2026 IL App (2d) 250297-U
No. 2-25-0297
Order filed November 18, 2026

NOTICE: This order was filed under Illinois Supreme Court Rule 23(b) and is not precedential except in the limited circumstances allowed under Rule 23(e)(1).

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellee,

v.

QUANTELL L. WILLIAMS, Defendant-Appellant.

Appeal from the Circuit Court of Lake County.
Honorable Victoria A. Rossetti, Judge, Presiding.
No. 18-CF-2891

JUSTICE HUTCHINSON delivered the judgment of the court.
Presiding Justice Kennedy and Justice McLaren concurred in the judgment.

ORDER

¶ 1 *Held*: Lay identification testimony by law enforcement officer did not exceed the scope of *People v. Thompson*, 2016 IL 118667, where the trial court followed all procedural safeguards. The State's comments (1) likening defendant to wildlife stalking its prey during closing argument; and (2) misstating the law, were erroneous. However, defendant cannot establish first or second-prong plain error. No other comments made during the State's opening statement and closing argument were made in error. The State failed to prove beyond a reasonable doubt that defendant personally discharged the firearm that proximately caused the victim's death. Accordingly, we vacate the 25-year firearm sentencing enhancement and instead impose a 20-year sentencing enhancement pursuant to 730 ILCS 5/5-8-1(d)(ii) (West 2018).

¶ 2 Defendant, Quantell L. Williams, was convicted of first-degree murder (720 ILCS 5/9-1(a)(1)-(2) (West 2018)) after a jury trial. The trial court denied his subsequent post-trial motion and defendant timely appealed. For the following reasons, we affirm his conviction of first-degree

murder; but vacate the 25-year firearm sentencing enhancement pursuant to 730 ILCS 5/5-8-1(a)(1)(d)(iii) (West 2018) and instead impose a 20-year sentencing enhancement pursuant to 730 ILCS 5/5-8-1(d)(ii) (West 2018).

¶ 3 I. BACKGROUND

¶ 4 On January 23, 2019, defendant was indicted on three counts of first-degree murder (720 ILCS 5/9-1(a)(1)-(2) (West 2018)), and two counts of aggravated discharge of a firearm (720 ILCS 5/24-1.2(a)(2) (West 2018)). In addition, on the first-degree murder counts, the State sought a 25-year sentencing enhancement pursuant to 730 ILCS 5/5-8-1(a)(1)(d)(iii) (West 2018), alleging that during the commission of the offense, defendant personally discharged a firearm that proximately caused the death of Nicholas Robinson.

¶ 5 The parties engaged in extensive pretrial motion practice. Of relevance to this appeal, on August 20, 2021, defendant filed a "Motion to Bar State's Video Identification Witness." He sought to bar Officer Richardt from testifying as an identification witness, pursuant to *People v. Thompson*, 2016 IL 118667, and *People v. Stitts*, 2020 IL App (1st) 171723. A hearing on this motion took place on May 9, 2022, and June 14, 2022. Officer Richardt testified regarding his familiarity with defendant.

¶ 6 The trial court ultimately denied the motion, allowing Officer Richardt to identify defendant from the video at trial. In its oral ruling, it noted that it considered all the *Thompson* factors and concluded that "the witness is more likely to correctly identify the defendant" and that "the probative value outweighs any prejudice."

¶ 7 The matter then proceeded to jury trial on April 15, 2024. On that day, a jury was selected. The following day, the parties proceeded to opening statements. The State then called the following witnesses in its case-in-chief: Antoinette Bowman, the victim's sister; Kimberly Springer, another

resident of Woodstone Village Apartments who was present the day of the shooting; Officer Jay Jay Yu of the Zion Police Department; Officer Shazay Molleda of the Zion Police Department; Lieutenant Richard J. Reich of the Zion Fire Department; Michael Gregorczyk, owner of Eyes on U Surveillance Systems; Jonathan Robinson, the victim's brother; Sergeant Joseph Richardt of the Zion Police Department; Dr. Mark Witek, a forensic pathologist with the Lake County Coroner's office; and Gary Lind, a forensic scientist with the Northeastern Illinois Regional Crime Laboratory. Only the testimony relevant to this appeal will be summarized.

¶ 8 Michael Gregorczyk, owner of Eyes on U Surveillance Systems, testified as follows. His company provided security cameras for Woodstone Village Apartments. Each building was equipped with two to three cameras, which recorded video to a 12-terabyte digital video recorder (hereinafter "DVR"). The DVRs are stored on site in a locked utility room. In the evening hours of December 19, 2018, he was contacted by the Lake County Major Crime Task Force in relation to an ongoing investigation. He provided them with footage from December 19, 2019, at approximately 4:30 p.m., recorded on two cameras at Woodstone Village Apartments—one from the interior camera at 1609 Lorelei and one from the exterior camera that captured the parking lot in front of 1609 Lorelei.

¶ 9 The videos were admitted as People's exhibit Nos. 3A and 3B. Exhibit No. 3A was surveillance footage from the exterior camera. It showed two vehicles, one beige and one silver, driving through the parking lot of the complex side by side. They both turn right into the middle of the parking lot and stop haphazardly. One individual, wearing a yellow hoodie, exits the beige vehicle and walks into an apartment. Two individuals exit each vehicle, and it appears as though a verbal altercation ensues. This escalates into a physical fight. Three individuals exit the apartment. Two of the individuals, one a black male wearing light sweatpants and a light-colored T-shirt, begin

to shoot guns. They run towards the vehicles, still shooting. The two individuals who exited the silver vehicle attempt to run away. One of them falls to the ground, apparently shot. The shooters and the original occupants of the beige vehicle all get into the vehicle and drive away.

