NOTICE
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2026 IL App (5th) 250623-U

NO. 5-25-0623

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

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

THE PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellee, v. CALVIN T. WILLIAMS, Defendant-Appellant.	)))))))))	Appeal from the Circuit Court of Champaign County. No. 20-CF-1293 Honorable Randall B. Rosenbaum, Judge, presiding.

JUSTICE VAUGHAN delivered the judgment of the court.
Justices McHaney and Clarke concurred in the judgment.

ORDER

¶ 1 *Held*: The trial court's denial of a new trial after a *Krankel* evidentiary hearing is affirmed where defendant failed to demonstrate prejudice.

¶ 2 Defendant, Calvin T. Williams, appeals the trial court's order finding trial counsel did not render ineffective assistance and denying defendant's request for a new trial. For the following reasons, we affirm.

¶ 3 I. BACKGROUND

¶ 4 The facts of this case are set forth in detail in defendant's direct appeal. See *People v. Williams*, 2025 IL App (5th) 220088-U. As such, we set forth only the facts relevant to the resolution of this appeal.

¶ 5 On October 22, 2021, a jury found defendant guilty of first degree murder of Gerryontae Brown. Prior to trial, trial counsel filed a motion *in limine* requesting the court admit photographs of Brown holding firearms under Illinois Rule of Evidence 404 (eff. Jan. 1, 2011) as evidence of Brown's prior violent conduct. After a hearing on the matter, the trial court found the photographs may be used to impeach witnesses under certain circumstances but warned if the defense "went down that road," it might open the door for the State to admit photographs of defendant with guns in its rebuttal.

¶ 6 At trial, there was no dispute that defendant shot at the back of Brown's home after going into Brown's backyard through a hole in the fence. The evidence at trial showed that there was a prior dispute between defendant and Brown regarding money, but defendant and other witnesses believed it to be resolved. On November 12, 2020, Brown was present at his house with several other minors. Defendant and Whitfield Harris walked through a public park, which had access to the backyard of a row of residential houses including Brown's home. Defendant and Harris walked behind residential houses and entered Brown's backyard through a well-known hole in his fence. Brown's neighbor informed him of two masked males, one of which had a firearm, lurking in his backyard. Brown and the other minors went outside for a moment and returned inside the home. A few minutes later, Brown received a text message, and the group of minors went back outside toward the backyard. At that time, defendant fired the gun and the group of minors went back into the house. Defendant approached the back of the house while continuing to shoot into the home. During this time, Brown made several calls to various people, indicating that defendant was shooting him. Security cameras located inside the home show Brown and others pacing inside the home prior to shots being fired. Brown can be seen holding a black phone, and at one point, he was carrying a white cord. No firearm can be seen on the video footage at any point.

¶ 7 No witness testified that Brown had a gun. Three witnesses, who were present during the shooting, stated they did not see Brown with a gun and that no one in the house shot a firearm at any time. Paula Moore, a friend of Brown and defendant, testified that on November 8, 2020, defendant informed her that he bought a gun for protection from Brown. She told defendant that Brown did not have a gun and had not spoken of harming defendant. She further testified that she knew Brown did not have a gun because he spent a lot of time with her and confided in her.

¶ 8 Harris testified that after the group of minors ran inside the house, defendant went toward the sliding glass door of the house, pulled something from his hip, and fired shots into the window. Harris was unsure if anyone in the house fired back because Harris ran away once defendant began shooting inside the house, but he did not hear any gunshots before defendant began shooting. Harris further stated that defendant never told Harris that he was afraid of Brown.

¶ 9 The police did not discover a firearm in Brown's home during their collection and processing of the evidence therein. The only shell casings recovered at the scene were .22 ammunition that was found under the kitchen window outside of the home. The day after the shooting, on November 13, 2020, police discovered defendant in Michigan after a car and foot chase. A bag containing .22 ammunition was found on defendant's person. After retracing defendant's path of flight, the police also found a thrown Walther P22 semiautomatic pistol loaded with .22 long rifle caliber ammunition. Testing revealed the firing pin in the Walther P22 semiautomatic pistol found in Michigan was used to expel the shell casings found outside of Brown's kitchen window.

¶ 10 Defendant denied having a current problem with Brown and stated that he never threatened him. Defendant stated he received threats from Brown's friends regarding a different dispute. Defendant testified that he was walking around the area with Harris to sell marijuana and used the

hole in Brown's fence as a shortcut to the park. He had a gun at the time for protection due to being robbed in summer 2020. Defendant denied hanging out in the backyard for 15 to 20 minutes and denied trying to gain access to Brown's home.

