NOTICE
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2024 IL App (5th) 210351-U

NO. 5-21-0351

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,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Madison County.
	)	
v.	)	No. 18-CF-3025
	)	
KEVIN CAMPBELL,	)	Honorable
	)	Neil T. Schroeder,
Defendant-Appellant.	)	Judge, presiding.

JUSTICE MOORE delivered the judgment of the court.
Justices Welch and Boie concurred in the judgment.

ORDER

¶ 1 *Held*: We affirm the defendant's conviction and sentence for first degree murder because no error occurred regarding *voir dire*, the admission of exhibits 6, 6A, and 7, or during Vernell Williams' testimony.

¶ 2 The defendant, Kevin Campbell, appeals his conviction and sentence, following a trial by jury in the circuit court of Madison County, for one count of first degree murder. On appeal, the defendant argues: (1) plain error occurred when the State suggested to jurors in *voir dire* examination that the prosecution's burden of proof was less than that on CSI and other television crime shows, (2) plain error occurred when the trial court admitted surveillance video exhibits 6 and 6A, (3) plain error occurred when the trial court admitted exhibit 7, a video recording purportedly retrieved from a social media platform, (4) plain error occurred when the State adduced evidence that witness Vernell Williams previously made an out-of-court statement to

police that was similar to his trial testimony, (5) the trial court erred in excluding evidence of witness Vernell Williams' first degree murder conviction, and (6) the trial court erred in refusing to hold witness Vernell Williams in contempt or otherwise coercing him to respond to questions on cross-examination. For the following reasons, we affirm the defendant's conviction and sentence.

¶ 3 I. BACKGROUND

¶ 4 On October 6, 2018, Tyrone Williams (Tyrone) was shot and killed in Madison County, Illinois. On October 9, 2018, the defendant was charged, by information, with two counts of first degree murder of Tyrone Williams and one count of unlawful possession of weapons by a felon. The defendant had his initial appearance before the trial court on October 11, 2018, at which time he advised he was represented by private counsel, Jessica Koester. Koester appeared in the case and entered a written plea of not guilty and demanded a speedy jury trial on behalf of the defendant on October 15, 2018.

¶ 5 The defendant's jury trial was continued several times on the defendant's motion. Following the continuances, on October 8, 2019, the State moved to set the matter for a pretrial hearing. On October 28, 2019, attorney Koester filed a motion to withdraw as attorney of record and said motion was granted the same day.

¶ 6 On November 13, 2019, the public defender was appointed to represent the defendant. On November 26, 2019, the Madison County Public Defender filed a motion to withdraw as counsel for the defendant due to a conflict. The Madison County Public Defender was granted leave to withdraw as counsel for the defendant on December 2, 2019, and special public defender Steve Griffin was appointed to represent the defendant.

¶ 7 On February 17, 2021, the defendant, through counsel, filed an affirmative defense that alleged: "Defendant reasonably believed that the use of force which was intended or likely to cause death or great bodily harm was necessary to prevent either death or great bodily harm to either himself or another, or the commission of a forcible felony."

¶ 8 Upon motion of the defendant, count III, which alleged unlawful possession of weapons by a felon, was severed. The State then elected to proceed to trial on counts I and II which alleged first degree murder.

¶ 9 The defendant's jury trial began with jury selection on April 20, 2021. Before beginning with *voir dire*, the trial court explained the general process of a jury trial and important principles of criminal law to the venire. The trial court stated, *inter alia*, as follows:

> "THE COURT: Thank you. There are several principles of criminal law that are very important, and I need to make sure that each of you understands and accepts these principles of law. So I'm going to go through them one at a time.
>
> * * *
>
> The second principle is that before a defendant can be convicted, the State must prove the defendant guilty beyond a reasonable doubt. Is there anyone who does not understand and accept that principle of law? If you do not understand and accept it, please raise your hand.
>
> (All Prospective Jurors responded.)
>
> THE COURT: Let the record reflect no one is indicating or raising their hand."

After explaining the process to the potential jurors, the trial court asked questions of potential jurors.

¶ 10 The State was the next to question the potential jurors. The State, *inter alia*, questioned some of the potential jurors regarding television crime shows like CSI and Law & Order. The State asked prospective juror 2 if they "understand that in real life cases and investigations it's not always as simple as it is on TV" and whether they would "hold the State to a TV standard and expect everything to be wrapped up with a bow on in it in 30 minutes." Similar questions regarding what happens on television versus reality were asked of prospective jurors 1, 3, 4, and 12. The defense did not object to this line of questioning. Jury selection was completed on the first day of trial.

¶ 11 The second day of trial was conducted on April 21, 2021, and began with opening statements. The first witness called by the State was Officer Robert Warren. Warren testified that he was presently employed as a patrolman for the City of Madison and had been for approximately two months. He was previously employed as a patrolman for the City of Venice for approximately three years.

¶ 12 Warren testified that he was working as a patrol officer for the City of Venice on October 6, 2018, and shortly after midnight on that date he was dispatched to Williams Autobody in reference to shots fired. Warren arrived at the scene at 12:09 a.m. in his squad car along with Sergeant Shafer. Warren testified that upon arrival he was flagged down by a group of people standing on the corner of Market and Broadway and he observed "a large amount of blood in the roadway with drag marks leading up to the corner of the sidewalk where the victim was laying saturated in blood suffering from apparent gunshot wounds."

¶ 13 Next, Warren assessed the victim and observed he had a pulse and was breathing but was unresponsive. Sergeant Shafer called for an ambulance and assistance from other officers due to the large crowd in the area that was uncompliant and hostile towards law enforcement. Emergency

Medical Services arrived on the scene and began administering life-saving measures to the victim until they were able to transport him from the scene to a hospital.

