2022 IL App (4th) 220078-U

NO. 4-22-0078

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED
December 14, 2022
Carla Bender
4th District Appellate
Court, IL

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
Plaintiff-Appellee,	)	Circuit Court of
v.	)	Fulton County
NATHAN WOODRING,	)	No. 19CF185
Defendant-Appellant.	)	
	)	Honorable
	)	William E. Poncin,
	)	Judge Presiding.

JUSTICE HARRIS delivered the judgment of the court.
Justices Zenoff and Doherty concurred in the judgment.

ORDER

¶ 1 *Held*: (1) The trial court did not err in denying defendant's pretrial motions for a change of venue or in failing to reconsider its ruling and *sua sponte* grant a change of venue at the close of jury selection.

(2) Defendant failed to establish that his defense counsel provided ineffective assistance either during *voir dire* or by failing to renew defendant's motion for a change of venue at the close of jury selection.

¶ 2 Following a jury trial in October 2021, defendant, Nathan Woodring, was found guilty but mentally ill of the first degree murder of Fulton County Sheriff's Deputy Troy Chisum (720 ILCS 5/9-1(a)(2) (West 2018)), and the trial court sentenced him to natural life in prison. He appeals, arguing (1) the court erred by denying his motions for a change of venue and (2) his trial counsel provided ineffective assistance by failing to "conduct extensive *voir dire*," exhaust all of his available peremptory challenges during *voir dire,* and renew his motion for a change of venue

at the end of jury selection. We affirm.

¶ 3 I. BACKGROUND

¶ 4 On the afternoon of June 25, 2019, the Fulton County Sheriff's Department received a report about an assault that occurred at defendant's residence in Avon, Illinois. Four deputies responded to the scene, including Deputy Chisum. While at the scene, Chisum approached defendant's residence and two gunshots were fired from the residence in his direction. Chisum was struck by the gunfire and killed. Following the shooting, defendant barricaded himself inside his home and a lengthy standoff that involved multiple law enforcement agencies ensued. The morning after the shooting, defendant, who was the only person inside the residence, surrendered himself to law enforcement.

¶ 5 In July 2019, the State charged defendant with four counts of first degree murder (*id.*) in connection with Chisum's death. Ultimately, counts I and II were dismissed on the State's motion and the matter proceeded on only counts III and IV. In count III, the State alleged defendant shot Chisum in the back with a firearm when he knew or should have known that Chisum was a peace officer. In count IV, it alleged that defendant personally discharged a firearm which proximately caused Chisum's death.

¶ 6 In February 2020, defendant filed a "Motion for Change of Place of Trial" pursuant to section 114-6 of the Code of Criminal Procedure of 1963 (Code of Criminal Procedure) (725 ILCS 5/114-6 (West 2018)). He noted that section 114-6 permits the transfer of a criminal case to a different county when "there exists in the county where the prosecution is pending such prejudice against the defendant that he cannot receive a fair trial." Defendant maintained that the inhabitants of Fulton County, where his murder charges were pending, were prejudiced against him such that he could not receive a fair and impartial trial in that county and an impartial jury could not be

impaneled.

¶ 7 In support of his claim, defendant presented an affidavit. He averred that following the alleged incident on June 25, 2019, there were "numerous print news articles, televised news segments, social media posts, and many other media sources" that covered his case. He maintained that media coverage had "occurred since June 25, 2019[,] to present," and that it would "continue throughout the life of th[e] case up and through jury selection."

¶ 8 In the affidavit, defendant referenced internet articles from the Peoria Journal Star, the Canton Daily Ledger, and the McDonough County Voice Newspaper. According to defendant, the articles covered the topics of his arrest, the setting of his bond, and his not guilty plea. He pointed out that, in some instances, the articles received hundreds of online comments, and he referenced several specific comments that spoke negatively about him. Defendant also referenced three television news channels—WMBD, WEEK, and WHOI—that he maintained aired segments covering the case. Defendant asserted those channels also had social media accounts and that they posted online videos and articles about the incident, which discussed the charges filed against him and his not guilty plea. Defendant averred that those news channel posts also received many online comments. Further, he asserted that a Google search of his name yielded more than 315,000 results.

¶ 9 Defendant attached exhibits to his motion that included printouts of the online comment sections that he alleged were made in response to the various internet news articles and posts referenced in the affidavit. He also attached a printout of the Google search results for his name.

