

2026 IL App (1st) 240580-U
No. 1-24-0580
Order filed October 23, 2026

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IN THE
APPELLATE COURT OF ILLINOIS
FIRST DISTRICT
Sixth Division

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

v.

JAQWAN BUTLER, Defendant-Appellant.

Appeal from the Circuit Court of This County.
Honorable Michael R. Clancy, Judge, Presiding.
No. 19 CR 7243

JUSTICE PUCINSKI delivered the judgment of the court.
Presiding Justice Gamrath and Justice Hyman concurred in the judgment.

ORDER

¶ 1 *Held:* We affirm the judgment of the circuit court where compiled video surveillance footage did not violate the Illinois Rules of Evidence, and the State did not elicit improper lay testimony regarding a witness's narration of the video. We remand the matter for a preliminary inquiry into defendant's *pro se* posttrial allegations of ineffective assistance.

¶ 2 Following a jury trial, defendant Jaqwan Butler was found guilty of first degree murder (720 ILCS 5/9-1(a)(1) (West 2018)) and was sentenced to 55 years' imprisonment. On appeal, defendant contends that a surveillance video compilation was improperly admitted under the Illinois Rules of Evidence, because it did not satisfy the definition of "duplicate" under the Rules,

and its admission was unfair to defendant under the circumstances. Defendant also contends that the State elicited improper lay testimony regarding a witness' narration of the video, and the State failed to tender him as an expert or lay a foundation for his purported expert testimony. Defendant alternatively contends that the trial court erred by failing to conduct a proper preliminary inquiry into his *pro se* allegations of ineffective assistance of trial counsel. As we solely find error in the court's preliminary inquiry regarding defendant's *pro se* allegations of ineffective assistance, we remand for the court to conduct the appropriate inquiry.

¶ 3

I. BACKGROUND

¶ 4 Defendant was charged by indictment with six counts of the first degree murder of Marcel O'Neal with a firearm and one count of aggravated discharge of a firearm arising out of an incident on April 19, 2019, wherein defendant allegedly shot O'Neal multiple times, causing his death. Defendant was indicted with co-defendant Raheem Sharks who is not a party to the proceedings.

¶ 5 During several pretrial proceedings, defendant represented himself before the court reappointed an assistant public defender. Defendant was represented by counsel during relevant pretrial proceedings and at trial.

¶ 6

A. Pretrial Proceedings

¶ 7 The case centers upon the identification of defendant by Adrienne Williams, the security guard at Altgeld Gardens, who saw the incident on surveillance footage. On March 15, 2022, defense counsel filed multiple motions *in limine*, including a motion to bar Williams' identification by video because it was "too prejudicial" in this case as "the identity of the man on the video is very nearly the only question for the finder of fact." The court denied the motion, noting that defense counsel could cross-examine Williams and argue that the person depicted in the video was not defendant.

¶ 8

B. Jury Trial

¶ 9 The State proceeded on two counts of first degree murder. At trial, Williams testified that in April 2019, he was a supervisor security officer at Altgeld Gardens in Chicago. The public housing project housed approximately 4,000 residents with leases, with “[a]t least” 800 color cameras affixed to buildings throughout the complex. Williams had remote access to the cameras from his office. Williams could rewind, fast forward, and zoom in and out when viewing the footage.

¶ 10 During Williams’ time at Altgeld Gardens, he became “familiar” with defendant, personally saw him in the community “hundreds” of times, and viewed him on the surveillance cameras “daily.” Williams identified defendant in court and testified that defendant lived at an address on the 13000 block of South Ellis where he was “on” a lease. Williams also knew that defendant associated with Sharks, who previously lived in Altgeld Gardens but was still “out and about in the community.” Sharks drove a dark four-door Chevy Malibu with “front-end damage,” an “unpainted fender” on the driver’s side, and a missing hubcap in the same area. Williams saw Sharks with defendant approximately 20 to 30 times prior to the incident. When Williams saw defendant, defendant wore a “[r]ed hoodie sweatshirt” approximately 90 percent of the time.

¶ 11 On April 19, 2019, Williams received a phone call from a security agent regarding a shooting near 130th Street and Evans Avenue. Williams viewed the footage from the location of the shooting and saw a person in a red hoodie and dark jacket along with Sharks’ vehicle, which he recognized due to the front-end damage and missing hubcap. The shooter entered the front passenger side of the vehicle. After the shooting, the vehicle exited the property.

¶ 12 Williams then checked the camera near where defendant lived, which was four blocks from the shooting. In the footage, five minutes after the shooting, the same dark-colored vehicle pulled

into the parking lot, where the front passenger entered the building, and after a few minutes jogged back to the vehicle which drove away. Williams “zoomed in” and saw that the passenger was defendant. Williams recognized him by the “complexion and likeness of [his] face” and his “red hoodie, dark jacket, dark-colored jeans, [and] a multi-colored pair of gym shoes.” Williams also viewed footage prior to the incident and saw the path the vehicle took “to and from the location” and O’Neal walking down the street.

¶ 13 Williams informed law enforcement and named defendant and Sharks. He also described Sharks’ vehicle. The officers viewed the footage and copied it.