¶ 10 Exhibit No. 3B was surveillance footage from the interior camera of 1609 Lorelei. The video shows three individuals running up the stairs to meet an individual in a yellow hoodie at the doorway. They all exit the apartment building. Once outside, the video shows glimpses of them through the window milling around holding weapons. One of the individuals is a black male in light sweatpants and a light-colored T-shirt holding an assault style weapon. Two of the individuals run back inside and down the stairs. An individual in a black hoodie returns up the stairs to look out the window.

¶ 11 Jonathan Robinson, the victim's brother, testified that on December 19, 2018, he drove to pick up his brother, Nicholas, from work at approximately 4 p.m. They both worked at a Corner Bakery in Pleasant Prairie, Wisconsin. Once Nicholas was in the car with him, they decided to stop by the store for some snacks and drinks. When they pulled into the parking lot and started to park, a beige Ford vehicle backed into the passenger side of the car. The vehicle then drove off. Jonathan then began to follow the vehicle in an attempt to exchange insurance information. The vehicle eventually pulled into an apartment complex, where both vehicles came to a stop. Jonathan got out to speak with the driver of the beige Ford. As they were speaking, a passenger of the beige Ford was "making a ruckus and trying to, like, be too aggressive." The passenger then accused Nicholas of "[having] a bottle," and after that, Jonathan started to hear the gunshots. He and Nicholas ran away from the gunshots. Jonathan then noticed Nicholas stumbling, so he tried to drag him to the car. He eventually was able to carry Nicholas to the car. While he was helping Nicholas, all the passengers of the beige Ford got back into the vehicle and drove away.

¶ 12 The matter concluded for the day. The next day, April 17, the State called Sergeant Joseph Richardt of the Zion Police Department as their first witness. Before he took the stand, the trial court advised the jury of Illinois Pattern Jury Instruction 3.15B:

> "[P]rior to the sergeant testifying, you may hear evidence that a law enforcement officer made an identification of the defendant from a video recording. It is for you to determine what weight, if any, should be given to that evidence. In determining the weight to be given to this evidence, you should not draw any inference from the fact that the witness is a law enforcement officer."

¶ 13 Sergeant Richardt then took the stand and testified as follows. At the time of the trial, he was employed by the Zion Police Department and had been with the department for 17 and half years. On December 19, 2018, at approximately 5:31 p.m., he was on duty and responded to a shooting that occurred at the Woodstone Village Apartments. When he arrived, the scene was taped off. He observed a silver Infiniti vehicle in the middle of the parking lot. On the ground near it, he saw red stains on the ground that appeared to be blood. He served as lead evidence technician in the investigation and properly collected and marked the evidence on the scene.

¶ 14 He also became aware of security footage that was taken inside the vestibule of 1609 Lorelei, just outside apartment 107. He testified that the apartment was leased to defendant, Quantell Williams. He then identified defendant on the record. After the in-court identification, the following line of questioning occurred:

> "Q. Do you know the defendant?
>
> A. I do.
>
> Q. Do you know his family?
>
> A. I do.

Q. Who are his family members?

* * *

A. His father; Ricky; his mother, RaShawnda; his brother, Ronzavior; his cousin, Seondai.

* * *

Q. Now, are you aware of the various addresses where the defendant and his family have lived in Zion?

A. I was, yes.

Q. Can you just recall those for the jurors?

A. Throughout the years, 1929 Joanna, which was a house that actually faced 20th Street; a couple houses down from that, later on they moved to 2009 Joanna; and they also lived at 819 Winthrop Court, also in Zion.

* * *

Q. Were you familiar with the different car that the defendant would drive?

A. I was, yes.

* * *

Q. What are those cars.

A. I was familiar with a blue Volkswagen -- I believe it was a Jetta -- and then a black Chevy sedan. It was a -- I believe it was a Malibu.

Q. How many years have you known the defendant?

A. From right now, probably I would estimate 14 years.

Q. And over those years, just estimate for us approximately how many times you have seen or had interactions with the defendant.

A. 10 to 15 times.

Q. During those 10 to 15 times when you would see or have interactions with the defendant, approximately how long a period of time would you be with the defendant during those different occasions?

* * *

A. Right, so some of them were in passing, some were only a few minutes, and some were upward of a half-hour to an hour.

Q. During those periods of time, would you -- you would have the opportunity to view the defendant's face?

A. Yes.

Q. His entire body?

A. Yes.

Q. His movements?

A. Right."

At this point, Sergeant Richardt identified the person in People's Exhibit no. 3B wearing "light sweatpants and a light-colored upper T-shirt or garment" as defendant, Quantell Williams. He also testified that he observed an individual in the same or similar light sweatpants and light-colored T-shirt in People's exhibit no. 3A.

¶ 15 Sergeant Richardt was also part of the task force that executed the search warrant which authorized a full search of defendant's entire apartment at 1609 Lorelei, Apartment 107. In the kitchen, he observed "a lot of firearm-related evidence between ammunition, gun parts, actual guns -- or gun rather, gun boxes, holsters, gun cleaning supplies, quite a bit of different firearm-related paraphernalia[.]" The photographs of the firearm paraphernalia in the kitchen were admitted into

evidence as People's exhibit Nos. 40 through 49. The bedroom also contained several firearms and other assorted firearm paraphernalia. Specifically, defendant's bedroom contained evidence related to a .223 caliber AR-15 rifle: ammunition; an empty gun box for an AR-15 rifle; magazines and other accessories including lasers, lights, and trigger parts. In a baby bassinet next to defendant's bed, there was also a loaded AR-15 magazine.

¶ 16 During the search, a driver's license and an Illinois ID card for Quantell Williams were found in the bedroom of the apartment. A photo of the license and the ID card were entered into evidence as People's exhibit No. 86 and 87 respectively.

¶ 17 On cross-examination, Richardt testified that when executing the search warrant, they also found documents that had other individuals' names on them. For example, a sealed envelope from the Illinois Policy Institute addressed to Eric Harris at 2024 Hebron Ave., Apartment D, Zion, IL 60099; an ID card for Brandon Gardner; two sealed envelopes from Consumers Credit Union addressed to Darnell Donelson at 1609 Lorelei Dr., Apartment 107, Zion, IL, 60099; and a bus ticket for Eric Whitaker.

