2025 IL App (1st) 231677-U

No. 1-23-1677

Order filed September 26, 2025

FIFTH DIVISION

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,
	)	Criminal Division.
v.	)	
	)	No. 19 CR 02979
ALONZO CALHOUN,	)	
	)	Honorable
Defendant-Appellant.	)	Kenneth J. Wadas,
	)	Judge, presiding.

PRESIDING JUSTICE MITCHELL delivered the judgment of the court.
Justice Mikva and Justice Tailor concurred in the judgment.

ORDER

¶ 1 *Held*: Defendant's conviction is affirmed where there was sufficient evidence for a rational jury to find defendant guilty beyond a reasonable doubt. The trial court did not commit plain error in permitting the police officers' "proof of residency" testimony, and defendant was not deprived of his constitutional right to effective assistance of counsel or to confront witnesses. Further, the trial court did not abuse its discretion in sentencing defendant, and Illinois's armed habitual criminal statute is facially constitutional.

¶ 2 Following a jury trial, defendant Alonzo Calhoun was convicted of possession of cocaine with intent to deliver (720 ILCS 570/401(a) (West 2022)) and of being an armed habitual criminal (720 ILCS 5/24-1.7(a) (West 2022)). He was sentenced to 15 years' imprisonment.

¶ 3 Defendant raises the following issues on appeal: (1) whether there was sufficient evidence for a rational jury to find that defendant constructively possessed cocaine and a handgun; (2) whether the admission of police testimony characterizing identification documents as "proof of residency" constituted plain error and whether defendant's counsel was ineffective for failing to object; (3) whether the trial court abused its discretion when it sentenced defendant to concurrent 15-year terms of imprisonment; and (4) whether Illinois's armed habitual criminal statute is facially unconstitutional. For the following reasons, we affirm.

¶ 4 I. BACKGROUND

¶ 5 On November 12, 2018, Chicago police officers executed a search warrant at defendant's mother's apartment, located at 1510 S. Homan Avenue in Chicago, Illinois. Five people were inside when the police arrived, including defendant, who was walking from the back porch into the kitchen. The police immediately searched defendant and recovered two bundles of cash, black rubber gloves, and numerous keys.

¶ 6 The police discovered a locked safe stored in a bedroom closet that contained cocaine, rolls of cash, and a handgun. Defendant was arrested and charged in a multi-count indictment.

¶ 7 At trial, the officers testified that they recovered the keys to the safe during their search of defendant. The State also offered evidence of items that the police discovered in the bedroom closet, including defendant's Social Security card, birth certificate, expired state identification card, and mail. The State's witnesses, Sergeant Peter Chambers and Detective Ted Jozefczak, characterized these documents as "proof of residency," even though none of the identification documents directly listed defendant's address as 1510 S. Homan Avenue. The documents either

did not have an address or listed a different address. The police did not recover any DNA or fingerprint evidence from the safe, its keys, or the handgun.

¶ 8 The jury found defendant guilty of possession of cocaine with intent to distribute and possession of a firearm by a repeat felony offender in violation of Illinois's armed habitual criminal statute. Defendant moved for a new trial, arguing that the evidence was insufficient to prove constructive possession. The trial court denied that motion and sentenced defendant to two concurrent 15-year terms of imprisonment. This timely appeal followed. Ill. S. Ct. R. 606 (eff. Mar. 12, 2021).

¶ 9 II. ANALYSIS

¶ 10 A. Sufficiency of the Evidence

¶ 11 Defendant contends that no rational jury could conclude that he constructively possessed the contraband where multiple people were in the apartment when the police executed the search warrant, there is no direct evidence that defendant habitated in the apartment, and there is no video evidence that the keys to the safe were recovered from defendant.

¶ 12 The State contends that there was sufficient evidence for a rational jury to conclude that defendant habitated in the bedroom where the safe was found, which is legally sufficient to find constructive possession. In the alternative, the State argues that there is sufficient evidence to prove that he constructively possessed the contraband regardless of habitation.