¶ 14 Warren testified that he stayed on scene after the victim was transported and began canvassing the scene for witnesses and physical evidence. Warren testified that he spoke to the people that were standing around in the area, but they claimed to have seen nothing. The physical evidence that was recovered included spent shell casings, blood evidence, disturbed pavement, a t-shirt in the roadway, and some keys. Detectives from the Venice Police Department and the Illinois State Police (ISP) also responded to the scene.

¶ 15 The next witness called by the State was Gala Slack. Slack was the mother of the victim, Tyrone. She testified to general information about Tyrone and when she learned he had been shot.

¶ 16 Louis Williams (Louis)was the next witness called by the State. Louis testified that he owned Williams Autobody located in Venice, Illinois. He testified that the defendant is his cousin, and the defendant operated his own business in the Williams Autobody building.

¶ 17 Louis testified that Williams Autobody was equipped with four different surveillance cameras on October 5 and 6, 2018, and they were working on those dates. Louis identified where three of the surveillance cameras were located on People's exhibit 21, a photograph of the exterior of Williams Autobody. He testified one of the cameras is located by a large garage door and one camera is located inside the shop.

¶ 18 Louis testified that he was contacted by the police on October 6, 2018, and he was served with a search warrant for the police to obtain the video footage from the surveillance cameras at Williams Autobody. Louis testified that he viewed the video surveillance footage when the police came to his shop. Louis also testified that he viewed the video surveillance footage with the State in advance of trial. He testified that the video surveillance footage he viewed with the State was a

fair and accurate representation of the video surveillance footage he viewed with the police on October 6, 2018. The State then moved to admit the video surveillance footage as People's exhibit 6. Defense counsel requested a sidebar at that time.

¶ 19 After the sidebar was held, the State clarified with Louis that the police seized several hours of video footage including a length of time before and after the incident. Louis testified that the officer put the video footage on a flash drive so Louis was not certain exactly what footage was retrieved. Louis agreed that the video footage on People's exhibit 6 was the entirety of the video abstracted by police. At that time, the State again moved to admit People's exhibit 6 into evidence. Defense counsel responded, "Subject to my cross-examination." The trial court then admitted People's exhibit 6 into evidence. The State completed its examination of Louis. Defense counsel stated he had no questions for Louis on cross-examination.

¶ 20 After Louis was excused as a witness and outside of the presence of the jury, the trial court recounted for the record what occurred during the sidebar. The trial court explained that the sidebar regarding the admission of People's exhibit 6 was regarding defense counsel's request for clarification of whether People's exhibit 6 was the entirely of the surveillance footage or the edited disc that was used by the State as exhibit 6A. Counsel for each side agreed this was a fair recitation of what occurred.

¶ 21 The next witness called by the State was Special Agent Michael Lowery. Lowery testified that he was currently employed for the ISP as a special agent for the Major Crime Unit. Lowery testified that he has been a police officer for 12 years, and he testified regarding his education and training.

¶ 22 Lowery testified that he assisted with the investigation of the murder of Tyrone Williams on October 6, 2018. He testified he executed the search warrant on Williams Autobody to collect

any surveillance footage and to search for the gun that was used in the crime. A gun was not located at Williams Autobody; however, video surveillance footage was located. He testified that four cameras were operating as part of the Williams Autobody surveillance system.

¶ 23 Lowery testified that he observed the video surveillance footage and the three cameras on the exterior of Williams Autobody captured the events surrounding the shooting of Tyrone Williams. Lowery testified that the time stamp on the video surveillance footage was accurate to within a couple minutes of real time. Lowery testified that he saved a copy of the surveillance footage by the following procedure:

> "Basically most DVRs, they have a USB port on the back, you just take a USB drive and plug it into the back of the DVR and you use the mouse that is attached to the DVR to access the administrative side of the menu options—you go into menu options, you select the time and date that you are looking for and basically you just export. It's real simple."

¶ 24 Lowery testified that he ensured that the copy he made of the surveillance footage was accurate with the following process:

> "Any time you copy surveillance footage to a DVR—from a DVR to a USB drive, once it's complete it shows you the same information that you tried to copy, it shows you on another screen that it is copied on to the USB, and once you do that you also—fail safe, you pull that USB out and take it to a computer, put it in, and then you can also see that same footage."

Lowery testified that he reviewed the contents of People's exhibit 6 prior to testifying and that it "is a DVD and it contains all the video that I downloaded from Williams Autobody's DVR."

¶ 25 On cross-examination, Lowery testified that he did not seize the DVR and that it was left at the business. Lowery testified that he downloaded the footage from the DVR and gave it to the

case agent, who he believed was Erica Raciak, to be logged into evidence. Defense counsel had no other questions for Lowery.

¶ 26 The next witness called by the State was Officer Cody Anderson. Anderson testified that he was currently employed with the Pontoon Beach Police Department as a patrolman and had been for approximately 13 months. Prior to that, he worked at the Venice Police Department for approximately four years.

¶ 27 Anderson testified that on October 6, 2018, he was a detective with the Venice Police Department, and he assisted in the investigation of the murder of Tyrone Williams. Anderson testified he was notified of the incident at approximately 1 a.m. on October 6, 2018; however, he did not recall what time he arrived at the scene.

¶ 28 Anderson testified that during his investigation he learned that a cellphone video captured the incident. He stated:

> "From my understanding somebody had recorded a cellphone video and it had been circulated through Facebook throughout the Venice/Madison/Granite City community. Another officer from another department sent it to me and asked if we were aware this video was being circulated. At the time I had not yet seen it. Then once I was able to screen record it I forwarded it to Investigations for the State Police."