¶ 11 He testified that when he went to use the cut in Brown's fence, five or six people with weapons were in the driveway and began reaching on their sides. Defendant further testified that the people began pointing and yelling at him and Harris. Once the people began approaching them, defendant pulled out his firearm and shot in the air to scare the group of people. He then hid because he thought it was going to be a shoot-out and did not retreat because there were more of them than him. Defendant testified that he approached closer to the house and there were still people on the side of the house ducking behind cars and he saw movement inside the house through his peripheral vision. Defendant looked through the window and saw a lot of movement and saw a shadow with what looked like a gun. He thought they were going to shoot him through the window, so he shot at them first. After he fired through the window, his gun jammed and he ran.

¶ 12 Defendant stated that as he ran away from the house, he heard gunshots that were louder than his. He believed the people who were at Brown's house were shooting back at him.

¶ 13 After the jury found defendant guilty, defendant filed a *pro se* letter to the court, arguing trial counsel was ineffective. At the preliminary *Krankel* hearing on December 8, 2021, defendant for the first time asserted that trial counsel was ineffective for failing to present photographs of Brown with firearms. Defense counsel said that it was a strategic decision based on the court's ruling that such evidence would open the door to show similar photographs of defendant with guns to the jury. She stated she determined that presenting the photographs was probably not in his best interest. The trial court found trial counsel's actions were a matter of trial strategy and denied

appointing *Krankel* counsel. The court sentenced defendant to a total of 55 years' imprisonment, 30 years for first degree murder plus the mandatory firearm enhancement of 25 years.

¶ 14 On direct appeal, defendant raised various claims including that the trial court should have appointed *Krankel* counsel to present defendant's ineffectiveness claim regarding trial counsel's failure to admit photographs of Brown with firearms. This court affirmed the conviction and sentence but remanded for further *Krankel* proceedings. We found defendant's claim had potential merit where pictures of Brown with firearms would have supported the defense's theory of self-defense—which necessarily admitted defendant had a firearm—and contradicted some of the State's witnesses. We held, "it is possible that counsel's decision to not present this evidence could be unreasonable trial strategy, as there was potentially minimal prejudice from a picture of defendant with a gun where such evidence would not have provided the jury with any new or disputed information, while a picture of [Brown] with a gun could have had potential upside in supporting the defense's trial theory." *Williams*, 2025 IL App (5th) 220088-U, ¶ 187.

¶ 15 On remand, *Krankel* counsel filed a motion for a *Krankel* hearing on June 17, 2025. The motion alleged trial counsel was ineffective for withdrawing a motion to suppress despite defendant's custodial invocation of his right to counsel, falling asleep during trial, refusing to call James Mann to testify, failing to question Cameron Wilson, and refusing to admit photographs of Brown holding a firearm to impeach testimony that Brown did not have firearms. The motion further requested the trial court conduct an evidentiary hearing.

¶ 16 The *Krankel* evidentiary hearing was held on July 22, 2025. Defendant discussed counsel's actions regarding several allegations of ineffectiveness. With respect to the admission of the photographs of Brown, he testified that trial counsel warned him that the photographs may open the door to similar photographs of him, but he did not deny having a firearm. His claim was that

his life was in danger. He believed the photographs would have swayed the jury and changed the outcome of trial, because they proved his knowledge of Brown possessing firearms prior to the offense where the photographs show Brown with firearms, sometimes in the presence of defendant. Defendant stated that it went to his state of mind, *i.e.*, his reasonable or unreasonable belief that his life was in danger and played into his decisions that day.

¶ 17 On cross-examination, the State asked if it was defendant's position that he wanted more photographs of himself holding weapons in front of the jury rather than less photographs of himself holding weapons. Defendant responded that his defense was not to deny holding a firearm or owning a firearm, rather trial counsel's failure to present these photographs prohibited follow-up questions about Brown's aggressiveness and violent character. Defendant agreed that the expert testimony at trial stated someone was either close against the home while shooting or was essentially a perfect shot. He also agreed that his testimony at trial was that he walked through the area and hid behind cars because there was a group of individuals with weapons and he felt threatened. When asked if he agreed that the evidence showed he was on Brown's property, defendant stated there was a possibility that his actions were unreasonable.