¶ 13 When reviewing a challenge to the sufficiency of the evidence, the question is "whether, viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the offense beyond a reasonable doubt." *People v. Jones*, 2023 IL 127810, ¶ 28.

¶ 14 Possession can be either actual or constructive. *Id.* ¶ 30. Constructive possession exists where a defendant (1) had knowledge of the presence of the contraband and (2) "exercised immediate and exclusive control over the area where the contraband was found." *Id.* Knowledge may be inferred from a defendant's acts, declarations, or conduct. *People v. Faulkner*, 2017 IL App (1st) 132884, ¶ 39. Control over the contraband includes the "intent and capability to maintain control" in the future. (Internal quotation marks omitted.) *Id.* A jury may rely on an inference of knowledge and possession "absent other factors that might create a reasonable doubt as to the defendant's guilt." (Internal quotation marks omitted.) *People v. Terrell*, 2017 IL App (1st) 142726, ¶ 18. Constructive possession is often established entirely by circumstantial evidence. *Id.*

¶ 15 "Habitation in the premises where contraband is discovered is sufficient evidence of control to constitute constructive possession." *People v. Spencer*, 2012 IL App (1st) 102094, ¶ 17. Evidence of habitation may include "rent receipts, utility bills and clothing in closets." (Internal quotation marks omitted.) *Id.* Proof of habitation, however, is not necessary to prove constructive possession of contraband inside a home so long as the knowledge and control prongs are present. See, *e.g.*, *People v. Tates*, 2016 IL App (1st) 140619, ¶ 24 ("Given the lack of any evidence linking [defendant] to the residence, the State was required to adduce circumstantial evidence of [defendant's] exercise of control over the contraband located there.").

¶ 16 Here, regardless of whether defendant habitated in the apartment, a rational jury could conclude that defendant knew what was in the safe and intended to maintain control over it. Defendant was present in the apartment when the police executed the search warrant. The police found male clothing, defendant's personal identification cards, and personal mail in the same closet as the safe. See, *e.g.*, *People v. Starnes*, 2022 IL App (2d) 200125-U, ¶ 36 (explaining that people

generally keep their Social Security cards in their home); *People v. Wade*, 2024 IL App (1st) 230879-U, ¶ 88 (explaining that presence of documents and items bearing the defendant's name, but not the address at issue, "were strongly indicative that defendant was staying in the apartment in some capacity"); *People v. Lawton*, 253 Ill. App. 3d 144, 147 (1993) (clothing in closets is relevant to show habitation); *People v. Collier*, 2023 IL App (1st) 211308-U, ¶ 32 (same). The police found photographs of defendant in the bedroom. See, *e.g.*, *People v. McLaurin*, 2021 IL App (1st) 192203-U, ¶¶ 26-27 (explaining that the defendant's personal photograph in the bedroom was probative of defendant's control of the bedroom). When the police searched defendant, they found keys to the safe and to the residence; they also found black rubber gloves and rolls of cash that were similar to the black rubber gloves and rolls of cash found in the bedroom. See *People v. Ortiz*, 91 Ill. App. 3d 466, 471-72 (1980) (explaining that possession of keys to a locked cabinet is probative of constructive possession of the contents of the cabinet).

¶ 17 Defendant argues that the body camera footage does not show the police finding the safe keys on defendant. Indeed, the body camera footage shows Sergeant Chambers searching defendant, but it does not show the recovery of any keys. Later, the body camera footage shows that after the police discovered the safe, they brought it into the living room and opened it using a set of keys that was lying on the coffee table. The police officers testified that the coffee table keys were the same set of keys that they recovered from defendant during their initial search. However, as noted, the body camera footage does not capture the purported recovery of the safe keys from defendant and their subsequent placement on the coffee table. Although Chambers testified that he recovered the safe keys from defendant, he testified that he placed them on the dining room table, not the coffee table.