¶ 18 He also testified that he first viewed both videos captured on the security cameras in the early morning hours of December 20, 2019. He believed he identified the individuals in the video to the Lake County Major Crime Task Force but could not recall specifically. On June 9, 2021, Richardt met with representatives of the prosecutor's office to identify Quantell Williams in the interior video. He noted: "From the moment I saw the video until I sit here today I was able to identify him." He identified him based on body type, posture, the shape of his head, and his hairline.

¶ 19 On re-direct examination, Richardt testified that the crime occurred on December 19, 2018. Defendant was then charged on December 20, 2018, and was arrested on January 3, 2019. The

reason Officer Richardt was brought in on June 9, 2021, was because the prosecuting body changed. Approximately two-and-a-half years into the case, the Lake County State's Attorney's Office determined it was no longer able to prosecute the case. The two current prosecutors were then appointed.

¶ 20 Also on re-direct, Richardt testified that he was familiar with Darnell Donelson, Eric Whitaker, and Brandon Gardner. *Supra* ¶ 17. Defendant does not resemble any of those individuals.

¶ 21 A stipulation was then read into the record. In summary, the parties stipulated that if Daphne Jones, an employee of Woodstone Village Apartment Complex, were to testify, she would testify that apartment #107 in building 1609 N. Lorelei Drive, Zion, Illinois, was rented to defendant, Quantell Williams, and would lay the necessary foundation for admission of the lease contract and the security deposit receipt (admitted as People's exhibit No. 83 and 84 respectively).

¶ 22 Dr. Mark Witeck testified next. He worked as a forensic pathologist with the Lake County Coroner's office and conducted the autopsy of Nicholas Robinson on December 20, 2018. During his external examination, he noted an entry gunshot wound on Nicholas's upper left arm and an exit gunshot wound on Nicholas's upper right arm. During his internal examination, he was able to conclude that the bullet traveled "through the left upper arm, through the soft tissues, muscles, blood vessels, and then it went through the chest wall. It went through the left lung. It went through the aorta and vena cava. *** Then it went through the right lung, and then it went through the right shoulder." No bullet was recovered, but based on the injuries, Witeck was able to conclude that the muzzle of the weapon was greater than 24 inches away when fired and was likely a faster-travelling bullet as it passed completely through the body, from side to side. Ultimately, Witeck was able to conclude that Nicholas died from a gunshot wound to the chest as a result of homicide. On cross-examination, Witeck testified that from the autopsy, he was unable to determine where

the shooter was, exactly how far away the shooter was, or how the victim was positioned when he was shot. However, the entrance wound was lower on the victim's body than the exit wound.

¶ 23 Testimony concluded for the day, and the case was continued until April 18, 2024. Gary Lind, a forensic scientist with the Northeastern Illinois Regional Crime Laboratory, was qualified as an expert in the area of firearm and tool marks examination. He testified as follows. He explained that a firearms examiner is "someone who through the use of a comparison microscope determines whether or not a fired bullet, a discharged cartridge case, or a discharged shot shell was fired from a particular firearm." In the course of analyzing the evidence in the instant case, he examined 12 fired .223 casings found in the grassy area alongside 1609 Lorelei. A .223 bullet can be used in an AR-15 rifle. Generally, a .223 bullet travels between 2,200 and 2,400 feet per second. In comparison, a 9-millimeter round would travel between 1,000 and 1,200 feet per second; and a .38 caliber bullet would travel between 800 and 1,000 feet per second.

¶ 24 In his analysis, he was able to determine to a reasonable degree of scientific certainty that all 12 casings were discharged from the same unknown firearm, which could have been fired from an AR-15 platform rifle.

¶ 25 Lind also examined three fired projectiles that were recovered from 1525 Lorelei, Apartment 111, in a child's bedroom; 1525 Lorelei, Apartment 211, from a child's bedroom; and 1525 Lorelei, Apartment 211, a living room. He identified these all as .223 caliber fired bullets. He was able to determine to a reasonable degree of scientific certainty that the AR-15 "could not be eliminated as a source that could've fired these three fired bullets[.]"

¶ 26 He also examined three fired projectiles recovered from 1529 Lorelei, Apartment 207. He identified one as being a .38 family fired projectile, one as being a .32 family fired projectile, and

one being an unknown lead fragment. The first two were fired from two different unknown firearms. The origin of the lead fragment was unknown.

¶ 27 He also examined six fired 9-millimeter casings that were found in a parking lot at the apartment complex. He determined to a reasonable degree of scientific certainty that all six casings were ejected from the same unknown firearm, a firearm utilizing 9-millimeter Luger or 9x19-millimeter cartridges.

¶ 28 Lastly, he examined a bullet that was retrieved from a silver Infiniti automobile that was in the parking lot of the apartment complex. He identified it as a bullet in the .38 family or 9-millimeter family.

¶ 29 On cross-examination, Lind testified that it would be safe to say that all the shell casings that were found in the investigation and submitted to him came from at least seven unknown firearms.

¶ 30 At this point, the State rested. The defendant chose not to testify nor present any witnesses. He entered 23 exhibits into evidence and offered a stipulation into evidence.