¶ 14 The State introduced and published over ten minutes of footage depicting a compilation of the camera angles from Altgeld Gardens on the day of the incident. Williams narrated the footage and testified that it was a true and accurate recording compilation of the videos he viewed. The footage is in the record on appeal and has been viewed by this court. We note the timestamps in the compiled footage in conjunction with Williams’ narration of the events.

¶ 15 The first scene depicts a person wearing a gray hoodie sweatshirt walking down the sidewalk away from the camera. A black vehicle, which Williams identified as belonging to Sharks, drives past the person wearing the gray hoodie and away from the camera. (0:00-0:23) The missing hubcap is apparent from the footage, but other identifying features, including the vehicle’s license plate, are obscured due to the distance from the camera and grainy quality of the footage. Williams testified that the footage he viewed was clearer. The next scene shows a different angle of the same man in the gray hoodie walking down the sidewalk. (00:28-1:30) The next few clips show the path of the black vehicle, which Williams testified was driving east. (1:32-2:02)

¶ 16 The vehicle eventually stops in the parking lot of an apartment building, which Williams testified was the apartment where defendant lived. (2:04) The passenger exits and runs into the

building. (2:10-2:20) The passenger soon returns and reenters the front passenger seat and the vehicle drives away.¹ (2:20-2:56) Another angle which more clearly depicts the passenger exit and reenter the vehicle “glitches” and skips as defendant exits the vehicle. (2:57-3:10)

¶ 17 Williams testified that the cameras detected motion, so they stopped recording when they did not detect motion. Williams testified that he could zoom in to see the identity of the passenger. On the footage provided to the jury, Williams noted the passenger wore “red” and a “black jacket,” but the footage is grainy and unclear and only shows the dark colored outerwear. Williams again testified that the footage was clearer in his office, and he could tell that the passenger was defendant. In Williams’ duties as a security guard, he recorded videos, and, in his experience, the process of recording a video causes it to lose quality, which occurred with respect to this footage. The cameras then follow the path of the vehicle through Altgeld Gardens, which Williams narrated. (3:21-4:31)

¶ 18 Eventually, the cameras depict two men, including the man wearing the gray hoodie sweatshirt, walking together down the sidewalk east on 130th Street. They cross the intersection. (4:36-5:01) The same camera depicts the black vehicle driving down Corliss Avenue near the same intersection at 130th Street before turning around off camera and driving in the opposite direction. (5:11-5:44) The compilation includes another angle of the men walking and the black vehicle turning. (6:00-7:38). Other clips track multiple angles of the two men walking (7:42-8:02; 9:08-9:35), as a man wearing a black jacket over a red hoodie sweatshirt with the hood raised runs toward them from a nearby parking lot (8:38-9:01; 9:08-9:35). This man extends his arm toward the man wearing gray who falls to the ground as his companion flees. (9:36-9:40) The video shows muzzle flashes from a firearm. The shooter then turns and runs toward the arriving black vehicle,

¹ Williams testified that defendant was inside the apartment for “[m]aybe two minutes,” but the footage shows that he was in the apartment for under one minute.

identified by Williams as Sharks' vehicle, and the shooter enters the front passenger side. (9:40-9:53) Another angle of the shooting depicts the missing front hubcap of the vehicle. (10:00-10:44) Williams testified that the shooter was the same person who exited the vehicle earlier, whom he identified as defendant.

¶ 19 After this clip, the compilation includes a short clip of the black vehicle driving down 130th Street, which Williams testified was "not within the progression of what just happened" and should have been added prior to the shooting in the compilation footage. Williams did not compile the footage but found the relevant clips and handed them over to the police.

¶ 20 On cross-examination, Williams stated that he identified defendant when he ran into his home, which is depicted on two of the videos. The camera used for the identification was approximately 15 feet in the air and "a ways away" from the vehicle. The video shown to the jury glitched, but Williams saw a clearer picture in his office where he could identify defendant's face. Williams never saw Sharks in the vehicle, and the only person Williams believed exited the vehicle was defendant. Williams did not know if other people were in the vehicle or where the vehicle went after the shooting. The footage also contains gaps where the vehicle was not in sight of any cameras. Williams was also "very familiar" with Altgeld Gardens as he worked there for four years prior to the incident. Red hoodies were "not unusual" among residents.

¶ 21 On redirect examination, Williams testified that he was present for Tina Butler's interview, which took place in his office, and detectives were also present for the interview. Williams assisted the detectives in showing her the footage.

¶ 22 Out of the presence of the jury, defense counsel moved to bar the identification testimony by Williams because Williams made his identification of defendant based on a video that is of better quality than the one the jury viewed. Williams discerned features that were impossible to

see on the video the jury viewed, and so the use of the video violated the best evidence rule. The State contended that Williams' identification comported with the law and was necessary to assist the trier of fact. The State also noted that "everybody knows" that videos lose quality when they are zoomed and enhanced. The court denied the motion, commenting that Williams' identification met the standards for the Illinois Rules of Evidence regarding opinion testimony as established in *People v. Thompson*, 2016 IL 118667. The court found that Williams' ability to "zoom" and view a better-quality video than the one presented to the jury went to the weight of the identification rather than its admissibility. The court noted that defense counsel could raise such arguments for the jury to consider.