¶ 18 Here, at bottom, two officers testified that they recovered the safe keys from defendant. Even if the officers' testimony is not wholly corroborated by the body camera footage, and even if Chambers testified that he placed the safe keys on the dining room table, not the coffee table, the jury was in the best position to assess the evidence and determine whether defendant possessed the safe keys. "It is well settled that the determinations of witnesses' credibility and the weight given their testimony are exclusively within the province of the jury, and it is for the jury to resolve any conflicts in the evidence." *People v. Hill*, 2023 IL App (1st) 150396, ¶ 21 (citing *People v. Collins*, 106 Ill. 2d 237, 261-62 (1985)). Any impeachment of the officers' testimony "goes to credibility and is for the jury, not this court, to weigh." *People v. Smith*, 253 Ill. App. 3d 443, 455 (1993).

¶ 19 Defendant relies on *People v. Fernandez*, where the reviewing court reversed a finding of constructive possession. 2016 IL App (1st) 141667, ¶ 1. There, after arresting the defendant in public, the police searched a home that they believed was connected to the defendant and discovered contraband. *Id.* ¶¶ 7-11. The defendant possessed the keys to the home at the time of his arrest, and the police found the defendant's passport, insurance cards, framed photographs of the defendant, and male clothing inside the bedroom of the home—although none of the documents stated defendant's address. *Id*. ¶¶ 9-11. The trial court found that he constructively possessed the contraband. *Id.* ¶ 1. The appellate court reversed, noting that there was an unidentified man in the home at the time of the search, and there was no evidence that placed the defendant at the home on the day of the search. *Id*. ¶¶ 21-22.

¶ 20 *Fernandez* is distinguishable because, here, there is a greater temporal link between defendant's alleged possession of the contraband and the police's discovery of the contraband.

When the police found the safe, defendant was present in the apartment, possessed the keys to the safe, and possessed black medical gloves and rolls of cash that were similar to those recovered from the bedroom. Drugs and drug dealing paraphernalia were dispersed throughout the apartment at the time of the search. Against this backdrop, a rational jury could conclude defendant knew about the contraband inside the safe and controlled or intended to control the contraband inside the safe. In short, there is sufficient evidence to support the verdict and no basis to set it aside.

¶ 21 B. "Proof of Residency" Testimony

¶ 22 Defendant argues that Chambers and Jozefczak's characterizations of defendant's documents found in the closet as "proof of residency" were impermissible lay opinion testimony and conclusions on an ultimate issue. The State argues that the "proof of residency" characterization was fact testimony and that it was not a conclusion on an ultimate issue.

¶ 23 Because defendant did not object at trial, he forfeited appellate review of any error, but defendant invites us to review the issue under the plain-error doctrine. *People v. Johnson*, 238 Ill. 2d 478, 484 (2010). The doctrine permits a reviewing court to consider a forfeited claim when either of two circumstances are met:

> "(1) a clear or obvious error occurs and the evidence is so closely balanced that the error alone threatened to tip the scales of justice against the defendant, regardless of the seriousness of the error, or (2) a clear or obvious error occurs and that error is so serious that it affected the fairness of the defendant's trial and challenged the integrity of the judicial process, regardless of the closeness of the evidence." *People v. Piatkowski*, 225 Ill. 2d 551, 565 (2007).

Under plain-error review, a reviewing court typically first determines whether error occurred at all. *People v. Sargent*, 239 Ill. 2d 166, 189 (2010). If the trial court erred, the reviewing court then considers the two prongs of the plain-error doctrine. *Id.* at 189-90.