¶ 31 Then, the defense rested and the parties proceeded to closing arguments. The trial court then instructed the jury. As accountability was an issue, the phrase "or one for whose conduct he is legally responsible" was inserted after defendant's name in each proposition. Additionally, Illinois Pattern Jury Instruction, Criminal No. 5.03 was given:

> "A person is legally responsible for the conduct of another person when, either before or during the commission of an offense, and with the intent to promote or facilitate the commission of the offense, he knowingly solicits, aids, abets, agrees to aid, or attempts to aid the other person in the planning or commission of the offense." Illinois Pattern Jury

Instructions, Criminal, No. 5.03) (approved April 28, 2023) (hereinafter IPI Criminal No. 5.03)

The following instruction was also given:

> "You have before you evidence that a law enforcement officer made an identification of the defendant from a photograph. It is for you to determine what weight, if any, should be given to that evidence. In determining the weight to be given to this evidence, you should not draw any inference from the fact the witness is a law enforcement officer." Illinois Pattern Jury Instructions, Criminal, No. 3.15B) (approved April 24, 2026) (hereinafter IPI Criminal No. 3.15B)

After deliberation, the jury returned a verdict finding defendant guilty of all counts.

¶ 32 On May 16, 2024, defendant filed a "Motion for New Trial and for Judgment *Non Obstante Verdicto*," arguing, among other things, that the trial court erred in allowing rule 701 identification testimony from Officer Richardt; and that the evidence was insufficient to prove defendant guilty beyond a reasonable doubt. He filed an amended motion on June 9, 2025, and the matter proceeded to hearing on June 11, 2025. The trial court denied the motion and continued the matter for sentencing.

¶ 33 On July 16, 2025, defendant was sentenced to 58 years' incarceration in the Illinois Department of Corrections, followed by 3 years MSR. He received credit for 2,386 days served. He filed his timely notice of appeal on July 17, 2025.

¶ 34 II. ANALYSIS

¶ 35 Williams raises four issues on appeal: (1) the trial court violated the Illinois Supreme Court's holding in *People v. Thompson*, 2016 IL 118667, when it allowed Officer Richardt to testify in a manner that implied he had a substantial number of contacts with Williams in his

capacity as a police officer; (2) the State made inappropriate comments during its opening and closing statements which constituted first and second prong plain error; (3) the State failed to prove beyond a reasonable doubt that he personally discharged a firearm that proximately caused Nicholas's death; and (4) defense counsel was ineffective for not proposing IPI No. 28.02. We will address each of these issues in turn.

¶ 36 A. *People v. Thompson*

¶ 37 Defendant first argues that the trial court violated the Illinois Supreme Court's holding in *People v. Thompson*, 2016 IL 118667, when it allowed Officer Richardt to testify in a manner that implied he had a substantial number of contacts with Williams in his capacity as a police officer. Importantly, defendant does not argue that Officer Richardt's lay identification testimony is not rationally based on his perception or that it is not helpful to a clear understanding of the witness's testimony or a determination of a fact in issue. Rather, he argues only that Officer Richardt's testimony impermissibly exceeded the scope allowed by *Thompson*. Our analysis will be limited to that argument.

¶ 38 "A court reviews the trial court's decision to admit lay opinion identification testimony under an abuse of discretion standard." *People v. Thompson*, 2016 IL 118667, ¶ 49. A trial court abuses its discretion only if no reasonable person could agree with the trial court. *People v. Farris*, 2012 IL App (3d) 100199, ¶ 26.

¶ 39 Our Supreme Court in *People v. Thompson* outlined a rule for admission of identification testimony by a law enforcement officer. Although there is no *per se* rule against the admission of an officer's identification testimony, certain safeguards to defendant's rights must be present. *Thompson*, 2016 IL 118667, ¶ 59. Although neither party noted this, Illinois courts have differed as to exactly how many procedural safeguards are required by *Thompson*. A majority of appellate

courts have cited *Thompson* as requiring only two procedural safeguards: (1) affording the defendant an opportunity to examine the officer outside the presence of the jury; and (2) instructing the jury, both before the testimony and in the final instructions to the jury, that it need not give any weight at all to such testimony and that the jury is not to draw any adverse inference from the fact the witness is a law enforcement officer. *People v. Bell*, 2026 IL App (1st) 231344, ¶ 101, 104; *People v. Longs*, 2024 IL App (4th) 230501, ¶ 35; *People v. Brown*, 2017 IL App (1st) 142197, ¶ 61; *People v. Alzebdieh*, 2026 IL App (4th) 250731-U, ¶ 48; *People v. Brownlee*, 2024 IL App (4th) 231139-U, ¶ 61; *People v. Castellanos*, 2023 IL App (2d) 220261-U, ¶ 53; *People v. Salgado*, 2022 IL App (2d) 200537-U, ¶ 53; *People v. Hudson*, 2018 IL App (1st) 162907-U, ¶ 32. A minority of districts have identified three safeguards: (1) the two aforementioned safeguards; and (2) limiting an officer's testimony to consist only of how long he or she knew the defendant and how frequently he or she saw the defendant. *People v. Stitts*, 2020 IL App (1st) 171723, ¶ 27; *People v. Russell*, 2021 IL App (2d) 180874-U, ¶ 100; *People v. Simmons*, 2025 IL App (5th) 220817-U, ¶ 32-33.

¶ 40 As the Second District has most recently found *Thompson* to require only two procedural safeguards, we find the same. See *Castellanos*, 2023 IL App (2d) 220261-U, ¶ 53; *Salgado*, 2022 IL App (2d) 200537-U, ¶ 53. The *Thompson* safeguards include (1) affording the defendant an opportunity to examine the officer outside the presence of the jury; and (2) instructing the jury, both before the testimony and in the final instructions to the jury, that it need not give any weight at all to such testimony and that the jury is not to draw any adverse inference from the fact the witness is a law enforcement officer. *Thompson*, 2016 IL 118667, ¶ 59.

¶ 41 Here, all safeguards were afforded, and as such, we find no error in the admission of Officer Richardt's testimony. As to the first *Thompson* safeguard, defendant does not dispute the fact he was afforded an opportunity to examine the officer outside the presence of the jury. On May 9,

2022, and June 14, 2022, both parties had the opportunity to examine Officer Richardt during a pretrial evidentiary hearing. *Supra* ¶ 5-6. Defendant was able to explore the level of Officer Richardt's familiarity with him, as well as any bias or prejudice, as required by *Thompson*. *Thompson*, 2016 IL 118667, ¶ 59. Further, the trial court clearly carefully weighed the probative value of the testimony with the danger of unfair prejudice. *Supra* ¶ 5-6.

