2026 IL App (1st) 220610

FOURTH DIVISION

No. 1-22-0610
Opinion filed September 30, 2026

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 00 CR 07426
	)	
DARIUS DUNCAN,	)	Honorable
	)	Michael Clancy,
Defendant-Appellant.	)	Judge Presiding.

JUSTICE LYLE delivered the judgment of the court, with opinion.
Justices Quish concurred in the judgment and opinion.
Justice Ocasio dissented, with opinion.

OPINION

¶ 1 On March 22, 2000, the State charged the defendant-appellant, Darius Duncan, with multiple counts of murder, attempted murder, aggravated battery with a firearm, aggravated battery in a public place, and unlawful use of a weapon by a felon. On January 22, 2003, the circuit court found Mr. Duncan guilty of first degree murder, attempted murder, and unlawful use of a weapon by a felon, and on a later date the circuit court sentenced him to an aggregate term of 66 years in the Illinois Department of Corrections. Nearly 20 years after his sentencing hearing, Mr. Duncan was finally able to file his notice of appeal in his direct appeal. On appeal, Mr. Duncan argues that

(1) the State failed to disprove his affirmative self-defense claim or alternatively he should have been convicted of second degree murder, (2) his trial attorneys provided ineffective assistance of counsel, (3) the circuit court improperly considered a void prior conviction, and (4) that the delay in hearing his appeal violated his due process rights. For the reasons that follow, we affirm the judgment of the circuit court of Cook County.

¶ 2 BACKGROUND

¶ 3 We state only the facts necessary to resolve this appeal. For a full recitation of the facts, see *People v. Duncan*, 2021 IL App (1st) 182363-U.

¶ 4 On March 22, 2000, the State charged Mr. Duncan with multiple counts of murder, attempted murder, aggravated battery with a firearm, aggravated battery in a public place, and unlawful use of a weapon by a felon for a shooting that occurred on July 1, 1999. David Jordan represented Mr. Duncan at the trial court level. On December 4, 2000, Mr. Jordan informed the trial court that Howard Towles would also represent Mr. Duncan.

¶ 5 On March 21, 2001, Mr. Jordan informed the trial court that he had planned on engaging in a Rule 402 conference (Ill. S. Ct. R. 402 (eff. Jul. 1, 2012)), but Mr. Duncan had declined to participate. On April 10, 2001, Mr. Jordan said he did not know what time his co-counsel would arrive, as they had not spoken. On May 9, 2021, no attorney showed up to court despite Mr. Duncan's presence in court. Mr. Towles appeared later that day, stating he thought his co-counsel would appear on the case. On June 13, 2001, neither attorney showed up to a status hearing. On December 21, 2001, no attorney appeared and on December 31, 2001, Mr. Towles arrived late to court.

¶ 6 On June 11, 2002, Mr. Jordan informed the court that both counsels filed answers regarding self-defense but he was not sure Mr. Duncan wanted to proceed that way. In the record, there is an answer signed by Mr. Towles that was filed on December 31, 2001. On July 1, 2002, Mr. Jordan appearing in court, advised that Mr. Towles was not available, but his client wanted to proceed via a bench trial and was not interested in a Rule 402 conference. On November 8, 2002, Mr. Jordan stated that he had not spoken to Mr. Towles in about a week.

¶ 7 On January 7, 2003, the trial court conducted a bench trial in the case, which was continued to January 13, 2003. Mr. Towles was late on both days. During the trial, Willie Mullen, Keith Nevith, Antonio Edwards, and Tavares Johnson testified for the State.

¶ 8 Mr. Mullen, who was at the time incarcerated in the Cook County Department of Corrections, testified that he and three fellow members of the Gangster Disciples were playing with a go-cart at a house on the corner of North Christiana Avenue and West Huron Street. While they were doing that, he saw three people he recognized as members of the rival gang, the Traveling Vice Lords, walking past them towards a convenience store. He later heard what he thought were fireworks until someone said "[t]hey shooting." When he looked up, he saw Mr. Duncan with a black revolver in his hand, shooting at them. He observed that no shell casings were ejected from the gun and saw Tavares Johnson with blood on the back of his shirt and Demetrius Johnson fall down. Mr. Mullen was shot in the shoulder and suffered a broken collarbone.

¶ 9 Mr. Nevith testified while in custody at the Cook County Department of Corrections. He stated he had a prior conviction for unlawful use of a weapon. On the date of the shooting, he was working on a go-cart with Mr. Mullen and Tavares Johnson when he saw three people walk by. He recognized one of the individuals as Mr. Edwards and the other individual as Mr. Duncan. He

said the group returned not long after he saw them walk by and Mr. Duncan was the only one firing. He saw Demetrius Johnson collapsed on the street and Tavares Johnson holding his arm and back.

¶ 10 Mr. Edwards testified from custody in the Cook County Department of Corrections. He had prior convictions for drugs and firearm possession. He stated he was a member of the Traveling Vice Lords, and on July 1, 1999, he was walking with Mr. Duncan and Derrick Webster. They walked past Mr. Mullen, Demetrius Johnson, Tavares Johnson, and Mr. Nevith, but once they reached the alley, Mr. Duncan "stopped, turned around and started shooting." He said he did not initially want to testify but after having a conversation with his grandmother, where she told him to tell the truth, he decided to come forward. On cross-examination, Mr. Towles attempted to question Mr. Edwards about his conversation with his grandmother. Mr. Towles asked where the grandmother lived and a sidebar ensued. During the sidebar, the State objected to any mention of Mr. Edwards or his family's whereabouts. The State proffered that Mr. Edwards feared Mr. Duncan and his family because he witnessed an attempted murder that involved two members of Mr. Duncan's family and one of them had not been arrested yet. The State expressed concerns for the witnesses' safety in light of Mr. Mullen being shot in the head prior to the trial. Mr. Duncan's attorneys argued there was no connection between these cases and Mr. Duncan's case, but the State interjected that Mr. Mullen believed there was a connection between the shooting and this case.

¶ 11 The trial court found the State had "established a legitimate reason for not getting into" his family's location because he was a witness in another case but allowed Mr. Duncan's attorneys to get into the circumstances surrounding Mr. Edwards' change of his testimony. However,

immediately after Mr. Duncan received that favorable ruling, Mr. Jordan noted that it was 4:15 p.m. and Mr. Towles had to leave at 4:30 p.m. After the sidebar, Mr. Towles said he had no further questions. On redirect examination, Mr. Edwards stated that he lied to the grand jury in February 2000 when he testified that Tavares Johnson had a firearm. The trial was continued to January 13, 2003.