¶ 18 Trial counsel testified that the court said that the photographs could have opened the door to photographs of defendant with weapons. In trial counsel's opinion, there were "a whole bunch" of photographs that were a little bit worse. Trial counsel stated that she believed if she were to impeach the other witnesses with photographs of Brown with a firearm, the State would have been able to admit photographs of defendant with firearms that were taken from his phone. Trial counsel testified that she saw the pictures of defendant with the firearm and felt it would cause more damage than needed at trial. Trial counsel agreed that the only evidence at trial to conclude Brown had a firearm was defendant's testimony that he had seen a silhouette of a firearm. She further

agreed there were multiple witnesses that indicated they did not see Brown with a firearm during that time.

¶ 19 *Krankel* counsel argued the photographs of Brown with firearms could have been effective for the jury to see and supported of defendant's testimony that he saw a firearm and knew that Brown had access to firearms. *Krankel* counsel contended, given all the evidence presented, a jury could have found differently.

¶ 20 The State argued the issue of the photographs of Brown with firearms was a clear strategic decision made to avoid the admission of photographs of defendant with firearms into evidence. It contended trial counsel believed the photographs of defendant would cause more harm than the photographs of Brown would do good. It also argued that there was no prejudice.

¶ 21 The trial court filed a written order on July 29, 2025, denying defendant's claims. The trial court noted that it had some concerns about defendant's credibility given his prior behavior of being confrontational, contradictory with prior filings or rulings. It further found defendant had a motive to lie and trial counsel was credible.

¶ 22 The trial court found trial counsel made a logical and appropriate strategic decision not to introduce the photographs of Brown with firearms. It cited her testimony that using the photographs would open the door to photographs of defendant with firearms, which may have caused more damage at trial, particularly where there was no evidence that Brown had a firearm on the day in question. The trial court further noted trial counsel's testimony that such action would have reduced defendant's credibility once he testified. The trial court therefore held her actions were not deficient. It also held defendant could not establish that the jury would have found him not guilty or guilty of second degree murder had trial counsel acted differently. The trial court found the evidence was overwhelming that defendant was the shooter and only person with a gun

and that he did not act in self-defense, either reasonably or unreasonably. The trial court recounted the evidence at trial, noting there was no evidence, except defendant's own testimony, to support that his actions were reasonable. No gun was found on Brown or the others in the house. No gun was found in the house. There was no evidence that shots were fired from within the house toward defendant outside. The trial court concluded that the jury was correct in not finding defendant reasonably acted in self-defense. It then stated, "Defendant had a better chance at trial (and at this *Krankel* hearing) by claiming his actions were unreasonable—2nd degree murder. *i.e.* he thought the victim had a gun but did not." The trial court stated that the jury did not believe him, he had a motive to kill Brown, and he had no reason to be wearing black, carrying a gun, and showing up in Brown's backyard. Defendant shot from a distance then approached the window and shot close range several times, striking Brown twice.

¶ 23 In analyzing prejudice for defendant's claim regarding the photographs of Brown, the trial court noted it was the "toughest analysis," trial counsel was following the court orders, and the court may have erred in ruling that the introduction of the photo could open the door to photographs of defendant being admitted. It stated that following a court's order should not be deemed deficient conduct. The trial court stated that an argument could be made that it was not prejudicial to admit photographs of defendant with a firearm since he was going to admit that he possessed firearms and that the photos of Brown would support defendant's belief that Brown had what defendant thought was a firearm "even though it was a phone in the victim's hand." It stated that as such, defendant's best argument was a possible claim of second degree murder. The trial court then held that, even assuming the best-case scenario for defendant, there would be no reasonable likelihood that the jury would find defendant not guilty or guilty of second degree murder where the jury did not believe defendant. They believed all the witnesses who said the victim did not have a gun and

did not act in any way that appeared to be aggressive toward defendant. It stated, "A jury would not, and should not, conclude that Defendant unreasonably felt threatened enough to shoot first."

¶ 24 The trial court again noted there was no evidence that the victim was facing defendant or had his arm outstretched like he had a gun. The trial court stated that defendant had problems with Brown, wore all black, went to Brown's backyard, became aggressive, shot at the group, approached the house, and shot multiple times through the window. Then, he fled Illinois and lied to police. The trial court concluded the photo of Brown with a firearm did not change the facts and circumstances of what happened on the night of the shooting. The trial court then stated,

> "Is it conceivable that a jury could find Defendant not guilty or guilty of 2nd degree murder—anything is possible. This Court concludes Defendant's best argument is that the jury could have found him guilty of 2nd degree murder. It would be his burden of establishing that by a preponderance of the evidence. Based on the evidence from trial and during the *Krankel* hearing, this Court concludes that Defendant fails to do that."