¶ 29 Anderson testified that the video was sent to him, and he watched it. He testified that he recorded it with the following procedure:

> "There's a default setting on iPhones that allows you to screen record, basically takes a video recording of whatever your cellphone screen is showing, so I hit screen record, played the video until it was completed, and then added the screen recording."

¶ 30 The State then inquired of Anderson if he was "able to ensure that the recording that you made of this video fairly and accurately represented the video that was sent to you?" Defense counsel responded with, "Objection, calls for speculation and conjecture." The objection was overruled, and Anderson responded to the question by answering, "Yes, ma'am."

¶ 31 Next, Anderson was shown People's exhibit 7, which he described as "[t]he burned disc of the Facebook video." He was asked if People's exhibit 7 fairly and accurately depicted the video that he observed on Facebook and screen recorded and sent to the ISP, and he testified that it did. On cross-examination, defense counsel confirmed with Anderson that he did not find the video on his own but was notified about its existence by another agency.

¶ 32 The next witness called by the State was Vernell Williams. Vernell testified he was a family member of the defendant, and he is "kinda my cousin." Vernell testified that the defendant had a nickname, and it was Goose. Vernell testified that he also knew Tyrone Williams and that Tyrone was also a blood relative to him, another cousin. Tyrone's mother is Vernell's first cousin. Vernell testified that Tyrone also had a nickname, and it was Marty.

¶ 33 Vernell testified that on October 5, 2018, at approximately 10 p.m., he was at the bar located at 12th Street, and then he headed towards the Williams Autobody lot because he also worked there. Vernell testified he prepared cars to be painted at Williams Autobody.

¶ 34 Vernell testified that when he went to 12th Street, Tyrone was there. After leaving the bar, Vernell testified that he went to Broadway to the other parking lot near Williams Autobody. Vernell testified that a dice game was taking place nearby and the defendant was outside of Williams Autobody washing cars. Vernell testified that he dropped Tyrone off because he had received a call that someone was trying "to jump on his brother," Delance. Vernell testified that he parked his truck after dropping off Tyrone and started walking back to the parking lot. He

testified that by the time he got back to the parking lot Delance was in a confrontation with someone he had been shooting dice with. Vernell testified that he did not see that Tyrone was physically involved in that confrontation, but he assumed he was since his brother was involved. Vernell did not observe Tyrone throwing any punches. Vernell also stated that Tyrone did not have a gun or other weapon.

¶ 35 Vernell testified that he started to leave and walk back to his truck while the altercation about the dice game was taking place. He testified that on his way back from his truck he saw Tyrone and Delance sitting on the corner, so he thought the altercation was over, so he returned a weapon to his truck that he had obtained. Vernell testified that this altercation did not involve the defendant or the man that was helping wash cars, Christopher Adams.

¶ 36 Vernell testified that as he was returning near Williams Autobody and when he was at the corner of Broadway and Market Street, "all hell had broke loose again." Vernell testified that as he was turning the corner he heard, "get the fuck off this lot." At the time, he did not know who issued the command, but he testified that he recognized the voice belonging to the defendant. Vernell continued walking and observed the defendant and Tyrone "scuffling." Vernell testified that he saw the altercation start by pushing and shoving and then punches were thrown. He testified that the defendant pushed Tyrone first. Then Tyrone punched the defendant, and the defendant punched him back. Vernell testified that he observed the defendant's "arm just went down and swung wild. At the time I didn't know there was a gun in his hand, and Marty [Tyrone] fell to the ground."

¶ 37 Vernell testified that after the defendant hit Tyrone in the face he fell to the ground. The defendant continued to strike Tyrone one or two more times and then started shooting him. Vernell testified that the defendant stood and started shooting Tyrone as Tyrone was trying to scoot away.

Vernell recalled five or six shots being fired. Vernell testified that the defendant walked back to Williams Autobody after shooting Tyrone. Vernell testified that he took off running towards his truck when he heard additional gunshots, but he did not see who fired those shots.

¶ 38 Vernell testified that he had reviewed the surveillance footage contained on People's exhibit 6 and that it fairly and accurately depicted that evening. The State moved to publish People's exhibit 6A, an edited version of the entire surveillance footage contained on People's exhibit 6. Defense counsel noted, "Subject to my cross examination." The trial court then admitted People's exhibit 6A and it was played for the jury.

¶ 39 As People's exhibit 6A was played for the jury, the State would pause the video and ask Vernell about the footage that was shown. After pausing the video at 6 minutes and 9 seconds the following exchange occurred:

> "MR. GRIFFIN [(defense counsel)]: Your Honor, I'd like the record to reflect that the time stamp which she asked the police and State Police officer about a few minutes ago have now gone back 10 minutes, from 11:58 back to 11:49. I would like the record to reflect that, please. We seem to be watching—
>
> MS. MARICLE [(assistant state's attorney)]: These are two different videos, they're showing about the same time.
>
> MR. GRIFFIN: Again, so it's not a continuous—it looks like this is a camera that would've shown what was going on in this parking lot while something else was going on in the other parking lot.
>
> MS. MARICLE: That's what I'm showing.
>
> THE COURT: You can clarify on cross, Mr. Griffin, if you need to."

¶ 40 The State continued playing the video, pausing it, and inquiring of the witness. Then the following exchange occurred:

> "MR. GRIFFIN: Your Honor, I would ask that it be paused for a second—not to interrupt—but again, I would like the record to reflect that as an officer of this court the time stamp up in the upper left-hand corner, which they so carefully painstakingly took time to establish with the police officer has now jumped from again 11:53:42, according to my notes, to 11:54:12, so we seem to have missed, I don't know, 30 seconds or so at least in that particular area. Thank you.
>
> THE COURT: Is that an objection?
>
> MR. GRIFFIN: Yes, it is.
>
> THE COURT: What's the objection?
>
> MR. GRIFFIN: I think that it's irrelevant that they should edit that portion of it out. It is not a true and accurate depiction of what it is.
>
> THE COURT: I think the State is allowed to show the portions they want to show and you can show whatever portions you want to show when it is your turn. Anybody can play any portion in which they want, it's admitted. Continue."

