



SUPREME COURT OF ILLINOIS

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September 30, 2020

In re: People State of Illinois, respondent, v. Vashaun Williams,
petitioner. Leave to appeal, Appellate Court, First District.
125953

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

2020 IL App (1st) 162512
No. 1-16-2512
Opinion filed February 20, 2020

FOURTH DIVISION

IN THE

APPELLATE COURT OF ILLINOIS

FIRST DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the Circuit Court
)	of Cook County.
)	
Plaintiff-Appellee,)	
)	
v.)	No. 07 CR 19918
)	
VASHAUN WILLIAMS,)	The Honorable
)	Thomas V. Gainer, Jr.,
Defendant-Appellant.)	Judge, presiding.

PRESIDING JUSTICE GORDON delivered the judgment and opinion of the court. Justices Reyes and Burke concurred in the judgment and opinion.

OPINION

¶ 1 After a jury trial, defendant Vashaun Williams was convicted of two counts of first degree murder for the stabbing deaths of his 60-year-old uncle, Charles Williams Jr. (Junior), and his 83-year old grandfather, Charles Williams Sr. (Senior), on September 2, 2007. For the two murders, defendant received a mandatory sentence of natural life in prison. At trial, defendant, who was 26 years old at the time of the offense, did not contest that he stabbed his uncle and grandfather; rather, he argued that he acted in self-defense.

¶ 2 On appeal, defendant argues (1) that the trial court erred by not allowing his sister, Nicole Robertson, to testify about an alleged criminal sexual act and battery by Senior against her 20 years earlier and to the impact that this 1987 incident had on his family, which would have corroborated defendant's testimony and the defense theory of the case; (2) that defendant was denied effective assistance of counsel when counsel failed to object to the State's requested use of a void prior conviction for aggravated unlawful use of a weapon (AUUW) to impeach defendant's credibility; (3) that the trial court erred when it instructed the jury concerning second degree murder based on only self-defense but refused to instruct the jury on second degree murder based on provocation and mutual combat; and (4) that the cumulative effect of these errors deprived defendant of a fair trial.

¶ 3 For the following reasons, we affirm.

¶ 4 BACKGROUND

¶ 5 It is undisputed that on September 2, 2007, defendant, Senior, and Junior lived together in the same house, that the three of them were at home without anyone else present when a physical altercation began, that Senior and Junior died of multiple stab wounds, and that defendant stabbed them. The only surviving eyewitness was defendant, who testified at trial that he acted in self-defense after Junior came at him with a knife and Senior joined the altercation.

¶ 6 Prior to trial, defendant moved to introduce, in the defense's case-in-chief, evidence of two incidents of violence by each of the two victims. One incident was a 2004 domestic battery charge against Junior, involving an attack by Junior against his then-girlfriend Verma Wyatt, which defendant sought to introduce through Wyatt's testimony.

¶ 7 The other incident was the alleged criminal sexual abuse and domestic battery in 1987 by Senior of defendant's sister, Nicole Robertson. Although the arrest did not result in a conviction, defendant sought to introduce Robertson's testimony, as well as the testimony of other family members.

¶ 8 Defendant sought to introduce the 1987 incident under two different theories. First, he argued that it was evidence of Senior's violent nature. Second, he argued that the 1987 incident led to the breakup of his parents' marriage and to his mother and sisters moving out of the home that defendant continued to share with his father, and that this incident was "a seething sore in this family." Defendant claimed that Junior was offended by defendant's talking about the incident, that this was the motive for Junior's attack on defendant, and that the 1987 incident was, thus, directly connected to the physical altercation ending in Senior's and Junior's deaths.

¶ 9 During the hearing on defendant's pretrial motion, defense counsel stated that defendant would testify at trial about the 1987 sexual assault, about the effect that it had on defendant's family, and about the ensuing 20 years of turmoil that led to the deaths at issue. Counsel argued that Robertson and the other family members listed by defendant would corroborate defendant's assertion that the 1987 incident, whether it was true or not, created extreme hostility and tension in their family.