¶ 42 In his opening brief, defendant fails to address the fact that *Thompson*'s second safeguard, jury instructions, was satisfied in this case. Accordingly, any argument related to this safeguard is forfeited. ("Points not argued are forfeited and shall not be raised in the reply brief, in oral argument, or on petition for rehearing." Ill. S. Ct. R. 341(h)(7) (eff. Oct. 1, 2020)). Further, "[a] jury is presumed to follow a trial court's jury instructions." *People v. Tapley*, 2020 IL App (2d) 190137, ¶ 81. As defendant does not address this, we therefore must presume that the jury followed the instruction and did not draw any inference from Officer Richardt's position as a law enforcement officer.

¶ 43 B. The State's Comments During Opening and Closing Statements

¶ 44 Next, defendant argues that the State made improper comments during opening and closing statements that constituted both first and second prong plain error. The State responds, claiming no error occurred, and even if there was an error, defendant suffered no prejudice.

¶ 45 As both parties note, there is a split amongst the appellate districts as to the appropriate standard of review to apply to alleged errors in the State's opening and closing statements. In *People v. Wheeler*, 226 Ill. 2d 92 (2007), our supreme court held that "[w]hether statements made by a prosecutor at closing argument were so egregious that they warrant a new trial is a legal issue [a reviewing] court reviews *de novo*." *People v. Wheeler*, 226 Ill. 2d 92, 121 (2007). However, the *Wheeler* court also cited *People v. Blue*, 189 Ill. 2d 99 (2000), which applied an abuse-of-discretion

standard. *Blue*, 189 Ill. 2d at 128; *Wheeler*, 226 Il. 2d at 121. We need not determine the appropriate standard to apply here, as we would reach the same result under either standard of review. *People v. Ealy*, 2015 IL App (2d) 131106, ¶ 76.

¶ 46 Defendant acknowledges that defense counsel did not object to any of the allegedly improper comments, and therefore, his claim of error arising from these comments is unpreserved. *People v. Piatkowski*, 225 Ill. 2d 551, 564 (2007). Accordingly, he claims they are reviewable under both prongs of the plain error doctrine, which is a narrow exception to the general rule of forfeiture. *People v. Herron*, 215 Ill. 2d 167, 177 (2005). It allows a reviewing court to consider unpreserved errors if a clear and 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) *** 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." *Piatowski*, 225 Ill. 2d at 565.

¶ 47 The first step in a plain error analysis is to determine if a clear or obvious error has occurred. *People v. Walker*, 232 Ill. 2d 113, 124 (2009). We will address each allegedly improper comment in turn. It is well established that the State has wide latitude in making opening statements and closing arguments. *People v. Jones*, 2016 IL App (1st) 141008, ¶ 21. "A closing argument must be viewed in its entirety, and the challenged remarks must be viewed in their context [Citation.] Statements will not be held improper if they were provoked or invited by the defense counsel's argument." *People v. Glasper*, 234 Ill. 2d 173, 204 (2009). Improper remarks constitute reversible error only where they result in substantial prejudice to the defendant. *People v. Stevens*, 2018 IL App (4th) 160138, ¶ 56.

¶ 48 Defendant first takes issue with the following comments:

"MR. PAVLETIC [(SPECIAL PROSECUTOR)]: I want you to think about it in these terms. As these defendants went out into that parking lot, what they were actually doing is they were *trying to stop their prey, and their prey in this case was Nicholas Robinson*. They were trying to distract -- some of them were distracting while others actually committed the crime.

That's what wildlife does. If any of you here are fans of wildlife shows or going to YouTube and looking at wildlife videos, when you watch animals -- I don't care if it's a wolf, if it's a coyote, if it's a lion, watch how natural wildlife acts. *They act just like these defendants did.*

What they do is, first of all, they stay back. There's never an initial confrontation. They stay back, and they watch, and they're looking for the weak link. They're looking for the most vulnerable member of the herd to go after.

You'll notice how they will then spread out. They will surround. Some will be doing it literally in order to push the victim -- the soon-to-be dead member of the herd towards the one who's actually going to be attacking.

In other words, what you find in situations like this is they observe, they plan, they spread out, and then they attack without notice, and they attack with stealth. And that's exactly what these defendants did. The exact same thing that they did." (Emphasis added.)

¶ 49 Defendant notes that Illinois courts have consistently found references to defendants stalking their prey to be impermissible. *People v. Johnson*, 208 Ill. 2d 53, 80 (2003); *People v. Johnson*, 119 Ill. 2d 119, 139 (1987); *People v. Ivory*, 333 Ill. App. 3d 505 (2002). The State responds, arguing that the commentary "focused on tactics" employed by the group and compares the comments to those made in *People v. Liddell*, 240 Ill. App. 3d 229, 235 (1992). In *Liddell*, the

State made a passing reference to the fact that defendant and his friends liked to run in a "pack." *Id.* at 234. The *Liddell* court ultimately found that the use of the word "pack" wasn't an impermissible reference to defendant as an animal, but rather a reference to convey to the jurors that defendant was part of a group working[1] in concert with one another. *Id.* at 235. Here, however, the State's comments amounted to an explicit comparison of defendant and his co-offenders to predatory animals and were not used merely to convey that defendant was working in a group. These types of analogies have the effect of de-humanizing a defendant and are highly inflammatory, particularly when considered in the context of a black defendant in front of a majority white jury. Further, contrary to the State's assertion that this was useful argument that defendant and the other actors were knowingly acting in concert, it is mystifying that any prosecutor would want to use animals acting on instinct as a substitute for human beings acting with conscious intent; the comparison actually undermines the argument. Accordingly, we find the State's comments to be improper.