¶ 10 In July 2020, the trial court conducted a hearing and denied defendant's motion. The same month, it entered a written order setting forth the reasons for its decision. Initially, the court noted that the cases cited by the parties all involved "claims that news media and other media

reporting was prejudicial to the community so that a fair and impartial jury could not be selected." The court stated, however, that no newspaper articles, videos, or transcripts of broadcasts had been submitted to it by defendant. Nor had defendant alleged that any news media accounts were "inflammatory," that they disclosed any inadmissible matters, that they mentioned other crimes, or discussed his prior criminal history—matters which had been at issue in the cited case authority.

¶ 11 The trial court also stated that as support for defendant's motion, it had received "social media comments posted by persons presumably in response to news sources." It determined, however, that all of the comments, news articles, or media posts referenced in defendant's exhibits were written between June 26, 2019, and July 18, 2019, *i.e.*, "during a three-week time period between when *** [d]efendant allegedly committed the offense charged *** and when he was arraigned on the charge." The court stated it was "unable to determine where the individuals posting the comments contained in the exhibits resided." Additionally, it found no support for defendant's claim that news coverage would persist throughout the life of his case, noting that the evidence of media coverage defendant submitted with his motion "terminated on July 18, 2019."

¶ 12 In December 2020, the trial court granted a motion by defendant to appoint an expert "to investigate possible jury bias" in connection with his case. In July 2021, defendant filed a second "Motion For Change Of Place Of Trial." Defendant raised the same allegations and presented the same exhibits as he did in his previous motion. However, with his second motion, he additionally alleged that he "obtained the services of Sound Jury Consulting, who began and completed a survey of the community to determine attitudes as they relate[d] to [his] case." He asserted the survey found that there had been widespread exposure to media coverage and discussion about his case among Fulton County residents, resulting in " an overwhelming

prejudicial effect that " would make it difficult for him to receive a fair trial in that county.

¶ 13 To his motion, defendant attached a "Community Attitude Survey Report" prepared by Sound Jury Consulting. According to the report, the community attitude survey that was completed in defendant's case was designed, managed, and analyzed by Thomas M. O'Toole, "President and Consultant" for Sound Jury Consulting. The report detailed O'Toole's education, work history, training, and experience and stated that he had "previously been admitted as a change of venue expert in cases in both state and federal court, including in the state of Illinois."

¶ 14 The report showed that the survey at issue was conducted in May and June of 2021. Participants in the survey had been "recruited by phone," and phone numbers were randomly selected. The report identified a total of 401 participants, with 201 participants residing in Fulton County and the remaining 200 participants residing in Marion County, Illinois, which had been "chosen as a point of comparison due to its population similarities *** to Fulton County." The report also identified a "Sampling Completion Rate" of 67%.

¶ 15 In response to survey questions, 90% of Fulton County participants reported that they were aware of the charges against defendant, compared to only 13.5% of Marion County participants. Fulton County participants also reported having the following levels of familiarity with the case: (1) 24% were "Very familiar," (2) 41% were "Somewhat familiar," (3) 23% were "Not very familiar," and (4) 12% were "Not at all familiar." By comparison, the majority of Marion County participants (83%) reported being "Not at all familiar" with the case. Additionally, 49% of Fulton County participants had read or watched media coverage of the case, compared to only 8% of Marion County residents. When asked how closely they followed the media coverage, most Fulton County participants indicated "Very Little" (35%) or "Not at all" (34%). Further, 59% of Fulton County residents had not seen anything on television about the case, 79% had not heard

about the case on the radio, and 61% had not read about the case on the internet.

¶ 16 The report also showed that 50% of Fulton County participants reported that they had talked with friends, family, or other community members about the case. When asked whether they had formed an opinion about defendant's guilt or innocence, 43% of Fulton County participants responded "Yes," while 57% responded "No." Of those who had formed an opinion, 73% asserted that their opinion was "Very Strong." Finally, based upon what they had read or heard about the case, 30% of the Fulton County participants thought defendant was "Definitely Guilty," 39% thought defendant was "Probably Guilty," 2% though defendant was "Probably Not Guilty," and 29% were "Uncertain/Don't Know."

¶ 17 Based upon the survey results, O'Toole opined that defendant could not receive a fair trial in Fulton County. He found that "the prejudicial effects of both pretrial publicity and the relatively small population of the trial venue [were] clearly reflected in the data collected." In particular, he noted that 49% of all Fulton County respondents indicated they had been exposed to media coverage and that a total of 65% stated they were somewhat or very familiar with defendant's case. Also, 50% of Fulton County participants indicated they had talked about the case with others. O'Toole found it significant that 43% of Fulton County respondents asserted they had formed an opinion about the case, and 30% believed defendant was "Definitely Guilty." He believed that there had been "widespread exposure to media coverage about the case," "widespread discussion" among community members, and "an overwhelming prejudicial effect that" would make it difficult for defendant to receive a fair trial.

