assert plain error under the first prong.

¶ 77 Turning to the first prong, defendant argues that the evidence was closely balanced based on the "family member" element of his criminal sexual assault and aggravated criminal sexual abuse charges. However, we have already rejected this claim. As the trial court observed, the evidence of defendant's guilt was "extremely overwhelming." In addition to the testimony from

J.D. and M.D., evidence of sexual contact was presented in both video and photographic form from defendant's own cameras in the residence. Since any error in the Rule 401 admonishments would not have tipped the scales of justice against defendant, he is not entitled to relief under the plain error rule, and we need not address the merits of his claim.

¶ 78 Based on the foregoing reasons, we affirm defendant's convictions and sentence.

¶ 79 Affirmed.

***People v. Spivey*, 2026 IL App (1st) 240529**

Decision Under Review:	Appeal from the Circuit Court of Cook County, No. 21-CR-10369; the Hon. Steven Jay Rosenblum, Judge, presiding.
Attorneys for Appellant:	James E. Chadd, Douglas R. Hoff, and Timothy Liam Kelly, of State Appellate Defender's Office, of Chicago, for appellant.
Attorneys for Appellee:	Eileen O'Neill Burke, State's Attorney, of Chicago (John E. Nowak, Brian K. Hodes, and Lee Farbman, Assistant State's Attorneys, of counsel), for the People.