¶ 24 We review whether the trial court improperly admitted lay opinion testimony for abuse of

discretion. *People v. Thompson*, 2016 IL 118667, ¶ 49; *Murphy v. Kinnally Flaherty Krentz Loran Hodge & Masur, P.C.*, 2023 IL App (2d) 230019, ¶ 62 (applying the abuse of discretion standard in deciding whether testimony goes to an ultimate issue). A court abuses its discretion where its decision is "arbitrary, fanciful, or unreasonable to the degree that no reasonable person would agree with it." (Internal quotation marks omitted.) *People v. Martin*, 2017 IL App (4th) 150021, ¶ 14. A witness's "opinions or inferences" are limited to those that are "(a) rationally based on the perception of the witness, and (b) helpful to a clear understanding of the witness' testimony or the determination of a fact in issue, and (c) not based on scientific, technical, or other specialized knowledge within the scope of Rule 702." Ill. R. Evid. 701 (eff. Jan. 1, 2011). Here, Jozefczak and Chambers both referred to the various documents recovered from the home as "proof of residence" or "proof of residency." Chambers stated that he would define proof of residency as "information with the subject's name on it, usually personal paperwork, that being a Social Security card, a birth certificate, items that you yourself would have in your own residence."

¶ 25 The testimony at issue seems little more than fact testimony, but even if considered opinion testimony, it was directly based on observations of the documents recovered from the home. The inference that defendant resided at the 1510 S. Homan address was rationally based on the presence of multiple personal documents at that address and was helpful in the determination of defendant's habitation, a fact clearly in issue. Ill. R. Evid. 701. As to whether Chambers and Jozefczak improperly testified to an ultimate issue, an otherwise admissible opinion or inference "is not objectionable because it embraces an ultimate issue to be decided by the trier of fact." Ill. R. Evid. 704 (eff. Jan. 1, 2011). Had the trial court admitted the testimony over a timely objection on either basis, such a decision would not be so unreasonable as to constitute an abuse of discretion. *Martin*,

2017 IL App (4th) 150021, ¶ 14. "Without reversible error, there can be no plain error[,]" *People v. McGee*, 398 Ill. App. 3d 789, 794 (2010), and defendant's argument under the plain-error doctrine fails as a result, *People v. Jackson*, 2022 IL 127256, ¶ 21 ("When a defendant invokes the plain error rule, the first step in the analysis is to determine whether a clear or obvious error occurred.").

¶ 26 Next, defendant argues that counsel's failure to object to the officers' testimony violated his right to effective assistance of counsel under the sixth amendment. U.S. Const., amend. VI. To establish ineffective assistance of counsel, a defendant must show: (1) counsel's representation fell below an objective standard of reasonableness and (2) the defendant's case was prejudiced because of counsel's substandard representation. *Strickland v. Washington*, 466 U.S. 668, 687-89 (1984). But the admission of the testimony would not have been error, and defendant therefore cannot establish that he was prejudiced by his counsel's failure to object. See, *e.g.*, *People v. Elizondo*, 2021 IL App (1st) 161699, ¶ 89 ("As we have determined that there was no reversible error in the State's closing arguments and further that defendant was not prejudiced by any error in the complained-of remarks, defendant cannot show that he was prejudiced by his trial counsel's failure to object to the complained-of remarks to satisfy *Strickland*.").

¶ 27 Defendant also argues that his sixth amendment right to confront witnesses was violated when the trial court did not permit defense counsel to ask the witnesses on cross-examination whether it would confirm defendant's address if the police had recovered defendant's utility or cell phone bills from the apartment. A trial court's restrictions on cross-examination do not violate the confrontation clause if "the entire record shows that the jury has been made aware of adequate factors concerning relevant areas of impeachment of a witness." *People v. Monroe*, 366 Ill. App.

3d 1080, 1096 (2006). Here, defense counsel impeached the officers on the probative value of the identification documents at other points on cross-examination, noting that none of the identification documents listed defendant's address as 1510 S. Homan Avenue. Further, in closing, defense counsel argued this discrepancy:

> "MS. NIXON [(ASSISTANT PUBLIC DEFENDER)]: If you look at the address on the ID, it is an address of 1517 South Homan Avenue. The warrant was executed at 1510 South Homan Avenue. Completely different address. If you look at the letter from the State of Illinois regarding the medical card, it has an address of 1505 South Keeler Avenue. Well, that's a completely different street."