¶ 12 On the next day of trial, Mr. Jordan informed the trial court that Mr. Towles would be late and that they could proceed to stipulations. Tavares Johnson testified while in custody in the Illinois Department of Corrections.

¶ 13 Tavares Johnson testified that he was serving sentences for aggravated unlawful use of a weapon and possession of a controlled substance with intent to distribute. He stated that he was with Mr. Nevith, Mr. Mullen, and Demetrius Johnson when the shooting occurred, though he initially thought the shots were fireworks. When he turned around, he saw Mr. Duncan approaching him and shooting in their direction. He was shot in his lower back and medical personnel were unable to remove the bullet.

¶ 14 The parties agreed to a stipulation regarding Chicago Police Department evidence technician John Paulson. If called to testify he would state that "he found bullets or shell casings in the area surrounding the intersection of Huron and Christiana" and that "shell casings are not ejected from a revolver." Another stipulation entered stated that Demetrius Johnson died of two gunshot wounds.

¶ 15 Mr. Duncan testified that on the date of the incident he was walking with his friends. He stated that he knew Mr. Edwards was a Traveling Vice Lord and Mr. Webster was a member of the Four Point Hustlers but denied being in a gang himself. Mr. Duncan said he frequently heard

gunshots, approximately four times a week, and obtained a gun for his protection, which was a revolver with five bullets. He testified that after leaving the store, he walked past a group standing near a go-cart and recognized Mr. Mullen and Tavares Johnson since they had waved around firearms in the past. When he reached the alley, he heard "loud pumping noises" that sounded like nearby gunshots to him. He knew that three of the four individuals—Tavares Johnson, Mr. Mullen, and Mr. Nevith—had possessed firearms on prior occasions and that he and Mr. Edwards were also in possession of firearms. He said he shot all five bullets from the middle of the street, because he thought they were shooting back. He started to shoot because he was scared that they were going to shoot back at him, and he saw Mr. Mullen bending to reach under the go-cart.

¶ 16 During closing arguments, Mr. Duncan argued that he heard a loud noise which he thought could be gunshots and he shot back in self-defense. In rebuttal, the State argued that self-defense did not apply because there was no indication that Mr. Duncan was facing or in danger of facing any immediate harm. On January 22, 2003, the trial court found Mr. Duncan guilty of first degree murder, attempted murder, and unlawful use of a weapon by a felon. The transcript of the hearing, where the court found Mr. Duncan guilty, was not part of the record, and the Official Court Reporters Office of Cook County could not provide a transcript.

¶ 17 Prior to sentencing, Mr. Duncan filed a motion for a new trial, arguing that the trial court should have considered lesser included charges. The trial court denied the motion, stating it had considered lesser included offenses and rejected them. On January 30, 2003, the trial court conducted the sentencing hearing. Mr. Towles stated he was not prepared to present witnesses in mitigation. In aggravation, the State presented a victim impact statement from Demetrius Johnson's mother and Mr. Duncan's past adjudications and argued that Mr. Duncan's testimony

showed that he lacked remorse. In mitigation, Mr. Duncan's attorneys presented information about his family background and his lack of a record and claimed that the incident was a mistake. The court sentenced Mr. Duncan to 50 years' imprisonment for first degree murder, two consecutive terms of 8 years' imprisonment for attempted murder, a 6-year concurrent term for attempted murder, and 5-year concurrent term for unlawful use of a weapon by a felon, for an aggregate term of 66 years.

¶ 18 Mr. Duncan's attorneys did not file a motion to reconsider his sentence or a notice of appeal. On June 25, 2003, Mr. Duncan filed a motion seeking leave to file a late notice of appeal, explaining that trial counsel failed to file a notice of appeal due to a payment disagreement, but the motion was denied. Mr. Duncan then went through a long saga, which lasted for nearly 20 years after his sentencing hearing, before his right to a direct appeal was granted. See *Duncan*, 2021 IL App (1st) 182363-U (detailing the procedural history of the case and this court's ruling on jurisdiction concerning Mr. Duncan's direct appeal). On April 21, 2022, the trial court granted the successive postconviction petition finding that trial counsel was ineffective for failing to file a notice of appeal. The court allowed Mr. Duncan leave to file his notice of appeal, leading to this direct appeal. Before addressing the merits of this appeal, we note that merely having to wait over 20 years for his direct appeal to be heard is inherently an injustice that no defendant should have to endure regardless of his or her financial circumstances.

¶ 19 ANALYSIS

¶ 20 We note that we have jurisdiction to consider this matter. *Duncan*, 2021 IL App (1st) 182363-U, ¶ 16.

¶ 21 I. Sufficiency of the Evidence

¶ 22 Mr. Duncan argues that his convictions for first degree murder and attempted murder should be reversed because there was insufficient evidence to convict him. Alternatively, he argues that the trial court should have reduced his conviction to second degree murder because he established an imperfect self-defense.

¶ 23 In considering a challenge to the sufficiency of the evidence, we must determine whether, after viewing the evidence in the light most favorable to the State, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. *People v. Gray*, 2024 IL 127815, ¶ 20. In doing so, we must draw all reasonable inferences in favor of the State and acknowledge that the State is not required to exclude every reasonable alternative explanation consistent with the defendant's innocence. *People v. Grayer*, 2023 IL 128871, ¶ 32. Similarly, the trier of fact is not required to disregard inferences that flow normally from the evidence. *People v. Bush*, 2023 IL 128747, ¶ 33. We set aside a conviction only when "the evidence is so improbable or unsatisfactory that it creates a reasonable doubt of the defendant's guilt." *Bush*, 2023 IL 128747, ¶ 33.

¶ 24 The trier of fact resolves conflicts in the testimony, weighs the evidence, and draws reasonable inferences from the evidence. *People v. Conway*, 2023 IL 127670, ¶ 20. We will not retry the defendant or substitute our judgment for that of the trier of fact regarding the weight of evidence or witness credibility. *Conway*, 2023 IL 127670, ¶ 16. "The trier of fact may accept or reject all or part of a witness' testimony." *People v. Joiner*, 2018 IL App (1st) 150343, ¶ 62.