Defendant timely appealed.

¶ 25 II. ANALYSIS

¶ 26 On appeal, defendant challenges the trial court's holding regarding his claim that trial counsel was ineffective for failing to admit photographs of Brown holding firearms. Specifically, he contends that trial counsel should have realized that the photographs were not admissible as evidence of Brown's violent or aggressive behavior but were admissible to show defendant's mental state and to impeach the State's witnesses who testified that Brown did not have a gun. Defendant notes that the trial court acknowledged that it may have erred in ruling that the introduction of the photographs would open the door for photographs of defendant. He argues that

trial counsel should have known the law and objected to the court's reasoning. In addressing prejudice, defendant cites our disposition in the previous appeal that stated, "there was potentially minimal prejudice from a picture of defendant with a gun where such evidence would not have provided the jury with any new or disputed information, while a picture of [Brown] with a gun could have had a potential upside in supporting the defense's trial theory." *Williams*, 2025 IL App (5th) 220088-U, ¶ 187. He argues that, as the trial court acknowledged, the images would, at a minimum, be relevant to the mitigating factor for second degree murder. He further contends the trial court imposed the incorrect standard by finding that he did not suffer prejudice because the jury did not believe him at trial.

¶ 27 A criminal defendant has a constitutional right to effective assistance of counsel. U.S. Const., amends. VI, XIV; Ill. Const. 1970, art. I, § 8. In *People v. Krankel*, 102 Ill. 2d 181 (1984), the Illinois Supreme Court created a common law procedure to address *pro se* posttrial claims of ineffective assistance of counsel. *People v. Jackson*, 2020 IL 124112, ¶ 95. Under *Krankel*, once a defendant raises a *pro se* posttrial ineffective assistance of counsel claim, the trial court must hold a preliminary hearing to determine whether the defendant's allegations show possible neglect. *Id.* ¶¶ 96-97. If—as in this case—the defendant meets the burden of showing possible neglect, the trial court appoints new counsel to independently evaluate and represent defendant on his *pro se* ineffective assistance claims at an evidentiary hearing. *Id.* ¶ 97.

¶ 28 To prevail on an ineffective assistance of counsel claim, a defendant must demonstrate that counsel's performance fell below an objective standard of reasonableness and there is a reasonable probability that the outcome of the proceedings would have been different had counsel not erred. *People v. Bustos*, 2020 IL App (2d) 170497, ¶¶ 86-87. The failure to establish either requirement defeats an ineffective assistance of counsel claim. *People v. Easley*, 192 Ill. 2d 307, 317 (2000).

¶ 29 Issues of ineffective assistance of counsel present mixed questions of law and fact. *People v. Peterson*, 2015 IL App (3d) 130157, ¶ 222. We give deference to the trial court's findings of fact and will not reverse "unless they are against the manifest weight of the evidence." *Id.* "However, the ultimate question of whether counsel's actions support a claim of ineffective assistance is a question of law that is subject to *de novo* review on appeal." *Id.*

¶ 30 Despite defendant's reliance on this court's statements in the previous appeal of this case, we note that our previous disposition in no way resolves or controls the outcome of this appeal. Our previous review required us to consider whether defendant raised a colorable claim that counsel was ineffective, entitling him to an evidentiary hearing. Such standard only requires defendant to show "possible" neglect. See *Williams*, 2025 IL App (5th) 220088-U, ¶¶ 171-72. To obtain a new trial based on ineffective assistance of counsel, defendant has the burden to show that counsel's performance was indeed unreasonable under prevailing professional norms, and that there was a reasonable probability that the outcome would have been different absent counsel's error. *Bustos*, 2020 IL App (2d) 170497, ¶¶ 86-87. Our finding that defendant showed possible neglect is not the same as finding there was in fact neglect. Accordingly, our previous decision is not controlling here.