¶ 23 Tina Butler (Tina) testified that she was defendant's grandmother and she lived on 130th Street and Ellis Avenue in Altgeld Gardens. On April 20, 2019, Tina viewed part of the surveillance footage in Williams' office with police detectives, wherein she answered questions regarding the identity of the person on the footage. The footage Tina viewed on April 20, 2019, is the clip depicting a person enter the apartment. This interview was recorded. Her testimony at trial was inconsistent with the statements in the recorded interview, and so the State impeached her with her statements in the recorded interview, which was also published to the jury.

¶ 24 The footage depicts Tina viewing the video clip of the person entering the apartment building at 3:13 p.m. on April 19, 2019. Tina identifies her home and points to her door in the footage. Tina does not know who owned the black vehicle but when asked who the passenger was, she responds that he "look[s] like my grandson." Tina states that he lived in the same apartment she did. When asked why she thought the person was defendant, she states that it "look[ed] like him." The detective asks her if "that's how he runs," to which she responds "yeah." When asked

if she recognized his clothing, she says “yeah” and notes that “he came in” to her house. The detective asks if she knows it was him with “no doubt” in her mind, to which she responds “yeah.”

¶ 25 Tina notes when defendant exits the apartment and enters the vehicle again. Tina informs the detectives that she had a brief conversation with defendant when he entered the apartment. Defendant changed into blue jeans, a t-shirt, a red and black hoodie, and a black jacket when he was in the apartment. At the end of the footage, the detectives ask Tina if she had been treated “decently” by them, to which she responds, “oh, definitely.” She agrees that nobody threatened her or made her make the identification against her free will.

¶ 26 In court, however, Tina testified that in April 2019, she was the only person who lived in that apartment. Tina testified that on April 19, 2019, she was not at home at 3:15 in the afternoon so did not know whether defendant entered the apartment to change his clothing at that time. Tina worked as a childcare provider and watched children in her home that day until 3 in the afternoon but left afterward.

¶ 27 She further testified that she did not remember the detectives’ names or whether Williams was present for the interview. Tina testified that she viewed footage of a person exiting a vehicle but denied knowing the person’s identity. In court, Tina denied saying that the person looked like defendant and did not remember telling the detectives that the person who exited the vehicle in the footage “look[ed] like [her] grandson” and that she recognized him by his clothing and by how he ran. She also denied telling the detectives that he lived at her address and that she had “no doubt” that the person in the footage was defendant.

¶ 28 Tina testified that she did not remember the day because she gave the interview at 4 a.m. She denied identifying defendant in the footage or conversing with defendant on April 19, 2019. Tina agreed with the State’s assertion that she did not want to testify at trial.

¶ 29 On cross-examination, Tina stated that hoodie sweatshirts are “[v]ery common” in Altgeld Gardens. The police came to her home at approximately 2 a.m. while she was asleep. Tina had also recently lost her husband so was emotionally “devastated” at the time. The detectives never showed her a clip of the shooting or asked her to identify the shooter. She again denied recognizing the man who exited the vehicle in the footage and stated that he was not the same height and did not walk the same as defendant. Tina stated that she had “[n]o doubt in [her] mind that it was not [defendant].”

¶ 30 Chicago police detective Jeff Rodenberg testified that he and his partner, Detective Cummings, investigated the shooting on April 19, 2019. In relevant part, Rodenberg testified that Williams contacted them with defendant’s and Shark’s names and a description of the vehicle. After interviewing Williams, Rodenberg and Cummings viewed the relevant footage and recorded it. Rodenberg also directed the evidence collection at the scene.

¶ 31 On April 20, 2019, Rodenberg and Cummings went to defendant’s residence to search for him. They spoke with Tina who accompanied them to Williams’ office to view the footage after they could not play it at the station. Rodenberg showed Tina the clip of defendant entering the apartment because he did not think it was necessary to show her the shooting to identify the offender. On May 2, 2019, Rodenberg learned that officers had arrested defendant.

¶ 32 Dr. Kristin Escobar Alvarenga testified that she worked as a deputy chief medical examiner at the Cook County Medical Examiner’s Office in Chicago, Illinois. Dr. Escobar Alvarenga performed O’Neal’s autopsy on April 20, 2019. She opined that the cause of O’Neal’s death was multiple gunshot wounds and the manner of death was homicide.

¶ 33 The State proceeded by introducing multiple stipulations. First, the parties stipulated that evidence technician Officer David Seiber would testify that he collected and inventoried fired

cartridge casings, a knit hat, and a narcotics bag from the scene. The State also introduced a certified copy of the registration records for the Chevy Malibu showing that it was registered to Sharks. The parties stipulated that evidence technician Officer Thomas Murphy would testify that he processed the vehicle, including swabbing the interior for DNA and recovering a black bandanna. No suitable fingerprint or DNA evidence related to defendant was recovered.

¶ 34 The parties also stipulated that the City of Chicago maintained several Police Observation Devices (POD) cameras in the area and introduced “true and accurate digital duplicates” from several cameras during the time frame of the shooting. The parties stipulated that the cameras were equipped with a properly working and recording camera and video surveillance system, and that the compilation footage submitted into evidence was “a true and accurate digital recording that was captured from [the] above listed POD cameras from April 19, 2019, from approximately 3:12 p.m. to 3:22 p.m.”