¶ 25 A person "is justified in the use of force against another when and to the extent that he reasonably believes that such conduct is necessary to defend himself or another against such

other's imminent use of unlawful force." 720 ILCS 5/7-1(a) (West 1998). In order to show self-defense, the defendant must show:

> "(1) that unlawful force was threatened against a person; (2) that the person threatened was not the aggressor; (3) that the danger of harm was imminent; (4) that the use of force was necessary; (5) that the person threatened actually and subjectively believed a danger existed that required the use of the force applied; and (6) the beliefs of the person threatened were objectively reasonable. [Citations.] If the State negates any one of these elements, the defendant's claim of self-defense must fail." *People v. Lee*, 213 Ill. 2d 218, 225 (2004).

¶ 26 To advance a self-defense claim, a defendant must admit to the elements of the crime but present a mitigating factor for the action. *People v. Blackwell*, 171 Ill. 2d 338, 357 (1996). Mr. Duncan argues the State did not disprove the mitigating factors constituting his self-defense claim, which should have resulted in a not guilty finding or caused a reduction in the charge and conviction due to imperfect self-defense. *Blackwell*, 171 Ill. 2d at 357-58.

¶ 27 Mr. Duncan testified that he heard a gunshot type of sound, potentially fireworks, and that sound caused him to pull out a firearm and begin shooting at the victims in this case. Mr. Duncan argues that all of the witnesses who observed the incident were either incarcerated or had prior convictions, which means we should disregard their testimony. While the witnesses' incarcerations created grounds for the trial court to question their credibility, it is up to the trier of fact to determine a witness's credibility, and the trial court need not elevate Mr. Duncan's account over the State's witnesses. *Grayer*, 2023 IL 128871, ¶ 32. Other than Mr. Duncan, no one testified that they heard any sounds, fireworks or otherwise, before he began shooting. Additionally, there was no evidence introduced at trial that supported Mr. Duncan's account. Rather, some witnesses

claimed that Mr. Duncan ran towards them and started shooting unprovoked. It is reasonable to believe that the trial court weighed the credibility of Mr. Duncan against the other occurrence witnesses and found their accounts more credible. See *People v. Grayson*, 321 Ill. App. 3d 397, 402 (2001) ("A jury therefore need not accept a defendant's claim of self-defense."). That testimony was not "so improbable or unsatisfactory that it create[d] a reasonable doubt of the defendant's guilt." *Bush*, 2023 IL 128747, ¶ 33. Believing the accounts of the State's witnesses, the trial court found that the State disproved at least one, if not all, of the mitigating factors. Therefore, in viewing the evidence in the light most favorable to the State, we find that State met its burden to disprove Mr. Duncan's self-defense claim, and the court did not err by convicting him of both first degree murder and attempted murder.

¶ 28 II. Ineffective Assistance of Counsel

¶ 29 Mr. Duncan argues that his trial attorneys provided ineffective assistance of counsel, citing the pending investigations of one of his attorneys. He also argues that his counsel provided ineffective assistance because they failed to investigate a listed witness, failed to object to prejudicial evidence, failed to seek a conviction on a lesser offense, and failed to be prepared for sentencing. Alternatively, he argues that if this court does not find sufficient prejudice on each of the individual claims to find that the result would be different, that the cumulative effect of the errors would have resulted in the proceedings being different.

¶ 30 A defendant's claim of ineffective assistance of counsel is analyzed under the two-pronged test set forth in *Strickland v. Washington*, 466 U.S. 668 (1984). *People v. Henderson*, 2013 IL 114040, ¶ 11. To prevail on such a claim, "a defendant must show both that counsel's performance was deficient and that the deficient performance prejudiced the defendant." *People v. Petrenko*,

237 Ill. 2d 490, 496 (2010). "A defendant must satisfy both prongs of the *Strickland* test and a failure to satisfy any one of the prongs precludes a finding of ineffectiveness." *People v. Simpson*, 2015 IL 116512, ¶ 35.

¶ 31 To establish deficient performance, the defendant must show that his attorney's performance fell below an objective standard of reasonableness. *People v. Evans*, 209 Ill. 2d 194, 219-20 (2004) (citing *Strickland*, 466 U.S. at 687). " 'Effective assistance of counsel refers to competent, not perfect representation.' " *Evans*, 209 Ill. 2d at 220 (quoting *People v. Stewart*, 104 Ill. 2d 463, 491-92 (1984)). Mistakes in trial strategy or tactics do not necessarily render counsel's representation defective. *People v. Hillenbrand*, 121 Ill. 2d 537, 548 (1988).

¶ 32 A. Professional Misconduct

¶ 33 Mr. Duncan argues that trial counsel's personal and professional problems impacted his legal representation.

¶ 34 As an initial matter, we will not consider matters outside the record. See *People v. Williams*, 2012 IL App (1st) 100126, ¶ 27 (stating this court will not consider Illinois Attorney Registration and Disciplinary Commission (ARDC) documentation contained in the appendix as it is outside the record). In this record, Mr. Towles was investigated for commingling funds, lying to clients, and failing to file a notice of appeal in another case. However, the question before this body is not whether Mr. Duncan's trial counsel had pending personal or professional circumstances but whether his performance fell below reasonable professional standards. *People v. Orange*, 168 Ill. 2d 138, 162 (1995) ("Defendant must therefore demonstrate that personal and professional circumstances affected counsel such that his performance fell below reasonable professional standards and that, absent these distractions, the outcome of trial would have been different.").

¶ 35 In support of this position, Mr. Duncan argues that we should apply the standard in *People v. Williams*, 93 Ill. 2d 309, 325 (1982). In that case, the defendant's attorney was representing three individuals in a capital murder case involving two juries. *Williams*, 93 Ill. 2d at 325. After the appeal was denied by the supreme court but while the motion to reconsider was still pending, the attorney had a disciplinary matter before the supreme court where he was found to have commingled funds, prejudiced his client, and neglected matters in an estate case that was happening at the same time as the trial for Mr. Williams. *Williams*, 93 Ill. 2d at 314. The attorney was subsequently disbarred. The supreme court found that considering the unique circumstances of an attorney's professional misconduct, the errors that were initially excused as trial strategy required a remand for a new trial. *Williams*, 93 Ill. 2d at 325.