¶ 10 The trial court found that the 2004 incident by Junior was admissible but "that the incident involving Ms. Robertson is too remote in time to offer the testimony of Ms. Robertson to suggest that Senior had a propensity of violence." After stating categorically that the 1987 incident was "too remote in time to be relevant and probative on any of the issues in this case," the trial court then immediately modified its finding and ruled instead that defendant could

testify about the incident, “[b]ut [it was] not going to allow Robertson to come in and testify to that” incident. The trial court further observed: “I’m certain it will be something that comes up again. But for now that’s the way I see this headed, okay.”

¶ 11 The defense did not ask, and the trial court did not rule on, whether other family members could testify concerning the hostility and tension that this incident caused. Defendant’s other proposed witnesses had included his father, mother, and another sister.

¶ 12 Also, prior to trial, defendant filed a motion *in limine* to bar the State from using evidence of his prior convictions to impeach his credibility. Defendant had six prior felony convictions. He had been convicted of (1) AUUW, on December 8, 2004, receiving a sentence of 3 years; (2) possession of a controlled substance, on May 13, 2004, receiving a sentence of 18 months; (3) manufacture or delivery of cocaine near a school, on October 18, 2001, receiving a sentence of 4 years; (4) possession of a controlled substance, on January 24, 2001, receiving a sentence of 2 years; (5) possession of a controlled substance, on February 23, 2000, receiving a sentence of 8 months of probation; and (6) aggravated battery of a peace officer, on February 17, 1999, receiving a sentence of two years.

¶ 13 On March 28, 2016, the prosecutor stated that he was seeking to use only one of the six prior convictions, which was the most recent one or the AUUW conviction. The prosecutor stated that defendant had been released from confinement on the AUUW offense on August 7, 2006, which was less than 10 years ago.¹ When the trial court asked if there were “any other convictions within 10 years,” the prosecutor responded no. The trial court then asked defense

¹Rule 609 of the Illinois Rules of Evidence permits evidence of a prior conviction to be used to attack the credibility of a witness, but “[e]vidence of a conviction under this rule is not admissible if a period of more than 10 years has elapsed since the date of conviction or of the release of the witness from confinement, whichever is the later date.” Ill. R. Evid. 609(a), (b) (eff. Jan. 1, 2011).

counsel “[w]hat’s your position?” and defense counsel responded that he had no objection. The trial court ruled: “Okay. You can use it then.”

¶ 14 At trial, the State called the following family members in its case-in-chief: (1) Alicia Brown, daughter of Stephanie Thomas and granddaughter of Senior; (2) Phyllis Price, Brown’s then partner; (3) Cheryl Ann Williams, sister of both Junior and Stephanie Thomas; (4) Barry Thomas Jr., stepson of Stephanie Thomas; (5) Stephanie Thomas, Junior’s sister; and (6) Barry Thomas Sr., Stephanie’s husband. The State also called police officers and a medical examiner.

¶ 15 The family members testified that, on September 2, 2007, the day of the murder, the family had gathered earlier in the day at Senior’s home for a party to celebrate the fact that he had a scan showing that he was cancer-free. It was also the Sunday of the Labor Day weekend.

¶ 16 Alicia Brown, age 48, testified that Senior had been diagnosed with colon cancer and had begun treatment but his latest scan, as of September 2007, did not show any evidence of cancer. The family decided to hold a celebratory party at Senior’s new home on South Perry Street in Chicago. Previously, Senior had lived on Arthington Street, which Brown regarded as “the family home” which she “knew as a child.” Brown purchased the family home so that Senior would have the money to move and buy a new home that was closer to the rest of the family. When Senior moved to the new home, defendant and Junior moved with him. Junior, who had recently been awarded his veteran’s benefits and medals from serving in Vietnam, helped take care of Senior by doing the grocery shopping, making meals, and aiding in other day-to-day activities. Brown’s Uncle Prentice, who was defendant’s father, also helped out.