¶ 35 The jury found defendant guilty of first degree murder and that defendant personally discharged the firearm that proximately caused O’Neal’s death.

¶ 36 C. Posttrial Motions and Sentencing

¶ 37 Defense counsel filed a motion and amended motion for a new trial, arguing in relevant part that the court erred in denying defendant’s motion *in limine* to bar Williams’ identification as it was too prejudicial to defendant’s case. He also contended that the court erred in denying defendant’s “renewed” motion to bar Williams’ identification testimony because the video did not satisfy Illinois Rule of Evidence 1003 regarding the admission of duplicates, and Williams identified defendant based upon a better-quality recording than the one shown to the jury.

¶ 38 On December 22, 2022, defendant asserted on the record that he wished to invoke his right to self-representation and sought to represent himself during the posttrial proceedings. Defendant

requested additional time to prepare his motion because he believed he had a “conflict of interest” with his attorney. Defendant asserted the following:

“I feel the conflict of interest between me and my attorney is not good for him to represent me on retrial through the complaints I done [sic] made, me steady [sic] trying to get a new lawyer.”

¶ 39 Defendant asserted that he felt more comfortable representing himself on the motion for a new trial. The court asked defense counsel if he wished to say anything, and the following colloquy occurred:

“[DEFENSE COUNSEL]: There’s no new conflict since we did trial. He did ask me to represent him at the trial regardless of prior conflicts. I have no animus towards [defendant]. I have prepared all of his motions for sentencing and new trial and appeal. I am ready to go forward today. I will happily honor whatever the Court decides.

THE COURT: Okay. Give me one moment.

[DEFENSE COUNSEL]: Judge, if I may add to that?

THE COURT: Sure.

[DEFENSE COUNSEL]: There’s never been any conflict other than [defendant] being angry at me. I have no—there’s no other conflict other than the—

[DEFENDANT]: Can I add to that, your Honor?

THE COURT: Sure. We’re not going to talk over each other. So go ahead, [defense counsel]. Anything further?

[DEFENSE COUNSEL]: Only just the complaints made about me to my bosses or to the Court, other than that, there has never been any conflict.”

¶ 40 The court then admonished defendant, who represented himself during posttrial proceedings, including sentencing. During the hearing for the motion for a new trial, defendant adopted defense counsel's motions for a new trial after again asserting that he believed that defense counsel did not represent his best interests. The court denied the motion and amended motion for a new trial, commenting that a witness could make an identification by video. The matter proceeded to a sentencing hearing, where the court sentenced defendant to 55 years' imprisonment on one count of first degree murder, inclusive of a 25-year firearm enhancement for the offense.

¶ 41 After sentencing, defendant requested that counsel be reappointed. Defense counsel then moved for reconsideration of defendant's sentence, which the court denied. Defense counsel filed a timely notice of appeal.

¶ 42 II. ANALYSIS

¶ 43 On appeal, defendant first contends that the compilation surveillance footage was improperly admitted because it did not qualify as a "duplicate" under the Illinois Rules of Evidence, but even if it were, its admission was unfair to defendant. Defendant also contends that Williams' narration was improper as both lay opinion and expert testimony, and his narration of the surveillance video prejudiced defendant.

¶ 44 A. Waiver and Forfeiture

¶ 45 As an initial matter, the State argues that defendant waived his claim that the surveillance footage was improperly admitted because defendant stipulated to its foundation and thus invited the error. Defendant contends that his prior objection regarding the admission of the footage was sufficient to preserve the issue for review. Defendant alternatively contends that if the claim is waived, his trial counsel was ineffective in stipulating to the foundation of the compilation footage.

¶ 46 Under the doctrine of invited error, an accused may not request to proceed in one manner and then later argue on appeal that the course of action was in error. *People v. Carter*, 208 Ill. 2d 309, 319 (2003). This doctrine “rests on notions of fair play, and we apply it where a defendant sits by and deprives the State of the opportunity to cure any alleged error.” (Internal citations and quotation marks omitted.) *People v. Collins*, 2020 IL App (1st) 181746, ¶ 16. The rule does not apply “where a motion to exclude the evidence was presented and denied.” *People v. Williams*, 161 Ill. 2d 1, 34 (1994). Disclosure of such evidence may be a matter of trial strategy “designed to reduce the prejudicial effect of the evidence” and lessen its impact upon the jury. *Id.*

¶ 47 Here, defense counsel does not challenge the foundation of the footage on appeal but rather contends that the footage was inadmissible as it was not a “duplicate” under the Illinois Rules of Evidence and its admission is unfair to defendant. At trial, defense counsel argued that the footage violated the common law best evidence rule. Therefore, any argument that defendant waived his challenge based upon a violation of the Rules because he stipulated to the foundation of the footage is inapplicable to the issues on appeal. See *People v. Smith*, 2021 IL App (5th) 190066, ¶ 51 (noting the distinction between the best evidence rule and “potential duplicate copy,” and whether the State laid a proper foundation for the admission of the surveillance videotape at issue), *aff’d on other grounds*, 2022 IL 127946. Nevertheless, if the foundation of the evidence were at issue here, defense counsel strenuously sought to exclude the evidence, and so his eventual stipulation as to its foundation does not implicate waiver. See *Williams*, 161 Ill. 2d at 34.