The jury was well-aware of the tension between the contents of the identification documents and the witnesses' "proof of residency" characterization.

¶ 28 C. Sentencing

¶ 29 Defendant was sentenced to two, concurrent terms of 15 years' imprisonment. Defendant argues that his sentence is excessive because the trial court exaggerated his criminal history and did not properly credit mitigating factors. We review the trial court's sentence for abuse of discretion. *People v. Stacey*, 193 Ill. 2d 203, 209-10 (2000).

¶ 30 The Illinois Constitution provides that criminal penalties are to be determined by "the seriousness of the offense and with the objective of restoring the offender to useful citizenship." Ill. Const. 1970, art. I, § 11; *People v. Perruquet*, 68 Ill. 2d 149, 154-55 (1977). Courts must balance the interests of retribution with rehabilitation, which requires "careful consideration of all factors in aggravation and mitigation." *People v. Quintana*, 332 Ill. App. 3d 96, 109 (2002). Trial courts are afforded great deference in sentencing. *People v. Alexander*, 239 Ill. 2d 205, 212 (2010). "The reviewing court should not substitute its judgment for that of the trial court simply because

it would have balanced the appropriate sentencing factors differently." *People v. Sauseda*, 2016 IL App (1st) 140134, ¶ 19.

¶ 31 At the sentencing hearing, the trial court explained that it had considered the aggravating and mitigating factors before pronouncing the sentence:

> I've reviewed all the factors in aggravation and mitigation, um, with respect to the Defendant. And I've considered specifically factors in mitigation such as the Defendant's current health and has some issues, um, along those lines.
>
> Um, I — I don't, uh, give any weight to any one, um, factor in aggravation over another, but I look at them in their entirety, and try to fashion what, in my view, would be the correct sentence.
>
> The Defendant's criminal background is horrendous. It goes on over 20 years of narcotics dealing, gun possession and other, um, forms of felonies and misdemeanors, from batteries to cannabis to traffic offenses.
>
> But he has at least two gun cases in his background, and he was given, back in [1995] or 1997, 24 months probation by Judge McSweeney Moore, and even back then, when he was younger, he failed to successfully complete that probation. It was terminated unsatisfactorily, and, um, probably because he picked up other cases in 1997, um, and was sentenced on a gun case and a narcotics case in that year.
>
> He, um, he's been in and out of the penitentiary for various periods of time, off and on, over 20 years, and he was born in 1977. Even at this age, which is not old, but is a young age, um, he's still dealing narcotics and in possession of a gun. And apparently that's his — that's his profession. That's what he does. He deals dope. And he's armed to protect the cash that he has accumulated from dealing narcotics.

Defendant contends that the 15-year sentence was excessive, but it was in the middle of the sentencing range of 6 to 30 years' imprisonment. 730 ILCS 5/5-4.5-25(a) (West 2022) (class X felonies); 720 ILCS 570/401(a)(2)(A) (possession with intent to distribute); 720 ILCS 5/24-1.7(a) (armed habitual criminal). A sentence that is within the statutory limits is excessive only if it is "greatly at variance with the spirit and purpose of the law, or manifestly disproportionate to the nature of the offense." *Stacey*, 193 Ill. 2d at 210. Given the aggravating factors, a mid-range sentence was not excessive.