¶ 17 Brown testified that, on September 2, 2007, she and her then-partner Phyllis Price arrived at 10:30 a.m. to help set-up for the party. Brown testified that the party was “a great day” and she and Price did not leave until the early evening. At 9:30 p.m., when Brown and

Price were at home, Brown received a call from her mother, Stephanie Thomas. In response, Brown and Price immediately drove to Senior's house and called 911. When they arrived, her mother and stepfather Barry Thomas Sr were already present, as well as the police.

¶ 18 Brown testified that, shortly before she had left the party, her grandfather said he was going to lie down for a bit in his bedroom. Senior was not eating full meals because he had a colostomy bag, and he had spent most of the day outside in the sun, so he was tired. Before leaving, Brown looked in his bedroom, observed him sleeping, and did not wake him. Before she left, Junior indicated that he was going to lie down on the living room couch in front of the fan and cool off. During the party, Brown observed defendant talking to Price at one point in the kitchen, but Brown did not observe him outside on the back porch or in the backyard or "engaging" with everyone. For most of the barbecue, Brown and other family members were outside, although people had been eating sometimes in the dining room.

¶ 19 Brown was shown five knives and identified two of them: one was "used to cut ribs and chicken," while the other was "used to like hack at[,] to make rib tips." Brown testified that Junior had told her that he was taking seizure medication. On cross-examination, she testified that, as a registered nurse, she knew that some seizure medications can have an adverse effect if mixed with alcohol.

¶ 20 Phyllis Price, Brown's former partner, testified largely consistently with Brown's testimony. Brown did not observe defendant on the back porch during the party, but she encountered him when she entered the house to use the bathroom. Price recalled that defendant had a child, and she asked him if his child was coming to the party. Defendant responded in an angry manner: "don't ask me about no baby." Defendant acted "very different[ly]" from when

she had last spoken with him in July. Previously, she had felt that he had “kind of open[ed] up” when talking with her. Price did not observe him mingling with the family during the party.

¶21 On cross-examination, Price testified that she did not encounter defendant in the kitchen but rather outside of his room where he was “sullen.”

¶22 Cheryl Ann Williams testified that Senior was her father and her siblings included Stephanie Thomas; Prentice Williams, who was defendant’s father; and Junior, one of the victims. Since she shares the same last name as defendant and both victims, we refer to her as Cheryl. Prior to September 2007, Cheryl had observed that Senior’s hands had become gnarled and he had difficulty picking up things. As a result, he did not use utensils when eating but instead used his hands. Senior also had a colostomy bag as a result of his surgery for colon cancer.

¶23 Cheryl testified that she did not arrive at the party on September 2, 2007, until the early evening. Everyone gathered on the back porch, and the food was on the dining room table. Cheryl did not observe defendant on the back porch and testified that he was in his room. When she first arrived, she had brought with her a big pot of vegetables that she took into the kitchen to set on the stove, and she observed defendant in the kitchen pouring himself a cup of coffee. When Cheryl asked defendant how he was doing, “he just walked right past [her] like [she] was invisible” and walked back to his room. Other than that incident, she did not observe any anger or animosity among the other people at the party. Later that evening, she left the party and went home. At 9 p.m., she was at home talking to her sister Stephanie Thomas on the phone, when she heard someone on Stephanie’s end say “ ‘Auntie, I need your help.’ ” At first, she did not recognize the voice as defendant’s voice, but when he kept talking, she recognized

his voice. Defendant stated: " 'They came at me, and I had to defend myself.' " Stephanie then asked him " 'who came at you,' " and he replied " 'Granddad and Uncle Charles.' "

¶ 24 Cheryl testified that, although she was screaming for Stephanie not to hang up the phone, Stephanie said that she would call Cheryl back. Cheryl called her son Andrew, got dressed, and returned to Senior's house. When she arrived, she observed police vehicles, an ambulance, Senior's dog, and family members outside.