¶ 36 We note however that in *Williams*, 93 Ill. 2d at 325, the court stated, "the unique circumstances and sequence of events in this capital case *** will rarely, if ever, be duplicated." As Mr. Duncan acknowledged at oral argument, no other case has followed *Williams*. See *People v. Szabo*, 144 Ill. 2d 525, 529 (1991) (holding "that the *Williams* decision was an aberration peculiar to the facts of that case"); *Orange*, 168 Ill. 2d at 164 (finding that due to not having the unique circumstances of *Williams*, the *Strickland* standard applied); *People v. Williams*, 226 Ill. App. 3d 188, 194 (1992) ("The supreme court, aware of the anomaly it created, emphasized the limitations of *Williams* in *People v. Szabo* ***."). *Williams* is not analogous to and differs significantly from the case before us. This is not a capital murder case involving multiple defendants, nor were there two separate juries taking testimony and deliberating. Further, Mr. Duncan had more than one attorney representing him on this matter. Therefore, we find this case distinguishable from *Williams* and apply the *Strickland* standard.

¶ 37 While the quality of representation provided to Mr. Duncan was problematic, due to one attorney missing appearances or arriving late repeatedly, there was co-counsel present handling the matter. We are therefore unable to find that he failed to perform his duties to a reasonable level. Without more, we cannot say that either counsel's representation was deficient.

¶ 38 B. Failure to Interview a Witness

¶ 39 Mr. Duncan argues that his attorney failed to interview Mr. Webster, an occurrence witness with Mr. Duncan.

¶ 40 Decisions regarding whether to call a witness are generally a matter of trial strategy, which carries "a strong presumption that they reflect sound trial strategy" and commonly "immune from claims of ineffective assistance of counsel." *People v. English*, 334 Ill. App. 3d 156, 164 (2002). Failure to attach an affidavit as to a proposed witness' testimony inhibits a defendant's ability to show trial counsel was ineffective for failing to call that witness. *People v. Harris*, 2013 IL App (1st) 111351, ¶ 70.

¶ 41 Mr. Duncan did not attach an affidavit regarding Mr. Webster's testimony. Therefore, we are left with Mr. Duncan's self-serving affidavit that Mr. Webster's testimony would support his theory at trial. The other witness who was with Mr. Duncan and Mr. Webster at the time of the incident, Mr. Edwards, did not agree with Mr. Duncan's portrayal of self-defense and testified in favor of the State. Given the fact that this court was not presented with an affidavit from Mr. Webster, we cannot say that it was unreasonable strategy to not call Mr. Webster as a witness.

¶ 42 C. Failure to Object to the State's Comments

¶ 43 Mr. Duncan claims his trial counsel was ineffective for failing to object to the State's comments that Mr. Edwards did not want to disclose his or his grandmother's whereabouts since he was scared for his safety due in part to this case.

¶ 44 In this case, the trial court said this disclosure was a "legitimate reason" for not allowing further questions as to where Mr. Edwards's grandmother resided. However, the court granted permission to Mr. Duncan's counsel to inquire about the circumstances behind Mr. Edwards changing his story. "[W]hen a trial court is the trier of fact a reviewing court presumes that the trial court considered only admissible evidence and disregarded inadmissible evidence in reaching its conclusion." *People v. Naylor*, 229 Ill. 2d 584, 603 (2008). The presumption may be rebutted when it is affirmatively shown in the record that the trial court considered the inadmissible evidence. *Naylor*, 229 Ill. 2d at 603-04.

¶ 45 Mr. Duncan relies on *People v. Mullen*, 141 Ill. 2d 394, 397 (1990), to support his contention that it was improper for the State to comment about the witness's fear regarding his and his family's safety due to other shootings not related to this case. In *Mullen*, the supreme court found that the attorney improperly argued about information that the trial court specifically excluded from being raised in front of the jury. *Mullen*, 141 Ill. 2d at 408. That is not the situation before this court. The State presented information to the trial court about the witnesses' fear to aid its decision on whether Mr. Duncan's counsel could inquire about the addresses of the witness and his grandmother. Any information about their addresses was not probative to the question of credibility. The State provided the court with relevant information to assist with its decision and without that information it could not have made an informed decision as to the potential harm that line of questioning could pose. See *People v. Bowman*, 2012 IL App (1st) 102010, ¶ 31 ("The

admission of evidence lies within the sound discretion of the trial court ***."). Additionally, nothing in the record before us affirmatively rebuts the presumption that the trial court only considered relevant information and evidence, and as a result, we do not find any prejudice in trial counsel's failure to object to the State's comments during the sidebar.

¶ 46 Mr. Duncan asks us to look at a statement made during closing arguments wherein the State said the witnesses, Mr. Mullen and Mr. Edwards, stated why they were reluctant to testify. He argues that statement refers back to the State's discussion regarding the witnesses' safety during the sidebar. However, the next sentence from the State references Mr. Edwards's reluctance to testify against his friend. That has nothing to do with safety concerns that were raised earlier in trial. We do not find any error with the State's comments in the context they were said during the trial.

¶ 47 D. Shell Casings

¶ 48 Mr. Duncan contends that trial counsel provided ineffective assistance of counsel by stipulating to the testimony of the evidence technician that shell casings were found in the area and that a revolver does not dispense shell casings.[1]

¶ 49 The State argued in their brief and oral argument that the stipulation's language was a scrivener's error, claiming the stipulation should have stated "he found *no* bullets or shell casings in the area." Whether the language of the stipulation was an error does not matter—we find that trial counsel was not ineffective for entering into the stipulation. Assuming the evidence technician would testify that no bullets or shell casings were found at the scene, that would be

[1]On August 27, 2026, Mr. Duncan filed a motion to supplement the record, which this court granted the next day. The supplemental record contains a crime scene processing report, which states that no physical evidence was found. The page was signed by evidence technician Paulson.

sound trial strategy as a way to expedite the proceedings and not get bogged down in expert testimony. See *People v. Stewart*, 365 Ill. App. 3d 744, 749 (2006) ("Illinois courts favor the stipulated testimony of forensic experts on the presence of controlled substances because stipulations can expedite the disposition of cases, simplify the issues and reduce expenses."). While the testimony hurt Mr. Duncan's self-defense claim, that evidence was likely going to come in anyways in the form of live testimony, and Mr. Duncan does not point to any possible avenues to impeach evidence technician Paulson or dispute the lack of evidence. Moreover, it allowed trial counsel to focus on the primary issues of the defense, such as whether any of the victims possessed a firearm that day or if anyone else heard a sound similar to a gunshot. Since we find that it was a sound trial strategy, we do not find error with counsel's decision under that scenario.