The State continued playing the video and inquiring of the witness.

¶ 41 Next, the State inquired with Vernell about People's exhibit 7. He testified that he had met with counsel for the State and had the opportunity to review the video. He testified that the video was what someone had put on Facebook. Vernell testified that the video from Facebook accurately depicted what occurred that night. The State moved to admit People's exhibit 7 and publish for the jury. Defense counsel stated, "Subject to my cross examination." The court admitted People's

exhibit 7 subject to cross. After playing People's exhibit 7 for the jury, Vernell testified that the video showed the defendant firing the gun.

¶ 42 Next, Vernell was questioned regarding his pending charges of armed habitual criminal and criminal contempt. The following exchange occurred:

> "Q. [MS. MARICLE]: And is it fair to say that I met with you last night and agreed—we came to the agreement that if you testified truthfully in this case that those cases would be dismissed?
>
> A. [VERNELL WILLIAMS]: Yes, ma'am.
>
> Q. That's fair and accurate. And you gave a statement to the police on October 6, 2018, about this case; is that true?
>
> A. Yes, ma'am.
>
> Q. And what you told them is what you are telling us here today?
>
> A. Yes, ma'am."

This concluded the State's direct examination of Vernell. At this point, a lunch break was taken with Vernell's cross-examination to take place following lunch.

¶ 43 On cross-examination, Vernell testified that he left the bar on 12th Street and drove Tyrone to the parking lots in the areas of Williams Autobody after learning that Delance might be in danger. Next, defense counsel inquired of Vernell about why he was not seen on the video footage that was played earlier. The following exchange then took place:

> "Q. [MR. GRIFFIN]: So again, you are not on the video; correct?
>
> A. [VERNELL WILLIAMS]: When they're fightin' and all that, no.
>
> Q. You were off behind the trees behind the—
>
> A. By the corner, not behind the trees.

Q. But you’re down the street by the corner?

A. The corner is right there where he’s standing at.

Q. But you’re not on the video; correct?

A. You see them walk back to the corner—

Q. Yes or no?

A. You see me walk back to the corner—when they walk back to the corner and the third person appeared, I was the one they was talkin’ to the first time.

Q. We don’t see you on the video; correct?

A. I just answered your question, sir, so I can’t—

Q. So you’re not on the video?

A. I can’t give you what—what you want. I just answered your question.

Q. So from the end of the parking lot to that corner where you say you were, that’s at least 75 to a hundred feet; correct?

A. What? What parking lot?

MS. MARICLE: Objection, calls for speculation.

THE COURT: Overruled.

Q. MR. GRIFFIN: Where you say you were standing—where you say you were standing to where you say you saw Kevin Campbell shoot Tyrone, that’s at least 75 to a hundred feet?

A. No, that’s not.

THE COURT: Okay. Gentlemen, you are talking over—

A. Well—

THE COURT: Sir, wait. Everybody needs to calm down. One person speaks at a time. When he's asking a question, wait until he's completely done asking his question and then you can give your answer. Mr. Griffin, when he's answering, wait until he's completely done answering the question before you ask your next question. Mr. Griffin, next question?

Q. MR. GRIFFIN: So again, you brought Mr. Williams—Tyrone that is—back to this situation; correct?

A. Yes."

¶ 44 Defense counsel then continued cross-examination by inquiring of Vernell about what was on the video and how he responded to the State's questioning. Next, defense counsel inquired about the deal Vernell made.

"Q. MR. GRIFFIN: Okay. You told her a few moments ago, all right, a couple things really. You told her that you would testify consistently with the statement that you gave Detective Sergeant Wobbe on the same day, October 6, 2018, about 30 months ago, you told her you would testify consistently with that, didn't you?

A. Yes.

Q. And that's part of your deal, is it not?

A. First of all, the deal is—I had already talked to—the deal wasn't even nowhere in the picture at first. So that—my statement to the Illinois State Police didn't have nothin' to do with the deal at first. So—

Q. Isn't it true on this video that Sergeant Elledge indicates to you that he, on video, has talked to their office?

A. Right.

Q. And that you—

A. He presented that to me. I didn't present no deal to him.

Q. And you agreed to the deal on this video, didn't you?

A. He told me—listen

* * *

Q. Okay. And on this video isn't it true that Detective Sergeant Elledge with the State Police indicates to you that he has contacted their office and he has arranged for you to have a deal where the weapon that you got caught with on the same day, a nice Smith & Wesson M & P 22 rifle, by the way—

* * *

Q. A nice Smith & Wesson M & P 22 rifle that you got caught with on this same day you were receiving immunity from prosecution; isn't that correct?

A. That—to answer your question. Now, when he approached me—well he didn't approach me—when he mentioned the deal to me I had already gave them a statement. If you watch the video when he kept sayin', I wanna put this on tape, you kept hearin' me say, nope, you see what I'm sayin'? So it wasn't like I went in there to get an immunity deal or anything—for anything that I done, you know what I'm sayin', or got caught with. You didn't hear me not one time on video ask for immunity, hint towards immunity, or anything. So that proposition was brought to me, so—"

¶ 45 Defense counsel continued cross-examining Vernell about his statements to police. Vernell testified the first time he spoke to police he did not want it recorded, and the officers took notes. The second time he spoke to police it was recorded.

¶ 46 Vernell testified that after the shooting he left the scene and did not call 911. He also testified he retrieved his own weapon because he thought something was going to happen regarding Delance.