¶ 25 On cross-examination, Cheryl testified that, when she first arrived at the party, she observed Junior drinking a beer but she did not know how many beers Junior had consumed. When Cheryl left the party at 7:40 p.m., Junior did not appear intoxicated. Senior had enough control over his hands to pour a glass of wine for her mother from a wine bottle, although he spilled a little. Senior could not hold a utensil because it was too thin, but he could hold a wine bottle. Senior was drinking wine at the party, and he was able to handle a wine glass. At the party, Senior was walking bent over, but he was not using a cane.

¶ 26 Officer Israel Gomez of the Chicago Police Department testified that, on September 2, 2007, at 9:20 p.m., he was working with his partner, Officer John Gregoire, when he stopped defendant and Barry Thomas Jr., whom he already knew. The officers were in plain clothes and driving an unmarked Crown Victoria on Princeton Street. Gomez asked defendant for his name, which defendant provided, and Gomez then performed a protective pat-down search. Observing blood on defendant's clothing, Gomez asked defendant if he needed medical attention. After defendant responded that he did not need medical attention, Gomez asked defendant how he had cut himself. Defendant answered that he had cut himself with glass earlier. Gomez then informed them that they were free to go.

¶ 27 Barry Thomas Jr. (Thomas Jr.), age 38, testified that he had lived on South Princeton Street since he was 2 years old, with his parents Stephanie and Barry Thomas Sr. (Thomas Sr.). Thomas Jr. did not attend the party on September 2, 2007, because it was hot. In the evening, he went to a nearby park, played basketball, and was heading home when a police officer called to him from an unmarked vehicle. The officer, who knew him, asked him who a certain person was, and that was when he observed defendant standing by a tree, a couple of houses away from Thomas Jr.'s home. Defendant said: " 'Barry, do you remember me.' " It had been at least 10 years since Thomas Jr. had last observed defendant. The officer told defendant to place his hands on the vehicle so he could be searched, which occurred. The officer asked defendant why there was blood on him, and defendant responded that he had cut himself on some glass. Thomas Jr. did not know the exact time, but he reasoned that it "was just about to get dark" and "it gets dark around 9 p.m." When the police left, defendant asked if "his auntie" was home and if he could talk to her. Thomas Jr. understood defendant to be referring to Stephanie Thomas. Thomas Jr. headed home, let defendant inside, and told Stephanie Thomas that defendant was there. When Thomas Jr. called out her name, "she must have come to the door" of her bedroom, "because she said [defendant] scared her."

¶ 28 On cross-examination, Thomas Jr. acknowledged that he testified before the grand jury that Stephanie Thomas said that defendant had scared her and that he then heard defendant say " 'Somebody is trying to test me.' "

¶ 29 Stephanie Thomas² testified that her daughter, Alicia Brown, had purchased Senior's old home so that he could move closer to Stephanie. Defendant had spent a lot of time at her

²Stephanie Thomas was married to Barry Thomas Sr., and when they married, she had three children, including Alicia Brown, and he had four children, including Barry Thomas Jr. Since there are three witnesses with a last name of Thomas, we refer to her as Stephanie. Her siblings included Cheryl; Prentice Williams, who was defendant's father; and Junior, one of the victims.

parents' old home on Arthington Street when he was growing up. Her parents "doted" on him and would do anything for him, and he often slept in their bed when he was little. She never witnessed any arguments between defendant and Senior or Junior. In September 2007, Senior was moving slower and was weaker. He had arthritis in his hands, which would shake and appeared gnarly.

¶ 30 Stephanie arrived for the party at 2 p.m. on September 2, 2007. Stephanie did not observe defendant on the back porch, but she did encounter him in the kitchen pouring a cup of coffee. Although Stephanie spoke to him, he did not say anything. "He was stirring and stirring and stirring his coffee like he was in deep concentration." There was no animosity or anger among anyone at the party.