¶ 50 If we view the stipulation on its face that there were bullets or shell casings found, we cannot excuse it as trial strategy. Under that scenario, the stipulation did not help the State's case so Mr. Duncan would have been the party pushing for its admittance. There are two logical explanations for the introduction of this firearm-related evidence. Either the evidence was admitted to establish that Mr. Duncan did not shoot at the victims or to bolster his self-defense argument and to present evidence that the victims shot at him first. However, Mr. Duncan did not use that evidence to further any of those two options instead leaving the evidence up in the air without any argument about what conclusions the trial court should draw from the evidence. Perhaps creating ambiguity was a strategy, but it was a rather bad one. Despite the poor strategy, it is unclear how the evidence was prejudicial to Mr. Duncan. Considering the evidence in a way most harmful to Mr. Duncan, the evidence is irrelevant and has no bearing on the case. The testimony was

consistent that Mr. Duncan used a revolver, which according to the stipulation does not dispense shell casings. At best, the trial court was left with some shell casings near the scene, which gave credence to Mr. Duncan's theory that the victims shot at him first causing him to respond with shots of his own. There was no prejudice from admitting the stipulation into evidence.

¶ 51 E. Failure to Argue for Second Degree Murder

¶ 52 Mr. Duncan argues that his trial counsel was ineffective for not arguing for second degree murder.

¶ 53 Despite Mr. Duncan's assertions, his claims are both factually and legally inaccurate. His attorney argued not that he heard a gunshot but "something that sound[ed] to him like a gunshot." While his attorney argued self-defense and improper self-defense in an inartful way, he did argue both. The trial court also stated in response to the motion to reconsider that it also considered second degree murder and rejected it. "[C]ounsel cannot be found ineffective for failing to request that the trial court consider second degree murder, as the trial court was empowered to consider this lesser offense regardless of counsel's arguments." *People v. Spiller*, 2016 IL App (1st) 133389, ¶ 40. Therefore, trial counsel was not ineffective because he did bring up imperfect self-defense, and even if he did not, the trial court was "empowered to" and did consider the lesser offense of second degree murder.

¶ 54 F. Sentencing Hearing

¶ 55 Mr. Duncan also asks this court to review his trial attorneys' actions during his sentencing hearing and afterwards for ineffective assistance of counsel. He points to his attorney's statement that he was not prepared to call witnesses in mitigation and his failure to file a motion to reconsider his sentence.

¶ 56 Mr. Duncan's attorney did not call witnesses during the mitigation portion of the sentencing hearing. However, he still made arguments about Mr. Duncan's lack of criminal history and argued that Mr. Duncan was scared during the incident because of witnessing violent incidents in his community. He also mentioned the fact that he had a young child and that this case was the result of a mistake and an overreaction. The trial court sentenced him to an aggregate term of 66 years' imprisonment, which was 50 years for murder and two 8-year consecutive terms for attempted murder. This sentence was within the statutory range.

¶ 57 "A sentence which falls within the statutory range is not an abuse of discretion unless it is manifestly disproportionate to the nature of the offense." *People v. Jackson*, 375 Ill. App. 3d 796, 800 (2007). We will not alter a sentence on appeal unless there is an abuse of discretion since a trial judge's sentencing decision is entitled to great deference. *Jackson*, 375 Ill. App. 3d at 800.

¶ 58 Mr. Duncan was found guilty of shooting at four individuals and killing one of them while they were working on a go-kart. While Mr. Duncan argued that the shooting was provoked either by gunshots, fireworks, or some other noise that sounded like fireworks, the trial court did not believe that narrative. Instead, the court believed that Mr. Duncan committed these crimes without any justification. Under the circumstances, it was not unreasonable for the trial court to sentence Mr. Duncan to 66 years' imprisonment. Moreover, Mr. Duncan did not present any evidence that he could have used in mitigation to bolster his argument. Therefore, we do not find Mr. Duncan suffered prejudice by his counsel's alleged unpreparedness. Since we find that the trial court was not unreasonable in imposing its sentence, we cannot find prejudice that Mr. Duncan's attorneys did not file a motion to reconsider the sentence, as the result would be the same. Moreover, we do not believe that the cumulative effect of the errors would have led to a different result either. See

People v. Lewis, 2022 IL 126705, ¶ 108 (holding that cumulative effect of missed objections, failure to present a defense, and failure to present favorable evidence created cumulative error that prejudices the defendant).

¶ 59 III. Sentencing Factor

¶ 60 Mr. Duncan contends that the trial court improperly considered his conviction for unlawful use of a weapon, which was void *ab initio*. Mr. Duncan acknowledges that he forfeited the issue since a motion to reconsider the sentence was not filed. The State concedes that it is improper to consider that adjudication in aggravation but argues that the trial court did not use it.

¶ 61 An exception to the forfeiture rule exists in situations where the alleged error rises to the level of plain error. *People v. Roman*, 2013 IL App (1st) 102853, ¶ 19. Illinois Supreme Court Rule 615(a) (eff. Jan. 1, 1967) provides that "substantial or what have become known as plain errors may be noticed although they were not brought to the attention of the trial court." (Internal quotation marks omitted.) *People v. Sebby*, 2017 IL 119445, ¶ 48. Under the plain error doctrine, a reviewing court may consider forfeited errors if the evidence was closely balanced or "the error was so egregious that [the] defendant was deprived of a substantial right and thus a fair trial." *Roman*, 2013 IL App (1st) 102853, ¶ 19. First, a defendant must prove there was a clear or obvious error. *Roman*, 2013 IL App (1st) 102853, ¶ 19. The burden of persuasion rests with the defendant, and the first step is to determine whether any error occurred. *Roman*, 2013 IL App (1st) 102853, ¶ 19.

¶ 62 "Great deference is given to the trial court's sentencing decision because the trial court is in a better position than the reviewing court to determine the appropriate sentence." *People v. Reed*, 376 Ill. App. 3d 121, 127 (2007). "Generally, sentencing decisions are a matter entirely

within the discretion of the circuit court which reviewing courts will not disturb absent an abuse of that discretion." *People v. Robinson*, 383 Ill. App. 3d 1065, 1072 (2008). "An abuse of discretion will be found only where the trial court's ruling is arbitrary, fanciful, unreasonable, or where no reasonable person would take the view adopted by the trial court." *People v. Hall*, 195 Ill. 2d 1, 20 (2000). "To obtain a remand for resentencing, therefore, defendant must show more than the mere mentioning of an improper fact." *Reed*, 376 Ill. App. 3d at 128. "An isolated remark made in passing, even though improper, does not necessarily require that defendant be resentenced." (Internal quotation marks omitted.) *Reed*, 376 Ill. App. 3d at 128.

