

2026 IL App (1st) 250769-U
No. 1-25-0769
Order filed September 30, 2026

Third Division

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

IN THE
APPELLATE COURT OF ILLINOIS
FIRST DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 24 CR 10340
	)	
JOSHUA SHAPIAMA,	)	Honorable
	)	Joseph M. Cataldo,
Defendant-Appellant.	)	Judge, presiding.

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

ORDER

¶ 1 *Held:* Defendant's conviction for aggravated domestic battery is affirmed where the trial court properly admitted evidence of defendant's alleged propensity to commit domestic violence.

¶ 2 Following a jury trial, defendant Joshua Shapiama was found guilty of aggravated domestic battery and sentenced to 4½ years in prison. On appeal, defendant argues that the trial court erred by admitting cumulative evidence to show his alleged propensity to commit domestic violence. For the following reasons, we affirm.

¶ 3 Defendant was charged with multiple offenses against Adriana J.-A. (“Adriana”) following an incident on July 31, 2024. The State proceeded on one count of aggravated domestic battery which alleged that defendant strangled Adriana, a family or household member. 720 ILCS 5/12-3.3(a-5) (West 2024).

¶ 4 Prior to trial, the State moved to allow evidence of other alleged instances of domestic violence by defendant to prove his motive, intent, state of mind, and propensity for domestic violence pursuant to section 115-7.4 of the Code of Criminal Procedure (“Code”) (725 ILCS 5/115-7.4 (West 2024)). In the first incident, on April 11, 2020, defendant pushed Adriana to the ground and dragged her across the floor while she was pregnant. She delivered a stillborn son shortly thereafter. The second incident, alleged to have occurred on September 12, 2024, involved defendant placing his hands on Adriana’s throat in front of their daughter. The third incident, alleged to have occurred on September 28, 2024, involved defendant pushing Adriana on her chest. Defendant admitted the second incident to police.

¶ 5 Defendant objected, asserting that the three incidents were too remote and dissimilar to the charged offense and their prejudicial effect outweighed any probative value.

¶ 6 After a hearing, the trial court stated that it considered the proximity and factual similarity of the charged offenses to the other alleged incidents, and also weighed their probative value against their prejudicial effect. The trial court denied the State’s request to allow evidence of the April 2020 and September 28, 2024 incidents, finding that the prejudicial effect outweighed the probative value. However, the court allowed evidence of the September 12, 2024, incident, noting that the charged offense allegedly happened at the same location, involved arguments where defendant choked Adriana, and occurred in “a short proximity” of six weeks apart. Further,

defendant admitted to the September 12, 2024, incident and, according to the State's proffer, Adriana immediately reported the incident to her sister. Thus, after weighing the prejudicial effect against the probative value, the trial court allowed the State to present evidence of that incident for propensity only, if properly presented and subject to a limiting instruction.

¶ 7 At trial, Adriana testified that she and defendant had two children, ages two and five. Adriana and defendant were in a relationship for about six years, during which time they lived together in Prospect Heights, Illinois. Adriana ended their relationship in May 2024, but they continued to live together. Defendant became "more aggressive" after the breakup.

¶ 8 On July 31, 2024, Adriana drove home from work while speaking on the phone to her coworker. Around 1:48 a.m., she parked in her assigned parking space, which was visible from their condominium. Defendant approached the vehicle and Adriana ended her phone call.

¶ 9 Defendant opened the driver's side door and took Adriana's phone, which she attempted to take back. Defendant was "very tense" and "very aggressive." Defendant then grabbed Adriana around her neck with one hand, "putting pressure on it." She could not breathe. When Adriana attempted to fight back, defendant "pushed more aggressive" onto her neck. Adriana could not breathe for "like one minute, close to two" and felt that she would lose consciousness. Adriana stopped fighting back, and defendant released her neck. Afterwards, defendant gave Adriana her phone and they went to their condominium. Defendant then left for work and Adriana fell asleep.

¶ 10 Adriana woke at about 9 a.m. and noticed red scratches on her neck that did not exist prior to the incident. She took photographs of her neck, which were entered into evidence and are included in the record on appeal. This court has viewed the photographs, which show red bruises

and scratches on the right side of Adriana's neck. Adriana testified that she did not tell anyone about the incident because she "was scared."