¶ 47 Next, defense counsel inquired of Vernell about his failure to appear in court on April 19. The court took a break and instructed both defense counsel and Vernell to stop yelling and fighting with each other and to ask and answer the questions.

¶ 48 After the break, defense counsel continued inquiring about the charges that Vernell received a deal for and his failure to appear at an earlier court date. Then he asked Vernell if he drove Tyrone to his death. An objection to this question was sustained and counsel rephrased that the last car ride Tyrone took was with Vernell.

¶ 49 Defense counsel then began playing video footage for Vernell and inquiring repeatedly when Tyrone was shot after watching portions of the video. Eventually, defense counsel requested that the witness be held in contempt because he was being uncooperative. The witness exclaimed that defense counsel was playing with his emotions by showing him slow motion clips of his cousin being shot. The court did not rule on the request for contempt, nor did defense counsel argue it further; instead, he continued showing the video clips and asking the witness questions. The witness answered the questions and defense counsel completed his questioning.

¶ 50 On redirect examination, Vernell testified that he was close to both the defendant and the victim, so he was in a tough spot that he did not want to be in. He also testified that the defendant was the first person he saw fire a gun that night. On recross-examination, Vernell testified that when he initially spoke to police, he stated he heard several gunshots that night from different firearms.

¶ 51 The next witness called by the State was crime scene investigator Jerry Zacheis. Zacheis testified that he is a crime scene investigator for the ISP. He testified that he photographed the scene in this case and testified about the photographs he took. On cross-examination he agreed that a 9-millimeter is a fairly common gun. He also testified about gouge or ricochet marks on the pavement that would indicate a gun was pointed down at the pavement when fired.

¶ 52 The next witness called by the State was Lauryn Vunetich. Vunetich testified that she is a forensic scientist with the ISP. She testified regarding her education and training in firearms examinations.

¶ 53 Vunetich testified that she examined 15 shell casings and separated them into groups. She determined that seven of them were fired from a single gun and the other eight were also fired by a single gun. Based on her examination, only two guns could have been fired to result in these shell casings.

¶ 54 The next witness called by the State was Dr. Marissa Feeney. Dr. Feeny testified that she is self-employed in the forensic pathology business, and she works with the Madison County Coroner's office when they need her to perform autopsies. Dr. Feeny testified regarding her education and training and the process of an autopsy.

¶ 55 Dr. Feeny testified that she performed an autopsy on Tyrone on October 7, 2018. She testified that she took photographs during the course of the autopsy. Following a conference between counsel and the trial court, objections were ruled on regarding the photographs and seven of the offered photographs of the autopsy were admitted. Dr. Feeny testified regarding the photographs that were admitted.

¶ 56 Dr. Feeny testified that Tyrone's body had seven gunshot wounds. All seven of the wounds were perforated through and through; no projectiles or bullets were recovered from his body. Dr.

Feeny determined that Tyrone's cause of death was gunshot wounds of extremities with perforation of femoral vessels and bones.

¶ 57 The next witness called by the State was William Grant Hentze. Hentze testified that he is a crime scene investigator with the ISP. Hentze testified about photographs he took at 299 West Johnson Street, Collinsville, Illinois. He had photographed a vehicle and clothing items in the vehicle.

¶ 58 The next witness called by the State was Sophia Campbell. Campbell testified that she is the defendant's spouse. On October 6, 2018, she and the defendant resided at 299 West Johnson Street, Collinsville, Illinois.

¶ 59 Sophia testified that when the defendant returned home from work, she noticed his foot was bleeding. She testified that she cleaned and bandaged the wound for her husband. She testified that she did not take him to the hospital for his injury because she had been shot before and did not think there was anything that the hospital could do for the injury. She cared for the wound for four days, and the wound continued to bleed.

¶ 60 The next witness called by the State was Master Sergeant Elbert Jennings. He testified that he was employed as a supervisor with the ISP. He assisted with the investigation on October 6, 2018. He testified that the defendant was not at the scene when ISP arrived, nor did the defendant initiate contact with the ISP. On October 10, 2018, the ISP made contact with the defendant during the course of the investigation.

¶ 61 Jennings testified that as part of the investigation he viewed the surveillance footage and tried to identify and contact those seen on the footage. He testified that not everyone was able to be identified and some refused to speak to the ISP.

¶ 62 On cross-examination, Jennings testified that he did not identify Vernell Williams on the surveillance video he watched. He testified that he did speak to Vernell and that Vernell told him he was at the scene. On recross-examination, Jennings testified that based on where Vernell stated he was standing, Vernell would not have been visible on the surveillance footage. Following this witness, the State handled the admission of exhibits and rested its case, which concluded the second day of trial.

¶ 63 The third day of the defendant's jury trial occurred on April 22, 2021. Defense counsel moved for a directed verdict arguing that the State failed to meet its burden of proof and that the defendant had established the defense of self-defense. The motion was denied.

¶ 64 After being admonished by the trial court about his decision whether to testify or not, the defendant stated he had decided to testify. The defendant was the only witness to testify in support of his case.

¶ 65 The defendant testified that he was 40 years old and had completed the eleventh grade in school. He testified that he owned his own business detailing cars. On the night of October 5, 2018, he testified that he was working on a job that required a lot of time. He was completing a wet sand and buff to remove scratches from a 430 Lexus, and the job was due to be completed the following day. He testified that his business partner, Christopher Adams, was assisting him with the job that night.

¶ 66 The defendant testified that while he was working on the car, he heard that a confrontation was taking place between a group of people in the lot next to his business. Due to his location working on the car, he could not see the confrontation from where he was standing until he walked out a little way to get a better look.

¶ 67 The defendant testified that he knew who Tyrone Williams was, but that he did not socialize with him other than a random greeting in passing. He testified he knew Delance Terrell in the same fashion. The defendant testified that he did not have any "personal differences" with either Tyrone or Delance.