¶ 63 The trial court made brief mention of his prior criminal history but did not go into specifics about the improper offense and did not use it in aggravation. The court commented about the adjudication in passing, stating that he did not have a prior violent criminal history and that it was not considering his adjudication for aggravated unlawful use of a weapon as a violent offense. This passing remark did not show that the court was considering an improper factor, and thus we do not find an error.

¶ 64 IV. Due Process

¶ 65 Lastly, Mr. Duncan argues that his due process rights were violated by the inordinate, over 20-year delay for his direct appeal and that the delay effectively foreclosed any meaningful opportunity for appellate review. He notes that he did not have access to the trial court's findings regarding his affirmative defense of self-defense.

¶ 66 A defendant has a constitutional right to file a direct appeal. *People v. Edwards*, 197 Ill. 2d 239, 254 (2001). To determine whether a delay in a direct appeal violates due process, this court must apply the four-part framework in *Barker v. Wingo*, 407 U.S. 514, 530 (1972), which includes:

"(1) the length of the delay; (2) the reason for the delay; (3) the defendant's responsibility to assert his right; and (4) the resulting prejudice to the defendant." *People v. Sims*, 403 Ill. App. 3d 9, 18 (2010). "[W]here the defendant has established: (1) a lack of fault in providing the incomplete record; and (2) that the missing record is material to a meaningful review of the contentions raised on appeal," the presumption that the court heard sufficient evidence and argument to support its decision is relaxed. *Sims*, 403 Ill. App. 3d at 15.

¶ 67 "The trier of fact in a bench trial is not required to mention everything—or, for that matter, anything—that contributed to its verdict." *People v. Curtis*, 296 Ill. App. 3d 991, 1000 (1998). "If the record contains facts which support an affirmance of the trial court's finding, the reviewing court may take those facts into account even if the trial court did not state it explicitly relied upon them." *Curtis*, 296 Ill. App. 3d at 1000.

¶ 68 Despite the State's contentions at oral arguments and in its brief, we do not find that the length of the delay, the reason for the delay, or a defendant's responsibility to assert his right should be attributed to Mr. Duncan. Mr. Duncan, *pro se* and through counsel, made multiple efforts to have his appeal heard. Initially, instead of filing for leave to file a late notice of appeal, he improperly filed multiple motions in the trial court to have his issues reviewed. The State asks us to hold these efforts against him, which essentially asks us to punish an individual for his failure to understand the intricacies of the law. His attorney said in open court that he would file a notice of appeal, and if we are to believe the allegation in Mr. Duncan's late notice of appeal, his attorney did not do this basic task because of a dispute over finances. Based on the conversation, we will not further the injustice that has already been committed against Mr. Duncan by holding any portions of the delay against him.

¶ 69 However, despite not holding the delay against him, we do not find that he was prejudiced by the delay. As stated, this was a contest of credibility between the State's occurrence witnesses and Mr. Duncan. The trial court chose the State's version of events and was not required to explain its rationale. Since the trial court did not have to explain itself, we do not know if the trial court stated its reasoning for the guilty findings. Even if a transcript exists, the transcript of the court's findings was not material, and there is a presumption that the court received sufficient evidence to support its findings. This court received the full transcript of the proceedings from the witnesses and the exhibits presented at trial. As stated, that evidence was sufficient to support affirming the court's finding rejecting Mr. Duncan's self-defense claim and finding him guilty on the counts he was convicted for.

¶ 70 CONCLUSION

¶ 71 For the foregoing reasons, we affirm the judgment of the circuit court of Cook County.

¶ 72 Affirmed.

¶ 73 JUSTICE OCASIO, dissenting:

¶ 74 I agree that the evidence was sufficient to sustain Duncan's convictions. However, I would reverse and remand for a new trial because Duncan has sufficiently shown that he was denied his right to a speedy appeal and his right to the effective assistance of counsel. Alternatively, I would vacate the sentence and remand for a new sentencing hearing because it is clear from the record that the trial court understandably, but erroneously, relied on a void juvenile delinquency adjudication when it determined the sentence. I therefore respectfully dissent from the judgment.

¶ 75 A. Delay

¶ 76 Duncan was tried, convicted, and sentenced in January 2003. His attorney apparently did not take the routine step of filing a notice of appeal despite saying, in open court, that he was going to do so. More than 19 years passed before Duncan was allowed to perfect the appeal he should have had in 2003.

¶ 77 The delay is appalling, and the blame for it lies squarely at the feet of the judiciary. Duncan repeatedly brought his attorneys' dereliction of their duty to perfect Duncan's direct appeal to the attention of the courts in 2003, mere months after his conviction. In June 2003, he asked the trial court for leave to file a late notice of appeal because his attorneys had refused to file a notice on his behalf over a payment dispute. In August, he made the same request of this court. And in October, he asked the Illinois Supreme Court to exercise its supervisory authority. His requests were denied without any explanation each time.

¶ 78 The trial court's denial is, perhaps, excusable. Under our state's strict rules, it had lost jurisdiction over the case on March 2, 2003, when the time for moving to reconsider the sentence or file a notice of appeal lapsed. This court, on the other hand, was not helpless. Duncan's August 2003 motion for leave to file a late notice of appeal was timely filed within six months of the original deadline for a timely notice of appeal. See Ill. S. Ct. R. 606(c) (eff. Dec. 1, 1999). This court could have resolved the issue then and there. Instead, it punted. So did the supreme court, which is free to disregard the jurisdictional limits its rules place on the lower courts. Three courts, three requests, and three rejections all within a year of Duncan's conviction.

¶ 79 The postconviction proceedings, which dragged on from 2006 until 2022, are their own saga. The fact that it took 16 years to resolve the petition speaks for itself. I note only that nothing prevented proceeding on Duncan's straightforward claim that his attorney failed to file a notice of

appeal separately from the other, more complicated claims raised in his petition. See 735 ILCS 5/2-614(b) (West 2006) (authorizing separate trials of different causes of action); see also *People v. Harris*, 2016 IL App (1st) 141778, ¶ 16 (recognizing that a postconviction court can look to the civil practice rules for guidance on procedural matters).