¶ 11 The trial court then instructed the jury that it would hear evidence of an offense other than the one charged, which the jury might consider "only for [the] limited purpose" of determining defendant's propensity to commit domestic violence. The court informed the jury that it was to determine whether defendant was involved in the other offense and if so, what weight to place on that evidence as to defendant's propensity to commit domestic violence.

¶ 12 Adriana testified that on September 12, 2024, while she was gathering laundry, defendant "pulled the laundry" from her. Defendant insisted on helping, which she declined. Defendant became "so intense, so frustrated." Adriana "threw *** one of the clothes" and said, "Okay, you do laundry." Adriana then walked to her vehicle with their five-year-old child and started fastening the child's seat belt when defendant pulled Adriana by the right shoulder, turned her body around, and placed one hand on her neck. Defendant placed "light pressure" on Adriana's throat, "not as much" as during the incident in July because their daughter started crying and Adriana could still breathe. Defendant kept his hand on Adriana's neck for "a few seconds" but released her when their child began crying.

¶ 13 Defendant then returned to the condominium, and Adriana drove to her mother's house. Adriana called her sister, who instructed her to photograph the mark that defendant left on her neck. Adriana did so.

¶ 14 While Adriana was at her mother's house, defendant sent her a text and they exchanged messages. The State published screenshots of the text messages, which are included in the record on appeal and have been reviewed by this court. Relevant here, defendant told Adriana that she

“didn’t have to be so mean” about refusing his help. Adriana sent defendant a photograph of a red mark on the right side of her neck and stated that “there [was] no reason for [defendant] to touch [her]. Especially of front of [her] daughter.” Defendant responded that he “choose [sic] poorly for [his] actions,” “had a little time to collect [his] thoughts,” and asked “Why do you hate me so much?” Adriana denied hating him and stated that she did not want help with the clothes, but appreciated his offer. Defendant stated that “[r]egardless if you needed help or not I wanted to help.”

¶ 15 Adriana testified that she did not call the police on September 12, 2024, because she “was scared.” On September 29, 2024, she informed the Prospect Heights Police Department about the September 12, 2024, incident.

¶ 16 Prospect Heights Police Sergeant Michael Smith testified that he spoke with Adriana at the police station on September 29, 2024. Other officers transported defendant to the police station, where Smith and Officer Michael Ciernak interviewed him.

¶ 17 An edited version of defendant’s recorded interview was published without objection. It is included in the record on appeal, and has been viewed by this court. In the recorded interview, defendant stated, in relevant part, that on September 12, 2024, he placed one hand on Adriana that “wasn’t really exactly a choke, but it was near the throat” and he understood that it may be considered a choke. According to defendant, he has “fat fingers” and would “probably” have left a bruise. He had his hands on Adriana’s throat for “barely a minute” and she cried, but did not express an inability to breathe. As for the incident on July 31, 2024, defendant denied choking Adriana to the point that she lost consciousness. Defendant acknowledged grabbing her, but stated that he “didn’t do it that hard.” When shown a photograph of the marks near Adriana’s neck

following the incident on July 31, defendant said that “he did not choke her” that day and did not know what caused the marks. He added, however, that he was “aware that it was probably” him.

¶ 18 The defense called Mercedes Shapiama (“Mercedes”), defendant’s sister. Mercedes testified that on October 28, 2024, she recorded a telephone conversation with Adriana because Mercedes “knew that everything [Adriana] was saying was not consistent” and there were “multiple lies.” According to Mercedes, Adriana stated, “I need something for my safety because it’s true that [your] mom and [defendant] [are] always going to [say that I] killed myself. I have that in my health profile. I don’t want to press charges. I wanted him to have a fight.”

¶ 19 The defense recalled Adriana and asked whether she made the recorded statement. Adriana stated that she said “something similar.”

¶ 20 In closing arguments, the State described the September 12, 2024, incident in addition to the charged offense and stated that the “[September 12, 2024] incident shows that the defendant is the type of person who would commit domestic violence, and you should consider that in conjunction with Adriana’s testimony about the charged offense, that being, the defendant strangling [her].” The State described the September 12, 2024, incident again in rebuttal.

¶ 21 The jury found defendant guilty of aggravated domestic battery.