¶ 68 Defense counsel then played People's exhibit 6A and asked the defendant to describe what was happening in the video footage. The defendant explained he and Christopher were detailing the car. The defendant testified that he was armed with a gun because in that area "it's always a threat posed around there. I mean, it's common for a threat to be posed against you."

¶ 69 The defendant identified Tyrone and his brother walking onto the screen of the video. Then the video showed the defendant picking up a buffer and him continuing to work on the car.

¶ 70 As the video was played, a group of people make their way onto the Williams Autobody parking lot from the parking lot to the east and a fight takes place in the area where the Williams Autobody parking lot meets the road. The defendant then offered the following testimony:

> "Q. [MR. GRIFFIN]: Are you feeling anxiety right now in this particular video?
>
> A. [DEFENDANT]: Yes. I'm feeling fear because, just like I said today once before, anything can happen. Right now at that moment, somebody can start shooting and I have to be aware of that.
>
> Q. Are you hoping this will just move on?
>
> A. Yes.
>
> * * *
>
> Q. So for several seconds after the incident, if you will, spilled over on your lot, you stayed over there by the car; is that correct?
>
> A. Yes.

> Q. What causes you to begin walking over there slowly at this point?
>
> A. Because, just like I stated once before, I just opened and I didn't want anyone, my customer car or anyone on my property, to get hurt by these [*sic*] group of guys."

The defendant testified that he told the group to leave, and they did not comply. The defendant testified that Tyrone spit on him and said, "Fuck you, mother fucker, I don't have to go nowhere." The defendant testified that he became agitated and angry when Tyrone spit on him, so he responded by punching him. A fistfight then ensued between the defendant and Tyrone.

¶ 71 Defense counsel then switched the video footage he was playing to the Facebook cellphone video contained on People's exhibit 7. The defendant testified that People's exhibit 7 was the same scene, but a different angle, as the footage that was contained on exhibit 6A. The defendant testified that People's exhibit 7 was a true and accurate depiction of what the defendant recalled going on that night.

¶ 72 The defendant testified regarding what was shown on exhibit 7. He testified that he and Tyrone exchanged punches. Defense counsel questioned the defendant about the sequence of the fight and asked the defendant to explain what happened in his own words. The defendant testified as follows:

> "Well, from the second time—from the second time I landed the punch, we became, we started tussling with each other. And remind you, it was other people out there that was with him. So I had to try to pay attention to my peripheral, from left and right and behind me. So maybe seconds I took my, like, probably a split second I took my attention off of Tyrone and I turned to try and look like I was saying, both sides of me and behind me. And when I turned my attention back towards him, he was gesturing as if he was coming up with a weapon, and I heard the pow. And that's when I jumped back and just out of, just

out of instinctive fear I, pop, pop, pop, pop, pop, pop. I didn't aim my weapon at him to—my intention wasn't to kill him. My intentions was [*sic*] just instinctive. I mean, I heard a gunshot. I seen him coming from his waistband. And pow."

¶ 73 On cross-examination, the defendant testified that Tyrone spit on him. In response, the defendant punched Tryone in the face. The State went through the sequence of events with the defendant leading up to and after the shooting. The defendant testified that he did not call 911, did not try to get an ambulance to the scene, did not try to get the police to the scene, and he did not render any aid to Tyrone. After shooting Tyrone, the defendant walked back to the garage and then left the scene. There was no redirect examination by defense counsel. The defense then rested its case. Defense counsel again moved for a directed verdict that was denied.

¶ 74 A jury instruction conference was held outside the presence of the jury. The attorneys then presented closing arguments, the court read jury instructions, and the jury retired to deliberate. The jury returned a verdict finding the defendant guilty of first degree murder.

¶ 75 Following posttrial motions, the defendant was sentenced on July 16, 2021, to 60 years in the Department of Corrections to be served at 100%, followed by 3 years of mandatory supervised release. The defendant, after being granted an extension of time, filed a motion to reconsider his sentence on September 17, 2021, which was denied on October 14, 2021. The defendant filed a timely notice of appeal on November 5, 2021.

¶ 76 II. ANALYSIS

¶ 77 A. *Voir Dire*

¶ 78 The defendant claims that he was denied a fair trial because the State asked improper *voir dire* questions. The defendant acknowledges that this issue was forfeited because defense

counsel did not object to the State's line of questioning and did not raise the issue in a posttrial motion. The defendant seeks reversal under plain-error review.

¶ 79 The plain-error rule allows review of forfeited claims of error in specific circumstances. *People v. Thompson*, 238 Ill. 2d 598, 613 (2010). The plain-error rule applies when

> "(1) a clear or obvious error occurred and the evidence is so closely balanced that the error alone threatened to tip the scales of justice against the defendant, regardless of the seriousness of the error, or (2) a clear or obvious error occurred and that error is so serious that it affected the fairness of the defendant's trial and challenged the integrity of the judicial process, regardless of the closeness of the evidence." (Internal quotation marks omitted.) *Id.*

When considering if the plain-error rule applies, "the first step is to determine whether error occurred." *People v. Piatkowski*, 225 Ill. 2d 551, 565 (2007).

¶ 80 "The purpose of *voir dire* is to ascertain sufficient information about prospective jurors' beliefs and opinions so as to allow removal of those members of the venire whose minds are so closed by bias and prejudice that they cannot apply the law as instructed in accordance with their oath." *People v. Cloutier*, 156 Ill. 2d 483, 495-96 (1993). "*Voir dire* cannot, however, be used as an opportunity to even slightly indoctrinate a juror." *Id.* at 496. Broad questions are generally permissible, but specific questions tailored to the facts of the case and intended to serve as preliminary final argument are generally impermissible. *People v. Rinehart*, 2012 IL 111719, ¶ 17. The standard of review applicable to a trial court's manner and scope of *voir dire* examination is abuse of discretion. *Id.* ¶ 16.