¶ 50 Now that we have determined that an error occurred, we next determine if "(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) *** 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." *Piatowski*, 225 Ill. 2d at 565. We do not find either situation to be the case here.

¶ 51 Defendant cannot establish first-prong plain error, as he cannot demonstrate prejudice. *People v. Johnson*, 119 Ill. 2d 119 (1987), is instructive. In *Johnson*, our supreme court found the

[1]Mr. Pavletic's inflammatory comments were mitigated by Mr. Towne's much more apt analogy in his rebuttal closing argument that the shooter's actions were akin to infantry tactics in attacking a mobile target.

State's comments likening defendant to an animal to be improper. *Id.* at 139. However, it found defendant suffered no substantial prejudice as a result of the improper comments, as the jury was specifically instructed that closing arguments are not evidence. *Id.* at 140. The same instruction was given here. Further, the evidence at trial was not so closely balanced that but for these improper comments, the jury would likely have reached a different result. In addition to Officer Richardt's identification testimony, the jury had the ability to view the videos themselves and compare them with both the actual defendant, as well as the photos of his ID and driver's license. Additionally, there was overwhelming circumstantial evidence placing defendant at the scene of the crime, with access to numerous firearms. *Supra* ¶ 15-16. Given the curative jury instruction, as well as the overwhelming evidence at trial, we do not find the State's comments comparing the defendant to wildlife to be reversible error under first-prong plain error.

¶ 52 Under second-prong plain error, defendant must show that the error was so serious that it affected the fundamental fairness of the defendant's trial and challenged the integrity of the judicial process. *People v. Sebby*, 2017 IL 119445, ¶ 50. Our supreme court has said that "comments in prosecutorial closing arguments will rarely constitute second-prong plain error because the vast majority of such comments generally do not undermine basic protections afforded to criminal defendants." *People v. Williams*, 2022 IL 126918, ¶ 56. In order to establish second-prong plain error in the context of improper comments made during the State's closing statement, a defendant must show that the "State's comments were so inflammatory or so flagrant that [the] defendant was denied a fair trial." *People v. Euell*, 2012 IL App (2d) 101130, ¶ 22. Defendant cannot show that here. An example of such a comment that has been deemed to be so inflammatory was made in *People v. Afandi*, 2024 IL App (1st) 221282. In *Afandi*, the State claimed an Iraqi defendant came to the United States to rape women. *Afandi*, 2024 IL App (1st) 221282, ¶ 24. The First District

found that this comment was racially motivated and functioned "as an offensive and unwarranted appeal for the jury to fear Arab and Muslim men, to demonize Afandi as an immigrant from a Muslim country." In the instant case, the State's comment does not compare. It is a minor part of its overall closing argument. Additionally, the jury was provided a curative instruction, noting that closing arguments are not evidence. Like in *Johnson*, the State's isolated remark here did not substantially prejudice defendant. *Johnson*, 119 Ill. 2d at 140. In other words, the State's comment was not so inflammatory or so serious an error that it affected the fundamental fairness of defendant's trial. Therefore, defendant cannot establish second-prong plain error as to the State's comments comparing the defendant to wildlife.

¶ 53 Next, defendant alleges the following comments were improperly made:

> "MR. PAVLETIC [(SPECIAL PROSECUTOR)]: One other thing, counsel kept talking about, hey, you know, part of your identification is based on some video and some stills. They're making it sound like this is some unusual thing. Let's be perfectly frank about this. In the United States of America almost every single inch of ground and territory and buildings and parking lots are under video surveillance. This is just very common now. Identifying individuals or defendants through video or picture is not a stretch. This is not an unusual phenomenon in this country."

¶ 54 Defendant compares these comments to those made by the State in *Stevens*, 2018 IL App (4th) 160138. In *Stevens*, the State made comments indicating that "the cunning nature of sexual predators is something 'we' see on a daily basis." *Id.* ¶ 58. The *Stevens* court concluded that the cunning or calculating nature of sexual offenders that the State sees on a daily basis was not presented as evidence at trial, nor is the cunning or calculating nature of sexual offenders a matter of common knowledge. *Id.* ¶ 61. We disagree. While the allegedly daily experience of "we"

(presumably prosecutors or law enforcement) of the "cunning nature" of sex offenders is clearly not based on evidence and is highly inflammatory, the mere assertion that video cameras are ubiquitous has neither of these elements. Moreover, defendant misrepresents the State's comments. Defendant argues that similarly to *Stevens*, the above comments involve matters outside of the jury's common knowledge. "[I]t is not common knowledge *** that police officers, with no personal knowledge of the underlying events, identify defendants on surveillance footage as a common practice." But the State did not allege that it is common practice for *police officers* to identify defendants on surveillance footage. Rather, the State noted the prevalence of security cameras in the United States and then made a reasonable inference that identifying individuals or defendants on the footage collected by those cameras is "not a stretch" and "is not an unusual phenomenon in this country." It is axiomatic that "*security* cameras" are installed to provide *security* and recorded video surveillance for a given location that can (and do) help identify perpetrators of any crimes the cameras may capture. Given this, we do not find these comments to be improper.

¶ 55 Next, defendant claims the following comment during the State's rebuttal was improper:

> "MR. TOWNE [(SPECIAL PROSECUTOR)]: Please don't hold it against Mr. Pavletic and I that we asked [Officer Richardt] who has known the defendant over 14 years, a man with an impeccable credential, an amazing resume, and just a flat-out good guy to come in here and tell you that he watched [the] video."