¶ 22 Defendant filed a motion for a new trial, asserting, *inter alia*, that the trial court erred in allowing evidence of the September 12, 2024, incident to show his alleged propensity to commit domestic violence. The trial court denied the motion, explaining that it admitted the evidence after weighing the probative value against the prejudicial effect and that it did exclude the other incidents. Further, the trial court did not “see any reason” why the jury would not have found defendant guilty “without that.”

¶ 23 The trial court sentenced defendant to 4½ years in prison.

¶ 24 On appeal, defendant argues that the trial court erred in failing to limit the scope of the evidence to show his alleged propensity to commit domestic violence. Defendant contends that the detailed nature of Adriana’s testimony, the inculpatory text messages, portions of defendant’s police interview, and the State’s mentioning of the incident in closing arguments were cumulative to the point of prejudicing and distracting the jury.

¶ 25 The State asserts that defendant generally objected to the admission of the September 12, 2024, evidence, but never specifically objected to its scope or cumulative nature. The State therefore contends that defendant failed to preserve the claim for this court’s review.

¶ 26 Defendant responds that he properly preserved the claim because he filed a response in opposition to the State’s motion to admit other crimes evidence and a posttrial motion challenging admission of the evidence. Defendant alternatively argues that the issue may be reviewed for plain error and that trial counsel provided ineffective assistance by failing to properly preserve the issue.

¶ 27 To properly preserve a claim for review, “a defendant must raise it in *either* a motion *in limine* or an objection at trial, *and* in a posttrial motion.” (Emphasis in original.) *People v. Denson*, 2014 IL 116231, ¶ 18. A defendant must also make a specific objection to the cumulative nature of evidence to preserve any such claim, as “[a] specific objection to the admission of evidence waives all grounds not specified.” See *People v. Brown*, 319 Ill. App. 3d 89, 96 (2001).

¶ 28 Here, defendant did not object to the cumulative nature of the evidence of the September 12, 2024, incident pretrial, during trial, or in his posttrial motion. Defendant therefore forfeited the claim for this court’s review. However, defendant is correct that we may review the claim for

plain error. See *People v. Ramsey*, 239 Ill. 2d 342, 412 (2010) (holding that plain error may be raised for the first time in an appellant’s reply brief).

¶ 29 The plain error rule allows this court to review a forfeited claim where a “clear or obvious error” occurred and (1) “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) “the 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. Johnson*, 2024 IL 130191, ¶ 43. The defendant bears the burden of showing plain error. *People v. Jaimes*, 2019 IL App (1st) 142736, ¶ 43. Here, defendant requests review under the first prong. However, the first step in the plain error analysis is to determine whether a clear or obvious error occurred. *Johnson*, 2024 IL 130191, ¶ 44. Absent clear or obvious error, there can be no plain error. *People v. Brown*, 2017 IL App (1st) 142877, ¶ 65.

¶ 30 Generally, “[e]vidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show action in conformity therewith,” with limited exceptions, including as provided in section 115.7-4 of the Code. Ill. R. Evid. 404(b) (eff. Jan. 1, 2011). However, such evidence may be admissible “for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident.” *Id.*

¶ 31 Under Section 115-7.4(a) of the Code, evidence of a defendant’s prior acts of domestic violence is admissible for any relevant purpose where, as here, that defendant is accused of “an offense of domestic violence.” 725 ILCS 5/115-7.4(a) (West 2024). “In weighing the probative value of the evidence against undue prejudice to the defendant, the court may consider: (1) the proximity in time to the charged or predicate offense; (2) the degree of factual similarity to the

charged or predicate offense; or (3) other relevant facts and circumstances.” 725 ILCS 5/115-7.4(b) (West 2024).

¶ 32 The admissibility of evidence pursuant to section 115-7.4 is within the sound discretion of the trial court, and its decision will not be reversed absent a clear abuse of that discretion. *People v. Ramirez*, 2023 IL App (1st) 221227, ¶ 39. “We will find an abuse of discretion only when a trial court’s decision is ‘arbitrary, fanciful or unreasonable’ or ‘where no reasonable man would take the view adopted by the trial court.’” *People v. Williams*, 2013 IL App (1st) 112583, ¶ 35 (quoting *People v. Donoho*, 204 Ill. 2d 159, 182 (2003)).