¶ 32 Defendant argues that the trial court placed undue weight on aggravating factors, specifically defendant's criminal history. There is no suggestion, however, that the trial court misapprehended that criminal history. Indeed, the trial court must consider a defendant's criminal history at sentencing. 730 ILCS 5/5-5-3.2(a)(3) (West 2022). Here, defendant had five prior felony convictions for drug offenses, two prior felony convictions for firearm offenses, a host of misdemeanor convictions, and he was on mandatory supervised release at the time of his arrest in this case—itself a separate aggravating factor under the statute, *Id.* § 5-5-3.2(a)(12). Defendant claims that this all amounts to a "few convictions for drug possession and delivery, traffic violations, gun possession, and a battery," but the trial court was not unreasonable in calling it "horrendous." The weight to be attached to a defendant's criminal history—including consideration of the severity of the prior offenses, any pattern of behavior, and the similarity to the crime charged—is within the trial court's discretion. See *Perruquet*, 68 Ill. 2d at 155 ("As the trial court observed, the defendant had been consistently engaged in criminal activity since the age of 14 and the care and supervision of the proper authorities had not resulted in any discernible rehabilitation."); see also *People v. Lampley*, 2011 IL App (1st) 090661-B, ¶ 40 ("[I]t is within the trial court's discretion to determine what significance is given to each aggravating and mitigating factor.").

¶ 33 Defendant also asserts that the trial court did not specifically address certain factors argued in mitigation. But the trial court expressly stated that it had considered all the factors. Further, "[i]t is presumed that the trial judge considered all of the factors unless the record indicates to the contrary." *People v. Jackson*, 375 Ill. App. 3d 796, 802 (2007). There is no requirement for the trial court to address every mitigating factor. *People v. Gordon*, 2016 IL App (1st) 134004, ¶ 51

("The trial court is not required to detail precisely for the record the exact process by which it determined the penalty, nor is it required to articulate consideration of mitigating factors.").

¶ 34 In sum, the trial court did not abuse its discretion in sentencing defendant to concurrent 15-year terms of imprisonment.

¶ 35 D. Constitutionality of Illinois's Armed Habitual Criminal Statute

¶ 36 Defendant argues that Illinois's armed habitual criminal statute, 720 ILCS 5/24-1.7(a), is facially unconstitutional under the second amendment to the United States Constitution and *New York State Rifle & Pistol Ass'n, Inc. v. Bruen*, 597 U.S. 1 (2022). In *Bruen*, the Supreme Court established a two-step test to evaluate firearm regulations. *Id.* at 24. First, courts must determine whether "the Second Amendment's plain text covers an individual's conduct." *Id.* If so, the conduct is presumptively protected, and the government "must then justify its regulation by demonstrating that it is consistent with the Nation's historical tradition of firearm regulation." *Id*. To clear this hurdle, the government must point to "historical precedent from before, during, and even after the founding [that] evinces a comparable tradition of regulation." (Internal quotation marks omitted.) *Id*. at 27.

¶ 37 Defendant argues that the State cannot meet its burden to show that the armed habitual criminal statute has a historical analog. However, in *People v. Macias*, we determined that the statute met the second prong of the *Bruen* test because there were analogous colonial and founding era laws "that categorically disarmed certain groups based on legislative judgment that the group was dangerous." 2025 IL App (1st) 230678, ¶¶ 29-34, *pet. for leave to appeal pending*, No. 132054 (filed May 21, 2025) (citing *People v. Brooks*, 2023 IL App (1st) 200435, ¶¶ 90-105, *pet. for leave to appeal pending*, No. 130153 (filed Oct. 30, 2023)); see also *People v. Lopez*, 2025 IL App (1st)

232120, ¶ 23, *pet. for leave to appeal pending*, No. 131973 (filed June 26, 2025) (collecting Illinois appellate cases that held that the armed habitual criminal statute was "consistent with the United States' historical tradition of firearm regulation [citations] and, therefore, facially constitutional"). We are unpersuaded by defendant's argument to the contrary, and we continue to follow *Macias* and *Brooks*.

¶ 38 III. CONCLUSION

¶ 39 The judgment and sentence are affirmed.

¶ 40 Affirmed.