

2020 IL App (1st) 163179-U

FOURTH DIVISION
April 23, 2020

No. 1-16-3179

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

JUSTICE BURKE delivered the judgment of the court.
Presiding Justice Gordon and Justice Reyes concurred in the judgment.

ORDER

¶ 1 *Held:* (1) The State proved defendant guilty beyond a reasonable doubt; (2) the trial court did not err in denying defendant's motion to suppress evidence; (3) the trial court did not err in allowing the State to introduce the prior inconsistent statement of a witness; and (4) defendant's sentence does not violate the proportionate penalties clause of the Illinois Constitution.

¶ 2 Following a jury trial, defendant Lamar Whatley was convicted of two counts of attempted first degree murder during which he personally discharged a firearm that proximately caused great bodily harm and two counts of aggravated battery for discharging a firearm that caused injury related to the August 21, 2014, shootings of Dana Harvey and Jarrod Wright. Defendant was also

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convicted of one count of unlawful use of a weapon by a felon (UUWF) at a simultaneously held bench trial. The trial court subsequently sentenced defendant to consecutive terms of 33 years in prison, for an aggregate term of 66 years.

¶ 3 Defendant appeals, arguing that (1) the State failed to prove defendant guilty of armed robbery beyond a reasonable doubt because the State failed to prove he acted with requisite intent to kill either Harvey or Wright; (2) the trial court erred by denying defendant's motion to suppress where the State failed to establish that the warrantless search of defendant's car was lawful; (3) the trial court erred in allowing the State to introduce a portion of Nakia Wright's prior videotaped statement which was not inconsistent with her trial testimony; and (4) defendant's 66-year sentence is unconstitutional as applied to him because under the mandatory sentencing statutes, defendant's sentence amounts to a *de facto* natural life sentence.

¶ 4

I. BACKGROUND

¶ 5 In September 2014, defendant was charged by indictment with several criminal offenses, including the attempted first degree murders of Dana Harvey and Jarrod Wright during which defendant personally discharged a firearm that proximately caused great bodily harm to each of the victims, the aggravated battery of Harvey and Wright, and UUWF.

¶ 6 Prior to trial, defendant filed a motion to quash arrest and suppress evidence. On September 13, 2016, the trial court conducted a hearing on defendant's motion. At the start of the hearing, the following colloquy took place between the court and the parties:

“TRIAL COURT: This is a motion to quash arrest, is that right, and suppress physical evidence?

DEFENSE COUNSEL: Yes.

PROSECUTOR: Suppress the evidence.



SUPREME COURT OF ILLINOIS

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September 30, 2020

In re: People State of Illinois, respondent, v. Lamar Whatley, petitioner.
Leave to appeal, Appellate Court, First District.
126028

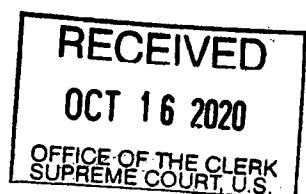
The Supreme Court today DENIED the Petition for Leave to Appeal in the above entitled cause.

The mandate of this Court will issue to the Appellate Court on 11/04/2020.

Very truly yours,

Carolyn Taft Gosboll

Clerk of the Supreme Court



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should vacate Whatley's sentences and remand the cause for resentencing without the mandatory firearm enhancements. *See People v. Barnes*, 2018 IL App (5th) 140378, ¶ 29 (remanding for resentencing without the mandatory firearm enhancements after finding that the enhancements, as applied to the defendant, violated the proportionate penalties clause).

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