¶ 81 The defendant claims the State's questioning regarding television crime shows was a purposeful distortion of the burden of proof that suggested to the jury the burden of proof was

something less than beyond a reasonable doubt. The defendant argues this alleged error satisfies both prongs of the plain-error rule.

¶ 82 In this case, the State's questions during *voir dire* regarding televisions crime series wrapping up a case within 30 minutes versus what happens in real life were very broad. This line of questioning would help determine if a potential juror could keep an open mind about the evidence. These questions were proper and broad enough to allow the State to determine if a potential juror had misconceptions about forensic evidence in a criminal trial versus dramatized television shows. Further, the jury in this case was properly instructed on reasonable doubt and we must presume that the jurors followed the court's instructions. *People v. Bell*, 113 Ill. App. 3d 588, 601 (1983). We find that no error occurred, thus plain-error review does not apply.

¶ 83 B. Admission of Video Exhibits

¶ 84 The defendant argues that video exhibits 6, 6A, and 7 were admitted into evidence without a proper foundation. The defendant acknowledges that this issue was forfeited because defense counsel did not object to the State's request for admission of these exhibits and did not raise the alleged error in a posttrial motion. The defendant seeks reversal under plain-error review. The State argues that the defendant invited the errors he is now claiming.

¶ 85 "Invited errors are not subject to plain-error review." *People v. Sanders*, 2012 IL App (1st) 102040, ¶ 30. "Under the doctrine of invited error, an accused may not request to proceed in one manner and then later contend on appeal that the course of action was in error." *People v. Carter*, 208 Ill. 2d 309, 319 (2003).

¶ 86 In this case, after the State moved to admit exhibit 6 following the testimony of Louis and Special Agent Lowery. A sidebar was held, and the contents of the sidebar were recorded in the record. Defense counsel sought clarification regarding exhibits 6 and 6A. The State clarified that

exhibit 6 contained the entirety of the video surveillance footage abstracted by police and exhibit 6A contained excerpts of footage taken from the larger file on exhibit 6. Following the sidebar, the State again moved to admit exhibit 6, and defense counsel responded, “Subject to my cross-examination.” The exhibit was then admitted into evidence. The State moved to admit exhibits 6A and 7 following its direct examination of Vernell. In response to each motion to admit, defense counsel again responded, “Subject to my cross-examination,” and exhibits 6A and 7 were admitted.

¶ 87 Defense counsel then used exhibit 6A during the cross-examination of Vernell. Defense counsel also used exhibits 6A and 7 during its case when the defendant was testifying. After playing the video footage contained on exhibit 7, the following testimony was presented:

> “Q. [MR. GRIFFIN]: Is that the same scene that we saw a few moments ago on Exhibit 6 from a different angle, taken by a cellphone?
>
> A. [DEFENDANT]: Yes.
>
> Q. Is that a true and accurate depiction of what you recall going on that night?
>
> A. Yes.”

¶ 88 In this case, not only did defendant acquiesce to the admission of exhibits 6, 6A, and 7, he then used the same exhibits during his own testimony and to cross-examine a witness. “Where a defendant uses evidence presented at trial as part of his case, he may not argue that the evidence was admitted in error on appeal.” *People v. Smith*, 2014 IL App (1st) 103436, ¶ 58. “Invited errors are not subject to plain-error review.” *Sanders*, 2012 IL App (1st) 102040, ¶ 30.

¶ 89 C. Testimony of Vernell Williams

¶ 90 The defendant argues that three errors occurred relating to the testimony of the State’s witness, Vernell Williams. Each will be addressed separately.

¶ 91 First, the defendant argues that the trial court committed plain error by failing to *sua sponte* declare a mistrial or take other remedial action when the State "bolstered Vernell Williams' testimony during direct examination with evidence that he had made a similar out-of-court statement to police prior to trial." Again, the defendant is seeking review of this issue under the plain-error doctrine because the issue was forfeited as defense counsel did not object at the time the testimony occurred and did not allege it in a posttrial motion. As the defendant is requesting plain-error review, we must first determine whether error occurred. *Piatkowski*, 225 Ill. 2d at 565.

¶ 92 The defendant contends in his brief that the following examination improperly bolstered Vernell's testimony.

> "Q. [MS. MARICLE]: That's fair and accurate. And you gave a statement to the police on October 6, 2018, about this case; is that true?
>
> A. [VERNELL WILLIAMS]: Yes, ma'am.
>
> Q. And what you told them is what you are telling us here today?
>
> A. Yes, ma'am."

¶ 93 The defendant's brief failed to include the entire line of questioning, which was as follows:

> "Q. [MS. MARICLE]: And is it fair to say that I met with you last night and agreed—we came to the agreement that if you testified truthfully in this case that those cases would be dismissed?
>
> A. [VERNELL WILLIAMS]: Yes, ma'am.
>
> Q. That's fair and accurate. And you gave a statement to the police on October 6, 2018, about this case; is that true?
>
> A. Yes, ma'am.
>
> Q. And what you told them is what you are telling us here today?

A. Yes, ma'am."

¶ 94 On cross-examination, defense counsel repeatedly inquired of Vernell regarding the deal he was receiving that resulted in criminal charges against him being dismissed. On redirect examination, the following exchange occurred:

> "Q. [MS. MARICLE]: And everything that you told this jury, I mean, is the truth?
>
> A. [VERNELL WILLIAMS]: Yes, ma'am.
>
> Q. And you are getting a deal that we talked about?
>
> A. Yeah."