¶ 31 Defendant's claim regarding the photographs of Brown directly depends on the potential success of his theory of self-defense. To establish self-defense, a defendant must present evidence that (1) force was threatened against him; (2) he was not the aggressor; (3) the danger of harm was imminent; (4) the threatened force was unlawful; (5) he "actually believed that a danger existed, that the use of force was necessary to avert the danger, and that the kind and amount of force actually used was necessary"; and (6) his beliefs were reasonable. *People v. Morgan*, 187 Ill. 2d 500, 533 (1999). A conviction of second degree murder may be proper if the first five elements

are met but the defendant's belief in the need for self-defense was unreasonable. *People v. Mujkovic*, 2022 IL App (1st) 200717, ¶ 26.

¶ 32 Defendant's assertions that the photographs were evidence of his state of mind concern only whether defendant believed—reasonably or not—that he was in danger. See *People v. Slaughter*, 2024 IL App (1st) 230472-U, ¶ 8. He makes no argument regarding the other elements of his self-defense claim or how that defense was established by the photographs of Brown. At most, he notes that Brown was shot from the front and argues that the jury *could* have found the state of mind element was met. Even in that respect, defendant waffles with prejudice, as he states, "Although the jury might not have found that [defendant's] use of force was legally justified, it is 'conceivable' that, with this photographic evidence, the jury could have found him guilty of only second degree murder, as the trial court stated." The test is not whether a different outcome is "conceivable"; the test is whether a different outcome was reasonably probable. *Bustos*, 2020 IL App (2d) 170497, ¶ 87. "A reasonable probability is a probability sufficient to undermine confidence in the outcome." *Strickland v. Washington*, 466 U.S. 668, 694 (1984). " 'It is not enough for the defendant to show that the errors had some conceivable effect on the outcome of the proceeding.' " *People v. Johnson*, 2021 IL 126291, ¶ 55 (quoting *Strickland*, 466 U.S. at 693). Conjecture and speculation that a defendant may have been prejudiced is insufficient to demonstrate *Strickland* prejudice. *Id.*

¶ 33 While the photographs of Brown would have supported defendant's asserted state of mind (*i.e.*, reasonable or unreasonable that Brown had gun), it does nothing to support the other elements of self-defense (*i.e.*, whether force was threatened against defendant, defendant was not the aggressor, and the danger was imminent). The photographs clearly show Brown with what is believed to be firearms, but there was no evidence—other than defendant's testimony—that the

items in the photographs were firearms. There was also no indication of when the photographs were taken in relation to the instant offense. Although defendant is seen in one of the photographs of Brown, defendant appears complicit in the photograph being taken and his arm is raised as if he is pretending to hold a firearm. As such, the photographs—themselves—did not establish any sort of imminent threat to defendant. Brown possessing firearms does not indicate an aggressive or violent nature. See *People v. Cruzado*, 299 Ill. App. 3d 131, 137 (1998) ("A charge for unlawful possession of a firearm does not show a propensity for violence.").

¶ 34 There was also little to no evidence—beyond defendant's testimony—to support defendant's defense. The trial court questioned defendant's credibility, and we must defer to its credibility determination. *Peterson*, 2015 IL App (3d) 130157, ¶ 222. There was no evidence that Brown shot at or became aggressive toward defendant. Brown ran into his home when the shooting began and remained in his home when he was shot. There was also no evidence—even considering the photographs—that Brown possessed a firearm on the date of the offense. No firearm was discovered when Brown's house was processed, no firearm can be seen on the video footage of the inside of the home, and none of the multiple witnesses saw Brown, or anyone else in the home, with a firearm. Furthermore, no physical evidence supported defendant's theory. The forensic evidence showed that all shots were fired from the outside toward the house and there was no indication that any firearm was shot within the home to the outside. Brown being shot from the front and the photographs of Brown do not cast this profuse evidence in a different light or prove the other elements of self-defense. Accordingly, we find there was no reasonable probability that the photographs of Brown with firearms would have changed the outcome of these proceedings, and the trial court properly denied defendant's request for a new trial after an evidentiary hearing on his claims. See *Slaughter*, 2024 IL App (1st) 230472-U, ¶ 8 (finding no prejudice where counsel

failed to admit evidence of defendant's state of mind because such evidence concerned only one or two elements of self-defense and he failed to establish the remaining elements of self-defense).

¶ 35 III. CONCLUSION

¶ 36 The trial court did not err in denying defendant's request for a new trial after a *Krankel* evidentiary hearing where defendant failed to demonstrate prejudice. Accordingly, we affirm.

¶ 37 Affirmed.