¶ 80 But my disagreement with the majority is not about responsibility. It agrees that the delay was not Duncan's fault. The disagreement is about whether the delay prejudiced Duncan's right to appellate review of his conviction. I think that it did. Because of the delay in perfecting a direct appeal, a transcript of the court's findings is no longer available.

¶ 81 Whether the transcript of the court's findings as a bench trial is generally necessary for complete and adequate appellate review might be debatable, but it would seem to me that it is. True, as the majority observes, judges are not required to explain their findings. But they usually do, and those explanations occasionally reveal reversible errors that might otherwise have gone undetected. See, *e.g.*, *People v. Wallenberg*, 24 Ill. 2d 350, 353-54 (1962) (judge used private knowledge to discredit defendant's alibi); *People v. Williams*, 2013 IL App (1st) 111116, ¶ 85 (judge misremembered crucial evidence).

¶ 82 This case involves an unusually specific need for the transcript of the findings because, among the arguments Duncan asserts on appeal is that his attorneys were ineffective for not asking the court to find him guilty of second degree murder. The majority holds that counsel cannot have been ineffective because the court considered second degree murder anyway, but we have no way of knowing that without the transcript. The majority therefore relies on the court's statement at the hearing on the motion for a new trial that it had considered and rejected lesser-included offenses. Normally, that would be fine, but here, Duncan's motion for new trial specifically alleged that the

court had *failed* to consider second degree murder. Without the transcript from the findings, we have no way to determine whether the court's ruling was consistent with the record or whether, as Duncan alleged, the court had failed to consider second degree.

¶ 83 The very fact that the majority has to rely on a contested ruling at a posttrial hearing to find that counsel was not ineffective is proof positive that the loss of the transcript has impaired our ability to provide the full and fair appellate review of his conviction to which he is entitled. That showing of prejudice from the delay—which, we should not forget, is also a consequence of the deprivation of the right to the effective assistance of counsel that put this travesty in motion (see *Pope v. Taylor*, 100 F.4th 918, 920 (7th Cir. 2024))—is enough to establish another constitutional deprivation.

¶ 84 A constitutional error requires reversal of the conviction if the State does not prove that it was harmless beyond a reasonable doubt. *Pope*, 100 F.4th at 920 (citing *Chapman v. California*, 386 U.S. 18 (1967)). The State does not even try to make that showing in this case, and I do not see on this record how it could. I would reverse and remand for a new trial.

¶ 85 B. Ineffective Assistance

¶ 86 The majority finds that Duncan has not shown that he was denied the effective assistance of counsel under *Strickland v. Washington*, 466 U.S. 668 (1984). The majority's analysis is reasonable, and I am hard-pressed to disagree with the conclusion that, under *Strickland*, Duncan has not shown a denial of effective assistance. But that result is deeply unsatisfying because I am not convinced that Duncan received the quality of legal representation that we ought to demand of counsel for the accused in a criminal case.

¶ 87 I propose that a solution may be found in *People v. Williams*, 93 Ill. 2d 309 (1982). The majority essentially limits *Williams* to its particular facts, which are different than those before us. I think that is a mistake—and a missed opportunity.

¶ 88 Let us examine *Williams* briefly. The defendant there had, on appeal, presented a litany of alleged errors by counsel. Most of the alleged instances of incompetence were failures to object to particular evidence or remarks, but the defendant also faulted counsel for not moving to suppress evidence seized during a search of his car and not demanding an evidentiary hearing on a written statement supposedly made by a key witness only days after the murder (the opinion is vague about the nature of the statement). *Id.* at 324. In its original decision, the court found that there were no plain errors and that counsel's failure to file a suppression motion was, at worst, an error in judgment rather than incompetence. *Id.* at 324-25. But then, the court happened to hear a disciplinary matter involving defense counsel's misconduct in an unrelated probate case. *Id.* at 314 (citing *In re Weston*, 92 Ill. 2d 431 (1982)). In that matter, the hearing board had concluded that counsel had neglected cases he had taken on, acted intentionally in ways that harmed his clients, and comingled and converted client funds, and the board's findings were not challenged, which led the court to disbar him. *Id.*

¶ 89 What the court learned in the otherwise unrelated disciplinary case changed how it viewed the allegations of ineffective assistance. The court found that it could no longer view counsel's inaction as mere professional misjudgment. *Id.* at 325. And that problem was compounded by the unusually challenging nature of the case counsel had taken on—he was representing three defendants in simultaneous trials before two different juries. *Id.* All in all, the court found that the pending disciplinary matter "may well have had an effect on counsel's ability to represent his client

in the trial of this capital case." *Id.* at 324. It therefore could not "say, with any degree of assurance, that Williams received the effective assistance of counsel guaranteed by the Constitution," so the interests of justice required a new trial. *Id.* at 324, 326.

¶ 90 Since *Williams* was decided, it has been treated as a one-of-a-kind case with little to no relevance to any cases that do not present the exact same set of facts. See, *e.g.*, *People v. Szabo*, 144 Ill. 2d 525, 529 (1991) (describing *Williams* as "an aberration peculiar to the facts of that case"). But in a system of law built on precedent, that cannot be right. It may be that *Williams* represents an unusual confluence of circumstances that would not themselves ordinarily lead to a finding of ineffective assistance, but that does not mean we can or should simply treat it like "a restricted railroad ticket, good for this day and train only." *Smith v. Allwright*, 321 U.S. 649, 669 (1944) (Roberts, J., dissenting). There must be some broader principle underlying the decision in *Williams* that, under the precise facts of that case, a new trial was necessary.

¶ 91 Cases distinguishing *Williams* have identified three features of that case that ultimately combined to require a new trial. First, the defendant alleged several specific instances of inaction by counsel. *Szabo*, 144 Ill. 2d at 529. Second, counsel's representation of three clients in two simultaneous jury trials "accentuated" doubts arising from counsel's inaction. *Id.* And third, counsel "was the subject of disbarment proceedings at the time of the defendant's trial." *Id.* at 530. I propose drawing the following rule from *Williams*. The interests of justice require a new trial under the following circumstances: (1) the record shows a pattern of subpar legal representation during the trial; (2) there were circumstances present during trial, either intrinsic or extrinsic, that would be reasonably expected to inhibit the attorney's ability to provide the zealous representation we would expect of defense counsel in a criminal case; and (3) the combination of apparent errors

and circumstances that would make effective representation unusually challenging leave the court unable to say with confidence that the defendant received the effective assistance of counsel to which he is constitutionally required.