¶ 95 The State argues that improper bolstering did not occur because the prosecution was revealing that a deal was made and was not expressing a personal opinion. We agree with the State.

¶ 96 "It is improper for a prosecutor to vouch for the credibility of a witness." *People v. Garcia*, 231 Ill. App. 3d 460, 473 (1992). However, there is a distinction between a prosecutor giving their personal opinion about a witness's testimony or trying to place the integrity of the state's attorney's office behind a witness and revealing a witness is receiving a personal benefit by testifying.

> "A prosecutor who causes the promise of a witness to provide truthful testimony pursuant to a plea agreement to be revealed has only revealed that the witness agreed to tell the truth; the prosecutor has not expressed a personal opinion as to whether the witness has actually complied with the agreement by telling the truth. Therefore, *** bringing forth such an agreement does not constitute improper vouching for the credibility of the witness." *Id.*

Accordingly, no bolstering or error occurred, and as such, there can be no plain-error review.

¶ 97 Next, the defendant contends that the trial court erred when it precluded defense counsel from introducing evidence of Vernell Williams' 25-year-old conviction for first degree murder.

The State argues that the defendant has forfeited review of this issue by failing to raise it in a posttrial motion.

¶ 98 The defendant did raise the issue of Vernell's prior conviction at the evidentiary stage. The posttrial motion filed by defendant attempted to generally renew "each objection that the Defendant made both at as well as prior to trial that was denied and/or overruled by the court; further, Defendant takes exception with each objection from the People which was sustained at trial."

¶ 99 In a posttrial motion, the defendant is required to state the specific grounds complained of. *People v. Stevenson*, 204 Ill. App. 3d 342, 348 (1990). Absent plain error, "[*b*]*oth* a trial objection *and* a written post-trial motion raising the issue are required for alleged errors that could have been raised during trial." (Emphases in original.) *People v. Enoch*, 122 Ill. 2d 176, 187 (1988).

¶ 100 The posttrial motion filed by the defendant does not specifically complain of the trial court's ruling regarding Vernell's 25-year-old conviction. Accordingly, the defendant has forfeited review of this issue. On appeal, the defendant did not argue that this forfeiture should be excused under the plain-error doctrine.

¶ 101 Lastly, the defendant argues that the trial court abused its discretion in declining to hold Vernell Williams in contempt of court or otherwise require him to respond to questions during cross-examination. The defendant argues that this deprived him of his right to confrontation.

¶ 102 "[T]he proper scope of cross-examination and the admission of rebuttal testimony is generally within the sound discretion of the trial court and is reviewed only for an abuse of discretion." *People v. Cross*, 2019 IL App (1st) 162108, ¶ 136. "Whether a defendant's constitutional right to confrontation has been violated is a legal issue subject to *de novo* review." *People v. Sundling*, 2012 IL App (2d) 070455-B, ¶ 47.

¶ 103 "The confrontation clause of the sixth amendment of the United States Constitution [citation] guarantees a defendant the right to cross-examine a witness. [Citations.] This includes the right to cross-examine the witness for the purpose of showing bias, interest, or motive to testify falsely." *People v. Pacheco*, 2023 IL 127535, ¶ 45.

¶ 104 The defendant's argument section of his brief on this issue fails to point to how he was prohibited from engaging in cross-examination to show bias on the part of the witness. The defendant's argument in his brief does not specify the testimony he is complaining of and, instead, refers to "[t]he examples of Mr. Williams' evasiveness in the statement of facts." Appellate counsel should be mindful of the requirements of Illinois Supreme Court Rule 341 (eff. Oct. 1, 2020). However, we have thoroughly reviewed the record on appeal, including the complete testimony of Vernell Williams, much of which is set forth in the background above. Additionally, "when reviewing a confrontation clause challenge, we do not 'isolate the particular limitation on cross-examination to determine whether reversible error has occurred.' [Citation.] Instead, we look to the record as a whole ***." *Pacheco*, 2023 IL 127535, ¶ 48.

¶ 105 The cross-examination of Vernell was contentious to say the least. "The trial court possesses wide latitude to impose reasonable limitations on cross-examination based on concerns about harassment, prejudice, confusion of the issues, the witness's safety, or interrogation that is repetitive or of little relevance ***." *Id.* ¶ 47. The trial court had to remind defense counsel and the witness multiple times to stop yelling and interrupting one another.

¶ 106 Defense counsel cross-examined Vernell regarding, *inter alia*, his absence from the video surveillance footage and whether he was actually at the scene, his deal to testify that resulted in charges against him being dismissed, his failure to appear at an earlier court setting, and whether he drove Tyrone to his death while playing the footage of the shooting to inquire if there were

other times that the defendant could have shot Tyrone. Defense counsel was given wide latitude to cross-examine Vernell to show bias. The trial court did not abuse its discretion in maintaining decorum during the trial. "[T]he mere fact that [the defendant] sought to explore bias on the part of a prosecution witness does not automatically void the court's ability to limit cross-examination." *United States v. Diaz*, 26 F.3d 1533, 1540 (11th Cir. 1994). Further, "the Confrontation Clause guarantees an *opportunity* for effective cross-examination, not cross-examination that is effective in whatever way, and to whatever extent, the defense might wish." (Emphasis in original.) *Delaware v. Fensterer*, 474 U.S. 15, 20 (1985). Having reviewed the record as a whole, we conclude that the defendant's right to confrontation was not denied because defense counsel was able to cross-examine the witness to show bias, interest, or motive to testify falsely. Additionally, the trial court did not abuse its discretion by failing to hold the witness in contempt.

¶ 107 III. CONCLUSION

¶ 108 For the foregoing reasons, we affirm the defendant's conviction and sentence.

¶ 109 Affirmed.