¶ 18 Additionally, O'Toole did not believe that normal trial procedures could overcome the degree of prejudice and media exposure reflected by the survey. He asserted that jurors often fail to recognize their own prejudices or drastically overestimate their ability to be fair and that

"questioning potential jurors about their exposure to pretrial publicity can actually increase the prejudicial effects." According to O'Toole, a change of trial venue was "the most effective tactic for eliminating the prejudicial effects of pretrial publicity."

¶ 19 Following a hearing in August 2021, the trial court, again, denied defendant's request to change the location of his trial. It noted that O'Toole's survey report did not state what percentage of Fulton County residents participated in the survey. However, it found that the number of such participants identified, 201, represented only "a relatively small percentage of" the county's total population. Relying on Illinois case law, the court also found that where pretrial publicity is at issue, the examination of prospective jurors during *voir dire* is a valuable tool for "ascertaining partiality" or "determining local attitudes towards a defendant." Thus, although the court stated it was unable, at that time, to find "there [was] a reasonable apprehension that [defendant could not] receive a fair and impartial trial in Fulton County," it would revisit the issue once *voir dire* commenced.

¶ 20 In October 2021, defendant's jury trial was conducted. Jury selection occurred over a span of three days, with potential jurors being questioned individually and outside the presence of other venire members. The parties were each given seven peremptory challenges, plus one peremptory challenge for each of the four alternate jurors to be chosen. The trial court examined all potential jurors in substantially the same manner. Relevant to the issues on appeal, the court asked each potential juror to state whether he or she had previously heard or read about the case. For potential jurors who answered yes to that question, the court then asked (1) when the juror had heard or read about the case, (2) whether the juror had a specific or general recollection of the case, and (3) whether anything the juror had heard or read caused the juror to form an opinion as to what the verdict should be. The court also asked jurors whether they could set aside any opinion they

held about the case and make a decision based solely on the evidence presented in the courtroom. When questioning jurors about their prior knowledge of defendant's case, the court asked jurors not to disclose "any details" about what they had heard or read.

¶ 21 On the first day of *voir dire*, 21 potential jurors were questioned, defendant exercised two peremptory challenges, and 4 jurors were selected. On each occasion that defendant challenged a potential juror for cause, the trial court granted the challenge and excused the juror. Of the four jurors selected, one had not read or heard any information about the case. The remaining three jurors all reported that they had (1) read or heard about the case around the time that it first occurred in 2019; (2) only a general, rather than specific, recollection of the case; and (3) not formed an opinion about what the verdict in the case should be. One juror reported that she "didn't know that much information" about the case. She asserted she read information on Facebook "[w]hen it happened," but that she generally did not believe what she read on that platform. A second juror similarly reported hearing about the case on the news and reading about it on Facebook "[w]hen it first happened." However, she also reported that she was not inclined to believe what she read on Facebook. She further asserted a willingness to decide the case based solely on the evidence presented.

¶ 22 On the second day of *voir dire*, a total of 24 jurors were questioned. Four peremptory challenges were exercised—two by defendant and two by the State—and six venire members were selected to serve on defendant's jury. The record shows the trial court granted each challenge for cause made by defendant, with the exception of one, which resulted in defendant exercising his fourth peremptory challenge and the juror being excused.

¶ 23 Of the six jurors selected, all stated that they had heard or read about the case around the time that it first happened. Five jurors explicitly stated they only had a general recollection of

the case, while one reported hearing "just a little bit" about the case from others. One juror reported that the case had been "out of [her] mind" until that day. Two other jurors reported not remembering what they previously heard or read about the case, with one stating he did not "remember any details or anything like that." Additionally, all but one juror reported having no opinion about what the verdict in the case should be. The juror who indicated that she did have an opinion asserted she had not followed the case and that she could set aside her opinion and base her decision on only what she heard in the courtroom.