¶ 92 I recognize that the rule I propose drawing from *Williams* would find ineffective assistance in circumstances beyond those that, under current law, demonstrate a deprivation of the federal right to effective assistance. See *United States v. Cronic*, 466 U.S. 648, 659-60 (1984) (circumstances giving rise to a presumption of ineffectiveness); *Strickland*, 466 U.S. at 687-96 (actual ineffectiveness). But the right to counsel is protected by the Illinois constitution, too, and we are free as a matter of state law to recognize a right to effective assistance that sweeps broader than the one secured by the sixth amendment at the federal level. See Ill. Const. 1970, art. I, § 8; *People v. Lathem*, 2024 IL App (1st) 220380, ¶ 19 n.1 (recognizing that the Illinois right to counsel may differ from the federal right to counsel).

¶ 93 Applying *Williams*, I would hold that Duncan has shown that the interests of justice require a new trial. Duncan's brief identifies several instances of possible ineffective assistance, both before and during trial. The most troubling instance is what appears to be an admission on the part of Towles in his response to Duncan's 2003 ARDC complaint that he did not bother investigating the case because he had not been paid more to do so.

¶ 94 There are also circumstances present in this case that would seem to naturally impair an attorney's ability to effectively represent a criminal defendant. Before, during, and after trial, just like the lawyer in *Williams*, Towles was the subject of ongoing disciplinary proceedings. Unlike the *Williams* lawyer, though, Towles was also being criminally prosecuted in Will County for driving under the influence. See *People v. Franklin*, 167 Ill. 2d 1, 18 (1995) (stating that, under

Williams, a criminal investigation is akin to a disciplinary investigation). In fact, he entered his guilty plea in the handful of days between the close of evidence and the court's announcement of its findings. Compared to the lawyer in *Williams*, Towles was doubly burdened by outside investigations into his conduct.

¶ 95 Jordan, on the other hand, was not laboring under ongoing disciplinary proceedings or criminal proceedings directed against him. If this were a case where two lawyers were working collaboratively and jointly on the representation, that might make a difference. I do not think it does here. The record here does not disclose the precise relationship between Jordan and Towles or why Duncan retained both of them, but the hiring of Towles seems to have come as a surprise to Jordan. The transcript shows that Jordan often had difficulty making contact with Towles. At one court date, with the parties considering having an Illinois Supreme Court Rule 402 (eff. July 1, 2012) conference with the court, Jordan had not been able to make contact with Towles, and Duncan did not want to hold the conference without conferring with Towles. At a later court date, with the case set to go to trial, Jordan appeared and explained to the court that it had been more than a week since he spoke to Towles. In the transcript, Jordan seems reluctant to proceed without Towles but willing to do so at his impatient client's direction. Ultimately, Towles was late to court on both days of trial, and proceedings began without him.

¶ 96 Nevertheless, taking everything into account, I am unable to say with confidence that Duncan received effective assistance from his attorneys. *Williams*, 93 Ill. 2d at 324. For that reason, I would award him a new trial.

¶ 97 C. Sentencing

¶ 98 Even if I agreed with the majority's decision not to order a new trial, I would still dissent from its judgment as to the sentence because the record unambiguously shows that the trial court relied on a void 1993 juvenile delinquency adjudication when determining the sentence.

¶ 99 Initially, the majority recites the wrong standard of review. At sentencing, the court certainly has broad discretion to decide what facts are relevant and how to weigh them. But that discretion does not extend to aggravating a sentence based on a factor that is improper as a matter of law. Relying on an improper factor—to any extent—is, by definition, an abuse of discretion. *People v. Streater*, 2023 IL App (1st) 220640, ¶ 73. And whether the court relied on an improper factor is a question of law that is reviewed *de novo*. *Id.*

¶ 100 The record shows that the court did, in fact, rely on the void adjudication. The presentence investigation report was amended at the State's request to include it, and the State argued in aggravation, "You've heard he had a gun case as early as 1993 as a juvenile." That alone has been held sufficient to require a new sentencing hearing. See *People v. Cross*, 2019 IL App (1st) 162108, ¶¶ 197-202 (remanding for resentencing even though the court did not refer to the void conviction in its findings).

¶ 101 Nevertheless, unlike in *Cross*, the trial court in this case did, in fact, rely on Duncan's void adjudication. The court entered an explicit finding in aggravation that "the defendant has a prior criminal background." That background included one adult conviction for some kind of drug offense (the parties did not identify it by name), a 1994 delinquency adjudication for possession of a controlled substance, and the void 1993 adjudication for unlawful use of weapons. If there was any doubt that the court considered the void adjudication to be part of the criminal history that it expressly found to be aggravating, the court later clarified that it "did not consider [the]

possession of a firearm as a juvenile to be a crime of violence." The record leaves no doubt that the court considered a void juvenile adjudication when it imposed sentence. Given that the court said, on the record, that Duncan's background—which obviously includes the void adjudication—was aggravating, I do not understand how the majority can conclude that the court "did not use it in aggravation." *Supra* ¶ 63. It is right there in the transcript.

¶ 102 The specific weight the court gave to the void adjudication is not clear from the record. It is likely that the court did not consider it as significant as the facts and circumstances of the murder that Duncan was being sentenced for committing. But that does not matter "because any weight given to a void conviction constitutes error requiring resentencing." *People v. Valladares*, 2026 IL App (1st) 240576, ¶ 53. On this record, it is impossible to conclude that the court afforded the void adjudication no weight at all. "[W]e should not presume that a void prior conviction had no impact on sentencing when the court takes specific note of it." *Id.* ¶ 58 (Gamrath, J., specially concurring). I would, at minimum, reverse the sentence and remand for a new sentencing hearing.

***People v. Duncan*, 2026 IL App (1st) 220610**

Decision Under Review:	Appeal from the Circuit Court of Cook County, No. 00-CR-07426; the Hon. Michael Clancy, Judge, presiding.
Attorneys for Appellant:	James E. Chadd, Douglas R. Hoff, and Talon K. Nouri, of State Appellate Defender's Office, of Chicago, for appellant.
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