¶ 48 The State additionally contends that defendant forfeited the issue on appeal because he did not object that the compiled footage was not a duplicate because it was “altered” in a manner that made it materially worse but rather objected on the basis of a violation of the best evidence rule, which he then raised in his posttrial motion alongside a challenge based on Illinois Rule of

Evidence 1003. The Illinois Rules of Evidence codified and abrogated the common law rules of evidence, including the best evidence rule. *Smith*, 2022 IL 127946, ¶ 57. Defense counsel’s best evidence argument at trial contended that Williams’ identification was based on a video of better quality than the one the jury saw, which is substantially similar to his argument on appeal. We do not find forfeiture “when it is clear that the trial court had the opportunity to review the same essential claim,” even though the issue raised on appeal is not “identical” to the objection raised at trial. *People v. Lovejoy*, 235 Ill. 2d 97, 148 (2009). Thus, we proceed to the merits of defendant’s appeal.

¶ 49 B. Admissibility of the Compiled Surveillance Footage

¶ 50 Under Illinois Rule of Evidence 1002, “[t]o prove the content of a writing, recording, or photograph, the original writing, recording, or photograph is required, except as otherwise provided in these rules or by statute.” Ill. R. Evid. 1002 (eff. Jan. 1, 2011). An original of a recording is the recording itself or “any counterpart intended to have the same effect,” and if the data are stored on a computer or similar device, “any printout or other output readable by sight, shown to reflect the data accurately.’ ” Ill. R. Evid. 1001(3) (eff. Jan. 1, 2011). A duplicate, however, is defined as “a counterpart produced by the same impression as the original *** by mechanical or electronic re-recording *** or by other equivalent techniques which accurately reproduces the original.” Ill. R. Evid. 1001(4) (eff. Jan. 1, 2011).

¶ 51 Under the Rules, a duplicate is admissible unless (1) a genuine question is raised as to the authenticity of the original or (2) in the circumstances it would be unfair to admit the duplicate. *People v. Smith*, 2022 IL 127946, ¶ 31; Ill. R. Evid. 1003 (eff. Jan. 1, 2011). An original is not required where the original is unable to be obtained by any available judicial process or procedure.

Ill. R. Evid. 1004(2) (eff. Jan. 1, 2011). A duplicate is admissible even if it is not a complete copy of the original and does not fully reproduce the original. *Smith*, 2022 IL 127946, ¶ 40.

¶ 52 Our supreme court has established that recordings of surveillance footage made by copying data stored on the hard drive of a DVR system satisfied the definition of an “original” under the Rules. *People v. Taylor*, 2011 IL 110067, ¶ 43 (the original DVR recording was copied to a VHS tape). As such “[t]he State was not required to bring the DVR system into court to show the surveillance system.” *Id.* The supreme court also found that “[g]iven the particular circumstances of any case, alterations, deletions, or editing may be necessary.” *Id.* ¶ 44. Thus, the editing will not render the evidence inadmissible but rather go to the weight of that evidence, and the most important criteria are that “the edits cannot show that the recording was tampered with or fabricated.” *Id.* A trial court’s decision whether to admit evidence is reviewed for an abuse of discretion. *Smith*, 2022 IL 127946, ¶ 25. A trial court abuses its discretion when its decision is “arbitrary, fanciful, or unreasonable or when no reasonable person would agree with the trial court’s position.” *People v. Brand*, 2021 IL 125945, ¶ 36. When interpreting the Illinois Rules of Evidence, we employ the *de novo* standard of review. *Smith*, 2022 IL 127946, ¶ 25.

¶ 53 Here, the evidence is unclear as to the process used to compile the footage: whether the compilation was produced directly from the footage downloaded by the detectives, or whether it was produced using an electronic re-recording technique. However, the parties stipulated that the videos used to make the compilation were “true and accurate digital duplicates,” so we consider whether the compilation footage satisfies the requirements of the Illinois Rules of Evidence regarding duplicates.

¶ 54 Defendant solely contends that the compilation footage is not a “duplicate” under the Rules, because it is grainier and of poorer quality than the footage Williams viewed, and so does

not “accurately reproduce the original.” See Ill. R. Evid. 1001(4) (eff. Jan. 1, 2011). However, Williams also testified that the very act of copying footage lowers its quality. The State was not required to bring the security surveillance system to court so that the jury could view the footage. See *Taylor*, 2011 IL 110067, ¶ 43.

¶ 55 Williams testified that he could identify defendant by magnifying the footage in his office in order to see defendant’s features. Defendant does not establish that the copied footage is materially different than the unmagnified footage Williams observed. In fact, the footage clearly tracks the same black vehicle Williams observed, notably missing one of its front hubcaps, and an individual wearing dark clothing exiting and reentering the vehicle. We cannot say that the compilation does not satisfy the definition of a “duplicate” under the Illinois Rules of Evidence. See Ill. R. Evid. 1001(4) (eff. Jan. 1, 2011).