¶ 31 Stephanie testified that she and her family left the party sometime between 6:30 and 8 p.m. Once home, Stephanie called her sister Cheryl. They talked about how "strange" defendant was acting, that he was "not participating," and that they thought that was "odd." While Stephanie was talking to Cheryl, she heard Thomas Jr. say that defendant was there. Defendant then entered her room and perched on the bed, and she asked him "'what is going on?'" While they were seated several feet apart, Stephanie did not observe any injuries on his face or body, and he did not appear to be in physical distress.

¶ 32 Stephanie testified that defendant stated: "'Auntie, I need your help.'" Then he stated: "'They came at me.'" When she asked who had come at him, he replied: "'Granddad and Charles, Charles came at me with a knife.'" When she asked about Senior, defendant replied: "'Him, too.'" When defendant was speaking, he was "cold," exhibiting no signs of emotion. Stephanie called out for her husband, who entered the room and asked "'How bad is it[?]' To which, defendant replied: "'It's bad.'" While Stephanie and her husband were dressing,

defendant left. As Stephanie and her husband were heading to Senior's house, Stephanie called 911, and the State then played the 911 call for the jury. When they arrived at Senior's home, Stephanie's husband entered first and then told her she could not enter. As they were heading outside, the police arrived and told them to leave the house.

¶ 33 On cross-examination, Stephanie testified that, while Junior had "maybe" suffered from mood swings in the past, she had not observed him suffering from mood swings or alcoholism in September 2007. At the party, she observed him with one beer, and he did not appear intoxicated when she left. Defendant stayed with Stephanie's parents when he was little because his parents' marriage had fallen apart. Stephanie was not aware that there was an incident in 1987 that led to the breakup of defendant's parents' marriage. Stephanie was not aware that Senior had been arrested in 1987 for aggravated criminal sexual abuse of his granddaughter, Nicole Robertson. Stephanie did not know what happened to defendant's sisters after his parents' marriage ended. After the breakup, Stephanie "saw the girls maybe once."

¶ 34 Barry Thomas Sr. testified that he was married to Stephanie, and his testimony largely corroborated her testimony about the party and the events of the day. After the party and after defendant had left their home on September 2, 2007, Thomas Sr. drove their vehicle back to Senior's house while Stephanie called 911. They were the first people on the scene. Thomas Sr. walked to the front door, while his wife was still on the phone. After entering the front door, he walked up three or four steps and observed Junior lying dead in a pool of blood in the living room. Then he walked to Senior's bedroom, where he observed Senior lying on the floor in a pool of blood. Stephanie had started to enter the front door, so Thomas Sr. returned to the front door in order to stop her from entering. After speaking with the police who had arrived,

Stephanie and Thomas Sr. went home, where Thomas Sr. woke up his son and told him what happened, and they all went to the police station.

¶ 35 Officer John Nicezyporuk of the Chicago Police Department testified that, on September 3, 2007, at 3:25 a.m., he was on patrol with his partner Officer Chris McGuire in a marked police vehicle, when they received a battery report over the police radio from a hospital in Oak Park. The officer explained that a battery report occurs when the hospital staff observe an injury that is consistent with a battery. The report named defendant, and the operator recognized the name from a prior "all call," which occurs when someone is wanted for an offense. At the hospital, Officer Nicezyporuk asked one of the triage nurses if there was someone with defendant's name waiting to be treated, so she called defendant's name, and he stood up. Defendant was using his left hand to hold his right hand up, close to his chest, and his right hand had a bandage on it. After defendant stood up, they placed him under arrest, which involved handcuffing him. Other than the fact that he was favoring his right hand, the officer did not notice any other signs of distress or injuries. Officer Nicezyporuk was with defendant while defendant was examined and treated, and defendant did not receive any stitches. At 5 a.m., defendant was discharged from the hospital, with several Band-aids or sterile strips on the palm of his hand and no other bandages. On cross-examination, Officer Nicezyporuk testified that defendant had lacerations on both hands. Defendant was cooperative and did not resist arrest.