Relying on *People v. Williams*, 2015 IL App (1st) 122745, defendant argues that the State improperly vouched for Officer Richardt's credibility. In *Willliams*, the State explicitly told the jury that the witness's credibility had already been assessed before he took the stand. *Id.* ¶ 17. The prosecutor also "urged the jury to believe [the witness] over defendant because of the government's

verification of [the witness's] version of events." *Id.* The *Williams* court specifically noted that the prosecutor's comments were "even more problematic than the prosecutor simply injecting his opinion into the case." *Id.* The prosecutor's comments here, although inartful, simply gave his opinion of Officer Richardt. There was no urging the jury to believe Officer Richardt but rather an assertion of his qualifications and demeanor, both of which the jury was able to observe. Further, viewed in context, the prosecutor's comments were made in response to the defendant's attack on the prosecution for allegedly not obtaining an identification for two-and-a-half years. As noted above, statements will not be held improper if they were provoked or invited by the defense counsel's argument. *Glasper*, 234 Ill. 2d at 204. That is the case here. As such, we find no error with these comments.

¶ 56 Next, defendant takes issue with the following comments:

> "MR. PAVLETIC [()]: So if you want to know why we didn't have an AR-15 for the expert to analyze, thank [the defendant]."

Defendant claims that this comment impermissibly shifted the burden of proof. We find the State's reliance on *People v. Ealy*, 2015 IL App (2d) 131106, to be helpful. In *Ealy*, the State stated "if a defendant is either smart enough or lucky enough not to leave his fingerprints at a crime scene, then according to [the defense] the defendant gets found not guilty" *Id.* ¶ 77. The *Ealy* court found that the statement, although inartful, did not technically shift the burden to the defendant or urge disregard of the presumption of innocence. *Id.* ¶ 78. Rather, the comment was made to argue that physical evidence is not necessary to prove a defendant's guilt and that the absence of such evidence does not compel an acquittal. *Id.* ¶ 77. Similarly here, the State's comment did not shift the burden of proof to the defendant. It was a clumsy comment intended to explain the lack of

physical evidence. Like the *Ealy* court, we find no error but caution the State to refrain from making similar comments in the future or risk reversal for improper burden shifting. See *id.* ¶ 78.

¶ 57 Next, defendant argues that the State improperly inflamed the passions of the jury by making the following comments:

> "MR. TOWNE [(SPECIAL PROSECUTOR)]: What about the fundamental value of life? What about the fundamental value of respect? He called Jonathan Christopher. Days ago he talked about Nicholas Campbell. He talked about the quality of life of the people at the Woodstone Village Apartments, it must not be very nice because some shell casings got picked up in the parking lot. He's pounded on the podium as he preached about his concept of fundamental values. What about the fundamental value of life?
>
> The defendant, Quantell Williams, took a life. If it was his shot that tore through the body and the vital organs of Nicholas Robinson, he took a life. If his spray of shots went awry and only tore through the homes of the families at Woodstone Village, he took a life. If he was the general that commanded this military strike, he took a life. And if he was the foot soldier who executed that plan, successfully I might add, he took a life."

Defendant argues that these comments went too far and placed undue emphasis on the fact that Nicholas was dead, which had the effect of asking the jury to disregard the State's burden of proof. We disagree. The State "may comment unfavorably on the evil effects of the crime and urge the jury to administer the law without fear, when such argument is based upon competent and pertinent evidence." *People v. Nicholas*, 218 Ill. 2d 104, 121-22 (2002). The State's comments here are based on the evidence. *Supra* ¶ 9, 11. As such, we find no error in these comments.

¶ 58 Lastly, defendant argues that the State misstated the law during both opening statements and closing arguments by making the following comments:

MR. PAVLETIC [(SPECIAL PROSECUTOR)]: However, we don't care, *nor does the law care about who fired the fatal round*. We will show that these defendants were acting in concert, that they aided and abetted one another, that they helped facilitate the crime, that they made, through their own actions, the crime easier to commit. That's what will be proven here, that they were acting in concert. We will not conclusively ever be able to prove -- though, we've got a good idea through the evidence who fired the fatal shot, but we'll never know conclusively, *nor is it required.*

* * *

[T]hen [defense counsel] said, *** if our client was the shooter, then you have to determine that his bullet killed the victim. Now, that's untrue *** [.]" (Emphasis added.)

Defendant claims that these statements constitute a misstatement of the law, as to the firearm enhancement and that it is well established that the State may not misstate the law in closing arguments. *People v. Carbajal*, 2013 IL App (2d) 111018, ¶ 29. The State responds saying the statements were intended to state the law as to the charged offense of first-degree murder, not the firearm enhancement. We agree in part with the State and in part with defendant. In terms of the first statement, immediately following the allegedly improper statement (italicized above), the State discusses legal accountability at length, making it clear it was discussing the first-degree murder charge, not the firearm enhancement. Therefore, we find no error as to the first statement.

¶ 59 Regarding the second statement, viewing it fully in context, it is not clear the State was discussing the first-degree murder charge. It was responding to defense counsel's allegations in opening statement that the State had to prove defendant personally discharged the firearm that proximately caused Nicholas's death—which is true as to the firearm enhancement. The State apparently interpreted this to mean that defense counsel was alleging that the State must prove the

defendant's bullet killed Nicholas to prove him guilty of first-degree murder—which is not true. Regardless, the second statement was erroneous.

¶ 60 Now that we have determined that an error occurred, we continue with our plain-error analysis and determine if "(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) *** 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." *Piatowski*, 225 Ill. 2d at 565. The evidence is not closely balanced here, so defendant cannot establish first-prong plain error. Defendant was identified on camera as one of the shooters. *Supra* ¶ 14. Additionally, as noted above, there was extensive circumstantial evidence placing defendant at the scene of the crime with access to numerous firearms, including an AR-15. *Supra* ¶ 15-16. Accordingly, defendant cannot establish first-prong plain error.