¶ 56 Defendant also argues that the compilation footage is inadmissible because its admission would be unfair under the circumstances. See Ill. R. Evid. 1003(2) (eff. Jan. 1, 2011). Defendant contends that the footage obscures the features of the perpetrator and lacks detail regarding the most important aspect of the case: the identity of the shooter.

¶ 57 Here, the circuit court admitted the evidence, as the poor quality of the video would affect the weight to be given to the identification rather than its admissibility, and commented that the defense could argue that the footage was insufficient to make the identification. See *Smith*, 2022 IL 127946, ¶ 49 (“Admitting the duplicates was fair where the jury heard both sides and had ample information from defendant’s point of view to consider when deciding what weight to give the video clips.”). Here, there is no allegation that the video has been selectively or unfairly edited; nor does the record contain evidence of gamesmanship by the State. See *id.* ¶ 50. Thus, on this record, we cannot say that the trial court’s admission of the evidence was “arbitrary, fanciful, or

unreasonable or when no reasonable person would agree with the trial court's position." *Brand*, 2021 IL 125945, ¶ 36.

¶ 58 C. Williams' Narration of the Compiled Surveillance Footage

¶ 59 Defendant next argues that the court erred in not barring Williams' identification testimony as it was improper lay opinion testimony because Williams' testimony was based on footage that was poor quality rather than rationally based on his perception of the events as they occurred. Defendant also contends that although the State presented Williams' testimony as lay testimony, it was actually expert testimony as it was based upon his review of the video "using a technical process to manipulate the video's appearance" and upon his experience recording videos. Defendant argues that the testimony was not admissible as expert testimony because the State did not offer Williams as an expert nor lay foundation for his expertise or the reliability of the technical procedure he used to magnify the exhibit.

¶ 60 The State first contends that defendant forfeited his claim that Williams' testimony was inadmissible expert testimony as he did not object to his testimony on this basis or include the allegation in a post-trial motion. See *Brand*, 2021 IL 125945, ¶ 32. We agree. Defendant contends that we should consider counsel ineffective for failing to object to Williams' testimony on this basis or alternatively under the first prong of the plain error doctrine.

¶ 61 "An ineffective assistance of counsel claim requires a defendant to establish both that counsel's performance fell below an objective standard of reasonableness and that a reasonable probability exists that, but for counsel's unprofessional errors, the result of the proceeding would have been different." (Internal quotation marks omitted.) *People v. Bush*, 2023 IL 128747, ¶ 79. The plain error doctrine allows a reviewing court to consider an unpreserved claim where 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, or (2) the error is so serious that it affected the fairness of the trial and challenged the integrity of the judicial process. *People v. Sebby*, 2017 IL 119445, ¶ 48. For either claim, reviewing courts must first consider whether the defendant has established a clear and obvious error, because, absent such an error, neither theory affords relief from the forfeiture. *People v. Gilker*, 2023 IL App (4th) 220914, ¶ 78.

¶ 62 Here, we find no clear and obvious error with respect to the court’s admission of Williams’ testimony as it was not inadmissible lay or expert testimony.

¶ 63 1. Expert Testimony

¶ 64 A trial court’s decision to admit either lay opinion identification testimony or expert testimony is reviewed for an abuse of discretion. *People v. Thompson*, 2016 IL 118667, ¶ 49 (lay opinion testimony); *People v. Lerma*, 2016 IL 118496, ¶ 23 (expert testimony). The admission of expert testimony is governed by Rule 702, which establishes that “[i]f scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue,” a witness may testify in the form of an opinion if he or she is “qualified as an expert by knowledge, skill, experience, training or education.” Ill. R. Evid. 702 (eff. Jan. 1, 2011). Expert testimony is only necessary “when the subject is both particularly within the witness’s experience and qualifications and beyond that of the average juror’s, and when it will aid the jury in reaching its conclusion.” *Lerma*, 2016 IL 118496, ¶ 23.

¶ 65 Here, defendant does not explain how Williams’ ability to enhance the security footage is “technical, or otherwise specialized knowledge” beyond that of the average juror’s. Defendant compares the situation to that in *People v. Loggins*, 2019 IL App (1st) 160482. In *Loggins*, a police officer testified as a lay witness regarding a defendant’s possession of small, packaged bags which he contended are commonly used to package narcotics, blenders which are commonly used to

blend and cut heroin, and inositol which is a dietary supplement commonly used to “cut” cocaine. *Id.* ¶ 92. We found that the officer’s testimony regarding inositol and blenders were specialized, technical knowledge and facts unknown to the average person. *Id.* ¶¶ 98-101.

¶ 66 Here, however, Williams testified regarding a surveillance system’s ability to magnify footage. The fact that footage is able to be magnified is not beyond the understanding of an average juror’s or difficult to understand in today’s current technological landscape. Similarly, Williams’ testimony regarding the copying of the footage does not require any specialized skill as the specialized drug knowledge in *Loggins*. Thus, Williams’ testimony is not expert testimony under Rule 702. As there is no clear and obvious error, this claim is forfeited. See *Gilker*, 2023 IL App (4th) 220914, ¶ 78. We now turn to whether Williams’ testimony was inadmissible as lay opinion testimony.