¶ 33 Here, the trial court did not abuse its discretion in admitting evidence of the September 12, 2024, domestic violence incident. The trial court properly conducted the balancing test, noting that the six-week gap between the charged offense and subsequent incident was “a short proximity.” As to similarity, the trial court noted that the September 12 incident involved the same victim and the same location (an argument near the victim’s vehicle), and defendant choking the victim. The court also noted that defendant admitted to the September 12, 2024, incident. The court found it relevant that the September 12, 2024, incident “cause[d] the victim to make her outcry.” Additionally, before Adriana testified to that incident, the trial court properly instructed the jury to consider that testimony only for the limited purpose of determining defendant’s propensity to commit domestic violence.

¶ 34 Given the temporal proximity and similarities between the September 12, 2024, incident and the charged offense, and that the trial court barred evidence of two other alleged incidents sought by the State, finding them to be overly prejudicial, we cannot say that the trial court abused its discretion in allowing evidence of the September 12, 2024, incident. See *People v. Wilson*, 214

Ill. 2d 127, 142 (2005) (“As factual similarities increase, so does the relevance or probative value.”). Rather, the court properly conducted the balancing test as required by section 115-7.4 of the Code.

¶ 35 Notwithstanding, defendant contends that the evidence admitted was too broad in scope and too detailed, consisting of testimony, photographs of the marks on Adriana’s neck, text messages between Adriana and defendant, and portions of defendant’s recorded police interview. He contends that a mini-trial of the September 12, 2024, incident occurred, particularly where evidence of that incident was more extensive than the charged offense.

¶ 36 Even where other-crimes evidence is relevant, “it must not become the focal point of the trial.” *People v. Jacobs*, 2016 IL App (1st) 133881, ¶ 71. That is, the trial court should prevent a “mini-trial” of the collateral offense. *Id.* Mini-trials pose a risk of prejudicing the jury against the defendant, confusing the jury, or delaying the trial. *People v. Watts*, 2022 IL App (4th) 210590, ¶ 52. Therefore, the trial court should allow only evidence which is necessary to “illuminate the issue for which the other crime was introduced.” *People v. Smith*, 406 Ill. App. 3d 747, 756 (2010), quoting *People v. Bedoya*, 325 Ill. App. 3d 926, 938 (2001).

¶ 37 Taken together, the text messages, photographs, and portions of defendant’s recorded interview provided context to understand what was alleged to have happened on September 12, 2024, and established the similarity to the charged offense. We find that this evidence was not so cumulative that its prejudicial effect clearly or obviously outweighed its probative value. Therefore, the trial court did not abuse its discretion by allowing this evidence.

¶ 38 Absent any abuse of discretion by the trial court, there can be no clear or obvious error necessary for plain error. *Jaimes*, 2019 IL App (1st) 142736, ¶ 58. Defendant's claim is therefore forfeited.

¶ 39 As to defendant's alternative ineffective assistance of counsel claim, he raised the issue of counsel's ineffectiveness for the first time in his reply brief. An ineffective assistance of counsel claim must be raised in a defendant's opening brief. See *People v. Pope*, 2020 IL App (4th) 180773, ¶ 71 (declining to consider an argument for ineffective assistance of counsel first raised in the reply brief). This holds true even when the alleged defect was the failure to properly preserve a claim for review. *People v. Chipman*, 2025 IL App (4th) 241038-U, ¶ 31; see Ill. S. Ct. R. 23(e)(1) (eff. June 3, 2025) (nonprecedential orders entered under Illinois Supreme Court Rule 23(b), on or after January 1, 2021, may be cited as persuasive authority). Defendant therefore forfeited this claim by failing to raise it in his opening brief, and this court will not consider it. Moreover, a claim of ineffective assistance of counsel fails where, as here, a defendant cannot establish prejudice. *People v. Smith*, 2025 IL App (1st) 220116, ¶ 33.

¶ 40 In conclusion, the trial court did not plainly err in admitting evidence of the September 12, 2024, incident to show propensity to commit domestic violence, and defendant forfeited his claim of ineffective assistance of counsel.

¶ 41 For the foregoing reasons, the judgment of the circuit court of Cook County is affirmed.

¶ 42 Affirmed.