¶ 61 As discussed above, "comments in prosecutorial closing arguments will rarely constitute second-prong plain error because the vast majority of such comments generally do not undermine basic protections afforded to criminal defendants." *Williams*, 2022 IL 126918, ¶ 56. In order to establish second-prong plain error in the context of improper comments made during the State's closing statement, a defendant must show that the "State's comments were so inflammatory that [the] defendant was denied a fair trial." *People v. Euell*, 2012 IL App (2d) 101130, ¶ 22. Here, these four words alone do not constitute an error so serious that that it affected the fundamental fairness of defendant's trial. The jury was properly instructed on both the first-degree murder charge and the firearm sentencing enhancement, which limits any potential prejudice. See *People v. Boston*, 2018 IL App (1st) 140369, ¶ 45.

¶ 62 It could be argued that, but for this improper statement made by the State, the jury would have found the State did not prove the firearm sentencing enhancement beyond a reasonable doubt, and therefore, defendant was prejudiced. However, below, we ultimately vacate that enhancement and instead impose a 20-year enhancement. Accordingly, any prejudice suffered from this improper statement is resolved. *Supra* ¶ 67. For those reasons, we find error, but defendant cannot establish first or second-prong plain error related to the second statement.

¶ 63 C. Failure to Prove Defendant Guilty Beyond a Reasonable Doubt

¶ 64 Next, defendant argues that the State failed to prove beyond a reasonable doubt that he personally discharged a firearm that proximately caused Nicholas's death. 730 ILCS 5/5-8-1(a)(1)(d)(iii) (West 2018), allows for a sentencing enhancement of 25 years if a defendant personally discharged a firearm that proximately cause death to another person. In reviewing a challenge to the sufficiency of the evidence, the question is whether, in the light most favorable to the prosecution, a rational trier of fact could have found the essential elements of the offense (or the sentencing enhancement) beyond a reasonable doubt. *People v. Lavelle*, 396 Ill. App. 3d 372, 382 (2009); *People v. Collins*, 214 Ill. 2d 206, 217 (2005).

¶ 65 Defendant cites to *People v. Lavelle*, 396 Ill. App. 3d 372 (2009), and *People v Richardson*, 2022 IL App (2d) 210231-U, in support of his argument. We find both cases to be helpful to our analysis. In *Lavelle*, a defendant was convicted of felony murder (720 ILCS 5/9-1(a)(3) (West 2002)) and was found to have personally discharged a firearm during the commission of the offense that proximately caused the victim's death. *Lavelle*, 396 Ill. App. 3d at 373. He was sentenced to a total of 100 years' imprisonment. *Id.* at 373-374. On appeal, he argued, amongst other things, that the State failed to prove the firearm enhancement beyond a reasonable doubt. *Id.* at 374. The *Lavelle* court found that because both defendant and his co-defendant fired shots at the victim and

the bullet recovered from the victim's body could have been fired from two types of weapons, that it was impossible to determine which individual personally discharged the firearm that proximately caused the victim's death. *Id.* at 384.

¶ 66 In *Richardson*, two individuals fired gunshots from an SUV, fatally shooting one person. *Richardson*, 2022 IL App (2d) 210231-U, ¶ 6. The victim sustained only one gunshot wound, and two types of casings were recovered from the scene. *Id.* ¶ 83. Additionally, the forensic pathologist testified that he was unable to determine the caliber of the bullet that was recovered from the victim's body. *Id.* The State conceded that with that evidence alone, it did not prove that defendant's gunshot proximately caused the victim's death. *Id.* Accordingly, the *Richardson* court vacated the 25-year firearm sentencing enhancement and instead imposed a 20-year firearm enhancement. *Id.*; see also 730 ILCS 5-8-1(a)(1)(d)(ii) (West Supp. 2017)).

¶ 67 The State argues that these two cases are distinguishable because here, there is evidence that linked the injury to defendant's firearm. We disagree with this framing. The State contends that the following demonstrates that defendant proximately caused Nicholas's death: the locations of defendant, the victim, and defendant's bullets; the nature of the victim's injuries; the nature of defendant's weapon; and the fact defendant fled. Additionally, the State contends that in the video, you see defendant standing and aiming directly at the victim's left side and he fired more rounds than the other gunman. However, the other gunman just as easily could have been the one to proximately cause Nicholas's death. The other gunman was also standing and shooting, aiming at the victim's left side. In short, the State does not address the crux of *Lavelle* and *Richardson*: where there are multiple shooters and no direct evidence of the weapon that caused the injury, the State cannot prove that a defendant's gunshot proximately caused a victim's death.

¶ 68 Here, similarly to *Lavelle* and *Richardson*, two individuals fired shots at the victim. *Supra* ¶ 9. No bullet was recovered from the victim's body, and the only testimony discussing what type of weapon caused the victim's injuries was that the weapon was greater than 24 inches away when fired and that the weapon likely fired a faster-travelling bullet. *Supra* ¶ 22. Reviewing the video, both shooters were more than 24 inches away from the victim. Additionally, there was no testimony indicating the handgun used by the other shooter was incapable of causing the victim's injuries.

¶ 69 Although there is no question that defendant discharged a firearm, the evidence here is insufficient to prove beyond a reasonable doubt that defendant's gunshot proximately caused Nicholas's death. As we have the authority to reduce a criminal sentence pursuant to Illinois Supreme Court Rule 615(b)(4) (eff. Jan. 1, 1967), we vacate the 25-year firearm enhancement and instead impose a 20-year firearm enhancement. See 730 ILCS 5/5-8-1(d)(ii) (West 2018).

¶ 70 D. Ineffective Assistance of Counsel

¶ 71 Lastly, defendant argues that trial counsel was ineffective for failing to request Illinois Pattern Criminal Jury Instruction No. 28.02, and therefore, we should reverse the jury's finding as to the 25-year firearm enhancement. We need not address this argument, as we have already vacated the 25-year firearm enhancement above.

¶ 72 III. CONCLUSION

¶ 73 For the reasons stated, we affirm the judgment of the circuit court of Lake County and defendant's sentence is modified.

¶ 74 Affirmed; sentence modified.