¶ 67 2. Lay Opinion Testimony

¶ 68 Illinois Rule of Evidence 701 governs the admissibility of lay opinion testimony. Under the Rule, a lay witness may testify to opinions which are rationally based on his or her perception, helpful to a clear understanding of the witness’s testimony or the determination of a fact in issue, and not based on scientific, technical, or otherwise specialized knowledge. Ill. R. Evid. 701 (eff. Jan. 1, 2011).

¶ 69 In *People v. Thompson*, our supreme court established that a lay witness may offer opinion identification testimony from a video recording if the testimony is rationally based upon the perception of the witness and it is helpful for concluding the witness is more likely to correctly identify the defendant from the recording than the jury. *Thompson*, 2016 IL 118667, ¶ 50.

¶ 70 Generally, a lay witness’s opinion is rationally based on his perception where the witness has personal knowledge of the matters to which he testifies.” *People v. Spears*, 2024 IL App (1st)

181491, ¶ 189. In this context, however, an opinion is rationally based on a witness's perception if the opinion is "one that a layperson could normally form from observed facts." *People v. Gharrett*, 2016 IL App (4th) 140315, ¶ 72. That is, an opinion regarding what a video depicts is an opinion that a layperson could normally form from observing the video. *Id.* ¶¶ 72-73.

¶ 71 The *Thompson* court outlined multiple factors to be considered when assessing the helpfulness of the identification testimony, including the witness's general familiarity with defendant; the witness's familiarity with the defendant at the time the recording was made or observations that the defendant dressed in a manner similar to the individual depicted; whether the defendant was disguised or changed his or her appearance between the recording and the time of trial; and the clarity of the recording and the extent to which the individual is depicted. *Thompson*, 2016 IL 118667, ¶ 51. "[T]he extent of a witness's opportunity to observe the defendant goes to the weight of the testimony, not its admissibility." *Id.* ¶ 53.

¶ 72 Here, defendant does not argue that Williams' identification testimony was unhelpful to the jury under the *Thompson* analysis but rather contends that Williams' testimony was not rationally based upon his perception of the events as they occurred because he viewed better quality footage than was presented to the jury and which he could enhance to view the shooter. However, the basis for Williams' identification comes from his close viewing of the video, including his own ability to enhance the footage. See *People v. Mister*, 2016 IL App (4th) 130180-B, ¶ 76 (the witness closely scrutinized the surveillance footage to track the defendant, and so his opinions about the defendant's identity were derived from his repeated and close viewings of the footage); see also *People v. Banks*, 2021 IL App (4th) 180838-U, ¶ 60 (finding no violation of Rule 701 where the lay witness gave identification testimony which relied upon her viewing of surveillance footage with a magnifying capability that was unable to be downloaded).

¶ 73 Defendant likens this case to the circumstances presented in *People v. Sykes*, 2012 IL App (4th) 111110 and *People v. Jacobs*, 2022 IL App (1st) 200402-U. We find both cases distinguishable.

¶ 74 In *Sykes*, the defendant was charged with the theft of \$100 from a cash register, and the theft was captured on surveillance video. *Sykes*, 2012 IL App (4th) 111110, ¶ 4. The State's sole witness, a loss prevention manager for a department store, testified that he observed the defendant remove the money from the register and place it in his pocket. *Id.* ¶ 6. The video admitted into evidence was grainy and contained electronic interference, but the witness testified that the footage he viewed was much better quality where he was able to see the defendant put a bill into his left hand. *Id.* ¶ 9.

¶ 75 The reviewing court reversed the conviction, because the witness's testimony violated the silent witness theory. *Id.* ¶ 55. The court noted the principle that identification testimony of a lay witness using a video is admissible where the testimony aids the trier of fact in resolving the issue of identification but commented that the witness did more than merely identify the defendant in the video. *Id.* ¶ 39. The court found that the witness testified that he observed the defendant remove money from the register and place his hand containing the money into his pocket, which went "far beyond identifying [the] defendant." *Id.* ¶¶ 39-40. Here, Williams' testimony and narration was directed at the identification of defendant. See *Banks*, 2021 IL App (4th) 180838-U, ¶ 59 (distinguishing *Sykes* on the same basis).

¶ 76 In *Jacobs*, we found that defense counsel provided ineffective assistance by failing to object to a police officer's testimony regarding his observations after manipulating a video using police department equipment not available to the trier of fact. *Jacobs*, 2022 IL App (1st) 200402-U, ¶ 15. The officer was able to identify the defendant as the perpetrator using tools to magnify

the video so he could see his clothing. *Id.* ¶ 7. The video recording without magnification was entered into evidence without objection. *Id.* ¶ 8.