¶ 24 Finally, on the third day of *voir dire*, 13 potential jurors were questioned. Neither party exercised any peremptory challenges and, ultimately, two jurors and four alternate jurors were selected for service. Again, the trial court granted each challenge for cause that defendant made. Of the two venire members selected to serve on defendant's jury, one reported that she had not read or heard about the case and had no opinion regarding what the verdict should be. The second reported hearing about the case "[a]t the time it was going on" and asserted she had only a general recollection about what had occurred. She maintained that if selected as a juror, she would base her decision on only the evidence presented in the courtroom and not what she had previously heard, stating "what we hear may not be what actually happened" and "you can't go by what you hear." Of the four alternate jurors selected, one had not previously heard about the case. The remaining three alternates all recalled hearing about the incident around the time that it first happened. None of the alternate jurors had formed an opinion about what the verdict in the case should be.

¶ 25 Defendant's jury trial proceeded, and the jury found him guilty but mentally ill of first degree murder as alleged in counts III and IV. In November 2021, defendant filed a motion for a new trial. Relevant to this appeal, he argued the trial court erred by denying his two motions

which sought a change of venue.

¶ 26 In January 2022, the trial court conducted defendant's sentencing hearing. At the outset of the hearing, it addressed and denied defendant's motion for a new trial. Regarding the change-of-venue issue, the court described the manner in which *voir dire* was conducted and the procedures by which defendant's jury was selected. The court noted that 58 potential jurors had been questioned in total, 16 individuals had been selected out of that group, and "excuses for cause were granted very liberally." Based upon what occurred during jury selection, the court concluded that it properly denied both of defendant's motions for a change of venue.

¶ 27 The trial court then proceeded with defendant's sentencing. Ultimately, the court sentenced defendant to natural life in prison on count III.

¶ 28 This appeal followed.

¶ 29 II. ANALYSIS

¶ 30 A. Denial of Motions for a Change of Venue

¶ 31 On appeal, defendant first argues the trial court abused its discretion by refusing to grant his request for a change of venue. Defendant describes his case as a "cause *celebre*," *i.e.*, "[a] trial or decision in which the subject matter or the characters are unusual or sensational." See Black's Law Dictionary (11th ed. 2019). Specifically, he asserts that his case garnered such "extensive pretrial publicity and public outrage" that Fulton County could not produce a fair and impartial jury. Defendant points to the Community Attitude Survey Report he submitted and O'Toole's opinion that defendant could not receive a fair trial in Fulton County. He maintains that jury selection in his case further established the community bias against him and, as a result, the court abused its discretion by failing to reconsider its denial of his motions for a change of venue and *sua sponte* grant his request at the close of jury selection.

¶ 32 Defendant also suggests the trial court abused its discretion regarding the manner in which it questioned jurors during *voir dire*. He argues the court improperly "presumed the impartiality of the impaneled jurors while explicitly asking them not to elaborate on the details of their pretrial exposure to the case." According to defendant, the court should have conducted more detailed examinations of the potential jurors.

¶ 33 A defendant is constitutionally entitled to an impartial jury, *i.e.*, one capable and willing to decide a case based solely upon the evidence adduced at trial. *People v. Kirchner*, 194 Ill. 2d 502, 528, 743 N.E.2d 94, 108 (2000). Section 114-6(a) of the Code of Criminal Procedure provides that a defendant may move for a change of venue "on the ground that there exists in the county in which the charge is pending such prejudice against him on the part of the inhabitants that he cannot receive a fair trial in such county." 725 ILCS 5/114-6(a) (West 2018). "A defendant is entitled to a change of venue if it can be shown that there are reasonable grounds to believe that the prejudice alleged actually exists and that by reason of the prejudice there is reasonable apprehension that the accused cannot receive a fair *** trial." (Internal quotation marks omitted.) *People v. Sutherland*, 155 Ill. 2d 1, 14, 610 N.E.2d 1, 6 (1992).

¶ 34 "Exposure to publicity about a case is not enough to demonstrate prejudice because jurors need not be totally ignorant of the facts and issues involved in a case." *Kirchner*, 194 Ill. 2d at 529. As expressed by our supreme court, " '[i]t is unreasonable to expect that individuals of average intelligence and at least average interest in their community would not have heard of any of the cases which they are called upon to judge in court.' " *Id.* (quoting *People v. Taylor*, 101 Ill. 2d 377, 386, 462 N.E.2d 478, 482 (1984)). Instead, what is most critical is that a juror "be capable of disregarding his or her impressions or opinions and decide the case based solely upon the evidence presented in court." *Id.*

> "To hold that the mere existence of any preconceived notion as to the guilt or innocence of an accused, without more, is sufficient to rebut the presumption of a prospective juror's impartiality would be to establish an impossible standard. It is sufficient if the juror can lay aside his impression or opinion and render a verdict based on the evidence presented in court." *Irvin v. Dowd,* 366 U.S. 717, 723 (1961).