¶ 36 Brian Forberg of the Chicago Police Department testified that he was presently a sergeant but that in 2007 he was a detective and that, on September 2, 2007, at 10 p.m., he was assigned, with his partner Detective Eberle, to investigate the double homicide at Senior's house. They found Junior lying in the living room, covered in blood, near an overturned coffee

table that also had blood on it. Junior was not wearing a shirt or shoes, and there was blood caked around his hands, his arms, and his upper body. His glasses were on the floor. There was blood alongside a nearby easy chair, as well as on the chair itself and on a nearby couch. In the corner was a box fan.³ There was broken glass that had been part of the coffee table. Junior was "cradled around the wastebasket," and there was "blood cast on the walls and curtains." Blood was flowing down his back and all over the carpet. Junior had no objects in his hands. Forberg "determined [it] was evidence of a pretty intense struggle."

¶37

Forberg testified that there was blood on the doorknob and smeared on the door to Senior's bedroom, where Senior's body was found lying on his back, on the floor. His head was partially under an end table. He was wearing socks, blue jeans, and a white T-shirt, which was soaked in blood. His right hand was clasped over his left hand, and his hands were folded over his chest. There was a cane hanging from the handle of the closet door. There was blood up and down his jeans and along his forearms and on the carpet. Senior had a large, gaping throat wound, with a large deposit of blood to the right of his head, which flowed underneath a cabinet. He had no objects in his hands. There was blood on his hands, and his hands had cuts, which the detectives believed to be defensive wounds.

¶38

Forberg testified that he did not find any knives in either Senior's bedroom where Senior's body was located or in the living room where Junior's body was found. Forberg did find bloody footprints on the carpet leading from Senior's bedroom to defendant's bedroom. The door to defendant's bedroom had blood smears on it. Inside defendant's bedroom, they

³Forberg's testimony about a box fan corroborates, in part, Brown's testimony that, before she left the party, Junior indicated that he was going to lie down on the living room couch in front of the fan and cool off. *Supra* ¶ 18.

found a pair of jeans with “blood all over” them, as well as blood on the floor. There was a phone in defendant’s room, but the police did not receive any 911 calls from defendant.

¶ 39 Forberg testified that, in the bathroom, they found blood around the sink, bloody tissue in the toilet, and, to the right of the toilet, a knotted plastic bag with blood on the outside and a knife blade sticking out of it. The bag contained five knives. Two of the knives had plastic handles and were bent. The remaining three knives were longer steak knives with wooden handles and blades with blood deposits. One of the three wooden-handled knives was also bent.

¶ 40 Forberg testified that, at 4 a.m. on September 3, 2007, he learned that defendant had been detained at a hospital and Forberg arrived as defendant was being treated by a doctor. On the day of arrest, defendant was approximately 170 pounds and six feet tall, with no signs of injury to his face, neck, arms, or chest. The Band-aids on his fingers were “bandages that you put on your kid if he skinned his knee.” After defendant was taken into custody, they recovered his shirt, jeans, socks, and shoes because there was blood on them. The bottom of the socks were “drenched in blood.” The cushion area of his gym shoes was “spongeable” and also “drenched” in blood. Forberg testified that the cushion area was “very wet even at that point.” However, Forberg did not observe any injuries to defendant’s legs or feet.

¶ 41 On cross-examination, Forberg acknowledged that Thomas Sr. had entered the residence prior to the police and possibly his wife as well. The placement of the knives in one bag meant that blood could potentially have been mixed from one knife to the other. Defendant’s sister, Jacquiese Robertson, was with defendant at the hospital.

¶ 42 The parties stipulated that experts in DNA and biochemistry from the Illinois State Police Crime Lab would testify, if called, that a DNA profile obtained from blood in defendant’s right shoe matched defendant but not Senior or Junior; that a DNA profile obtained