¶ 77 We found that defendant’s trial counsel provided ineffective assistance by failing to object to the officer’s testimony about the use of police department tools to enhance the footage. *Id.* ¶ 14. We found that the State presented only circumstantial evidence against the defendant, and so a reasonable probability existed that defendant would have obtained a better result if his attorney had objected to the officer’s testimony. *Id.*

¶ 78 Here, however, as we have noted, defense counsel objected to the evidence strenuously on this same basis. The court overruled defense counsel’s objections. In *Jacobs* we found “a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” *Id.* ¶ 15. Here, the trial court considered defense counsel’s objection and determined that the identification testimony was, ultimately, admissible. In this case, the court was able to consider the issue. We express no opinion regarding a hypothetical scenario where defense counsel did not object to Williams’ identification testimony.

¶ 79 Defense counsel also had the ability to cross-examine Williams regarding his observations and the quality of the footage. Indeed, even if we do not consider Williams’ identification testimony regarding the enhanced footage, Tina identified defendant as the passenger of the vehicle when he entered her apartment. Although Tina recanted her identification at trial, recantations are generally regarded as unreliable. See *People v. Johnson*, 2026 IL 131337, ¶ 81. Williams testified that he saw no other passengers enter or exit Sharks’ vehicle, which is distinct on the footage due to its missing hubcap. The footage does not depict any other passengers in the front passenger seat of the vehicle, although Williams also testified that the footage contained “gaps” where the vehicle was not visible to the cameras.

¶ 80 Ultimately, the jury, as trier of fact, is responsible for weighing the evidence, including the surveillance footage and identification testimony. See *Thompson*, 2016 IL 118667, ¶ 51. (“[T]he extent of a witness’s opportunity to observe the defendant goes to the weight of the testimony, not its admissibility.”). Accordingly, the court did not abuse its discretion in admitting Williams’ narration as lay opinion testimony.

¶ 81 D. *Pro Se* Allegations of Ineffective Assistance of Trial Counsel

¶ 82 As a final matter, defendant contends that during his post-trial proceedings, he complained that he received ineffective assistance from his attorney and wished to represent himself. Defendant argues that, although the court acknowledged his complaints briefly, it did not give him the opportunity to explain the factual basis of his claim. Defendant requests that we remand for further proceedings under *People v. Krankel*, 102 Ill. 2d 181 (1984).

¶ 83 Here, defendant raised the *pro se* allegations of ineffective assistance of counsel after trial. Such a posttrial motion is governed by the procedure developed in *People v. Krankel*, which “encourages the trial court to fully address these claims” and “narrow the issues to be addressed on appeal.” *People v. Roddis*, 2020 IL 124352, ¶ 34. Under *Krankel*, after a *pro se* defendant brings claims of ineffectiveness to a trial court’s attention, the court must conduct a preliminary inquiry into the factual basis of the claim and then determine whether to appoint counsel or deny the motion. *People v. Ayres*, 2017 IL 120071, ¶ 11. If the court determines the claim lacks merit or pertains only to trial strategy, it need not appoint counsel and may deny the motion. *Roddis*, 2020 IL 124352, ¶ 35. A claim lacks merit if it is conclusory, misleading, legally immaterial, or does not raise a colorable claim of ineffective assistance of counsel. *People v. Robinson*, 2015 IL App (1st) 130837, ¶ 71. If the allegations show possible neglect, new counsel should be appointed. *Roddis*, 2020 IL 124352, ¶ 35.

¶ 84 The purpose of a preliminary *Krankel* inquiry “is to ascertain the underlying factual basis for the ineffective assistance claim and to afford a defendant an opportunity to explain and support his claim.” *People v. Ayres*, 2017 IL 120071, ¶ 24. The trial court may discuss the defendant’s allegations with counsel and the defendant and rely “on its knowledge of defense counsel’s performance at trial and the insufficiency of the defendant’s allegations.” *Id.* ¶ 12. “A brief discussion between the trial court and the defendant” may be adequate to determine whether further action is required regarding the defendant’s claims. *People v. Moore*, 207 Ill. 2d 68, 78 (2003). Whether a trial court properly conducted a preliminary *Krankel* inquiry presents a legal question which we review *de novo*. *People v. Jolly*, 2014 IL 117142, ¶ 28.

¶ 85 Here, defendant asserted that he wished to represent himself because he did not believe that his attorney could represent him, given conflicts of interest and complaints that defendant had lodged regarding him. The court addressed defense counsel, who asserted no conflicts of interest existed and defendant was simply “angry” at him. Defendant requested the ability to address the court further, but the court did not give him the opportunity to speak. Prior to the hearing for the motion for a new trial, defendant repeated that he believed that his trial counsel did not represent his best interests.

¶ 86 The court seemingly began to conduct a preliminary *Krankel* inquiry but did not afford defendant an opportunity to explain and support his claim or provide a factual basis. See *Ayres*, 2017 IL 120071, ¶ 24. Although the court questioned defense counsel regarding the claim, defendant was not given the same opportunity. As such, defendant did not explain his reasons for complaining about his trial counsel. See *id.* We, therefore, remand the matter to the circuit court for the limited purpose of conducting a preliminary *Krankel* hearing on the factual basis for defendant’s ineffective assistance of counsel claim.

¶ 87

III. CONCLUSION

¶ 88 For the reasons stated, we remand the matter to the trial court for the limited purpose of conducting a preliminary *Krankel* hearing on defendant's ineffective assistance of counsel claim and otherwise affirm.

¶ 89 Affirmed in part; remanded with directions.