¶ 35 Whether to grant a change of venue is a decision that is within the discretion of the trial court, and its decision is reviewed for an abuse of discretion. *Sutherland*, 155 Ill. 2d at 14. "The manner, extent, and scope of *voir dire* examination" similarly rests within the trial court's discretion. *People v. Encalado,* 2018 IL 122059, ¶ 25, 104 N.E.3d 1231. Additionally, "[i]n assessing a claim of partiality due to pretrial publicity, a reviewing court has an obligation to evaluate the *voir dire* testimony of the jurors [citations], and to review the entire record to determine independently whether the defendant received a fair trial." *People v. Sanchez*, 115 Ill. 2d 238, 263, 503 N.E.2d 277, 285 (1986). "[T]he best evidence of whether a fair and impartial jury can be selected will be the responses of the prospective jurors during the jury selection process." *People v. Little*, 335 Ill. App. 3d 1046, 1054, 782 N.E.2d 957, 964 (2003).

¶ 36 In this case, the record supports a finding that defendant's jury was fair and impartial. Initially, the record shows that 2 of the 12 individuals selected to serve on defendant's jury had no prior knowledge about the case. The remaining 10 jurors reported that they had only read or heard about the case around the time that the alleged offense occurred in 2019, more than two years prior to when jury selection began. The record reflects those 10 jurors only had general, not specific, recollections about the case. Additionally, all 12 jurors indicated through their responses during *voir dire* that they could be impartial. Notably, defendant raised no challenge or objection to any of the individuals selected for service on his jury, nor did he use all of his available

peremptory challenges during jury selection. While a defendant's failure to use all of his peremptory challenges is not conclusive, it is a factor that "weighs against a finding of jury bias." *Kirchner*, 194 Ill. 2d at 531.

¶ 37 The record in this case also does not support defendant's suggestion that pretrial publicity in his case was extraordinarily pervasive or intense such that prejudice should be presumed. See *People v. Coleman*, 168 Ill. 2d 509, 548, 660 N.E.2d 919, 938 (1995) (noting that "inflammatory pretrial publicity" could rise to the level of creating a presumption of prejudice in a community such that jurors' claims of impartiality should not be believed but finding no evidence that such existed in the community where the defendant's trial was conducted). In connection with his motions to change the location of the trial, defendant referenced news stories and internet postings about his case. However, everything he referenced was disseminated close in time to the alleged offense. Most venire members who reported having previously heard or read about the case asserted that their prior knowledge was obtained during that same initial time frame. Defendant points to the online commentary about his case as evidence of widespread community outrage. However, again, those comments were posted around the time that the alleged offense occurred and, as the trial court pointed out, the materials defendant submitted did not reflect that the comments were necessarily made by Fulton County residents.

¶ 38 Additionally, as argued by the State, the cases defendant cites in support of his claim are significantly distinguishable from the circumstances of his case. In *Irvin*, 366 U.S. at 725-26, the record showed that leading up to and during the defendant's trial, there had been extensive and continuous news coverage that was adverse to the defendant. News stories detailed the defendant's background; discussed his prior criminal history; announced his confession to the murders with which he was charged, as well as other murders; and reported on the difficulties in

selecting an unbiased jury. *Id.* at 727. During jury selection, the trial court excused more than half of the 430-person panel of potential jurors because they had "fixed opinions" as to the defendant's guilt, and the defendant exhausted all of his peremptory challenges. *Id.* Further, 8 out of the 12 individuals selected as jurors held opinions that the defendant was guilty, with "some going so far as to say that it would take evidence to overcome their belief." *Id.* at 727-28. As set forth above, the circumstances of this case fall far short of what occurred in *Irvin*, both with respect to the intensity of the pretrial publicity and the indications of juror bias surfacing during *voir dire*.

¶ 39 Defendant further cites to cases that involved jurors' exposure to news reports with inadmissible or highly prejudicial information. See *Taylor*, 101 Ill. 2d at 395 (noting an "unprecedented volume of publicity combined with the exposure of impaneled jurors to inadmissible, highly prejudicial information pertaining to the release of the codefendant because of his performance on a lie detector test"); *United States v. Williams*, 568 F.2d 464, 471 (5th Cir. 1978) (holding "that the exposure of *** two jurors to information regarding defendants' convictions at [a] first trial resulted in an unfair second trial"). In this case, however, defendant did not provide the substance of any news reports about his case, and he does not allege that the jurors in this case were exposed to any inadmissible or particularly prejudicial information.

¶ 40 Nor is the present case similar to *United States v. Davis*, 583 F.2d 190 (5th Cir. 1978). In *Davis*, potential jurors were subjected to "extensive publicity." *Id.* at 196. The district court admonished them "to make their determination strictly from the evidence presented in court" and "asked that any panel member raise his hand if he felt the publicity impaired his ability to render an impartial decision." *Id.* On review, such questioning was deemed "cursory" and "insufficient" because the court relied on the jurors' determinations as to their own impartiality without "reach[ing] its own independent determination whether the impartiality of any juror had

been destroyed." *Id.* at 196-98.

¶ 41 In this case, the trial court's questioning of jurors was substantially more thorough than what occurred in *Davis*. The court determined each potential juror's exposure to pretrial publicity about the case, when that exposure occurred, and its effect on each individual juror.

¶ 42 Moreover, we note that case law does not support defendant's suggestion on appeal that the trial court abused its discretion by not asking jurors to provide details regarding the content of any media coverage to which they were exposed. In fact, relevant case authority stands for exactly the opposite proposition, requiring neither that a court individually question potential jurors nor ask them "to detail their recollection of media coverage of [the] defendant's case." *Kirchner*, 194 Ill. 2d at 531-32; see also *Mu'Min v. Virginia*, 500 U.S. 415, 431 (1991) (holding that a court is not constitutionally required to ask "questions specifically dealing with the content of what each juror has read").

¶ 43 Here, defendant has failed to establish that his case was a "cause *celebre*." Further, the record reflects that a fair and impartial jury was selected, and the trial court did not abuse its discretion either with respect to the manner in which it conducted *voir dire* or by denying defendant's request for a change of venue.

¶ 44 B. Ineffective Assistance of Counsel

¶ 45 On appeal, defendant alternatively argues that his trial counsel provided ineffective assistance by failing to (1) conduct extensive *voir dire*, (2) exhaust all of defendant's available peremptory challenges, and (3) renew defendant's motion for a change of venue at the end of jury selection. We find no merit to defendant's claim.

¶ 46 Ineffective-assistance-of-counsel claims are judged under the two-prong standard set forth in *Strickland v. Washington*, 466 U.S. 668 (1984). *People v. Manning*, 241 Ill. 2d 319,

326, 948 N.E.2d 542, 546 (2011). Under that standard, a defendant must show that (1) "counsel's performance fell below an objective standard of reasonableness" and (2) "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Id.* "[C]ounsel's actions during jury selection are generally considered a matter of trial strategy," and such "strategic choices are virtually unchallengeable." *Id.* at 333; see also *People v. Bowman*, 325 Ill. App. 3d 411, 428, 758 N.E.2d 408, 422 (2001) ("The decision whether to exercise an available peremptory challenge is a strategic one.").

¶ 47 As stated, defendant initially complains that his counsel failed to ask potential jurors "particularized questions" about their pretrial knowledge of the case. However, defendant does not identify any specific question his attorney should have asked of any particular juror. We note the record reflects defense counsel generally asked questions directed at determining the source of each juror's prior knowledge of the case, their degree of attention to the case, whether jurors had made donations to a memorial fund for the victim, and whether jurors had more recently discussed the case with others. As stated, the jurors selected for defendant's jury ultimately indicated either that they had no prior knowledge of the case or that that they had only a general recollection of the case based upon information they learned around the time of the offense more than two years prior. Under these circumstances, defendant cannot show deficient performance and any claim of prejudice is speculative. See *People v. Sapp*, 2022 IL App (1st) 200436, ¶ 61 ("The argument that defense counsel asking some set of unidentified questions [during *voir dire*] rather than no questions would have produced a different outcome at trial is speculative, and speculation cannot establish prejudice.").

¶ 48 We also find no merit to defendant's claim that his trial counsel was ineffective for failing to exhaust all of his peremptory challenges and renew his motion for a change of venue at

the close of jury selection. The record reflects defendant's counsel challenged several jurors for cause and used four of defendant's seven peremptory challenges. On appeal, defendant does not identify any seated juror who exhibited bias or whom his counsel should have challenged. Additionally, for the reasons already stated, the record supports a finding that a fair and impartial jury was selected. Accordingly, defendant cannot establish that his counsel's performance was objectively unreasonable or that he suffered prejudice as a result.

¶ 49 III. CONCLUSION

¶ 50 For the reasons stated, we affirm the trial court's judgment.

¶ 51 Affirmed.