

APPENDIX

NOTICE

This Order was filed under Supreme Court Rule 23 and is not precedent except in the limited circumstances allowed under Rule 23(e)(1).

2022 IL App (4th) 190585-U

NO. 4-19-0585

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the
Plaintiff-Appellee,)	Circuit Court of
v.)	Vermilion County
GLENN TORRES,)	No. 15CF639
Defendant-Appellant.)	
)	Honorable
)	Nancy S. Fahey,
)	Judge Presiding.

PRESIDING JUSTICE KNECHT delivered the judgment of the court. Justices Turner and Cavanagh concurred in the judgment.

ORDER

¶ 1 Held: The appellate court affirmed, concluding defendant had not established a violation of the right to a fair trial, the right to representation by counsel of choice, or the right to the effective assistance of counsel, nor had he established plain error.

¶ 2 Following a jury trial, defendant, Glenn Torres, was found guilty of the first degree murder of Theodore Hill and Zarra Strickland and then sentenced to serve the remainder of his life in prison. Defendant appeals, arguing (1) the denial of his pretrial motions seeking to bar a witness from testifying at his trial and to disqualify the office of the Illinois Attorney General from representing the State deprived him of the right to a fair trial, (2) the disqualification of one of his attorneys deprived him of the right to representation by counsel of choice, and (3) his trial counsel's failure to object to, and the trial court's failure to *sua sponte* prohibit, the admission and publication of a photograph deprived him of the right to the effective assistance of counsel and constituted plain error. For the reasons that follow, we affirm.

FILED
February 7, 2022
Carla Bender
4th District Appellate
Court, IL

¶ 3

I. BACKGROUND

¶ 4

A. Charges

¶ 5

In October 2015, the State, through the state's attorney of Vermilion County, charged defendant by information with eight counts of first degree murder (720 ILCS 5/9-1(a)(1), (a)(2) (West 2014)) for allegedly causing the deaths of Theodore Hill and Zarra Strickland. The information was later superseded by indictment.

¶ 6

B. Defendant's Representation

¶ 7

Immediately following the filing of the charges in this case, the trial court appointed the office of the Vermilion County public defender to represent defendant. At the time, Jacqueline Lacy was the chief public defender. Approximately one month after being appointed, Lacy moved to withdraw the office of the public defender as counsel for defendant, alleging she and all attorneys employed therein had conflicts which precluded further representation. The court granted the motion and appointed outside counsel to represent defendant.

¶ 8

Just over two years after outside counsel was appointed to represent defendant, another attorney, Hallie Bezner, filed an entry of appearance on behalf of defendant as co-counsel. The State, in response, filed a motion to disqualify Bezner from representing defendant, alleging her representation raised potential conflicts. Specifically, the State alleged potential conflicts existed based upon its discovery (1) Bezner previously represented a possible witness in this case and, during that representation, reached out to a sheriff's investigator to offer her client's cooperation in the case against defendant and (2) Bezner's law partner previously represented another possible witness in this case and that witness made a statement against defendant's interests.

¶ 9

The trial court conducted a hearing on the State's motion to disqualify Bezner from

representing defendant. Bezner acknowledged previously representing a possible witness in this case and, during that representation, approaching a sheriff's investigator. She asserted, however, "nothing ever came of that because he never said anything to me[.] *** It was a, you know, if he talks to you would that be something to you, no or yes and he said no I don't want to talk and that was the end of it." Bezner further asserted she had discussed the matter with defendant and defendant wanted to waive any conflict and understood he would not later be able to complain about any conflict. Bezner noted: "I recognize that it's an interesting issue when you address, you know, counsel of choice versus counsel that was appointed to you. He didn't choose me. I showed up on his case[.]" After hearing from the State and the defense, the court granted the State's motion. In doing so, the court noted, had Bezner used the "proper channels" and filed "a petition to appoint co-counsel," it would not have appointed Bezner had it been aware of the information before it.

¶ 10 After granting the State's motion to disqualify Bezner from representing defendant, defendant, through his previously appointed counsel, petitioned for the appointment of co-counsel to assist in his representation. Over no objection, the trial court appointed outside co-counsel.

¶ 11 C. The State's Representation

¶ 12 Approximately one year after the charges were filed against defendant in this case, Lacy was elected and began serving as the state's attorney of Vermilion County. Four months later, defendant, based upon Lacy's prior involvement as his counsel, filed a motion for the appointment of a special prosecutor in this case. The trial court, over no objection, granted defendant's motion and appointed the office of the Illinois Attorney General to represent the State in the case against defendant.

¶ 13 Defendant later learned Lacy and the office of the Vermilion County state's attorney had (1) retained authority over the investigation into the actions of Marquis Robinson, a

witness purportedly involved in the murders of Hill and Strickland; (2) discussed with the office of the Illinois Attorney General the possibility of (a) entering into a proffer agreement with Marquis to allow the office of the Illinois Attorney General to discuss the deaths of Hill and Strickland with Marquis and (b) granting use immunity to Marquis if he testified in the case against defendant; and (3) entered into the discussed proffer agreement with Marquis. After learning this information, defendant filed multiple pretrial motions alleging it was improper for Lacy to assist in his prosecution in this case and it was improper for the office of the Illinois Attorney General to seek or accept such assistance. Defendant's motions requested (1) the State be barred from calling Marquis as a witness, (2) the office of the Illinois Attorney General be disqualified from representing the State, and (3) Lacy and the office of the Vermilion County state's attorney be ordered to have no further communication with any attorney prosecuting the case against him.

¶ 14 Prior to a hearing on defendant's motions, Lacy and the office of the Vermilion County state's attorney ceded authority over the investigation into Marquis's actions and rescinded any prior agreements with Marquis. Further, the trial court, over no objection, appointed the office of the Illinois Attorney General to represent the State in the investigation into Marquis's actions. Thereafter, the court conducted a hearing on defendant's motions, where it permitted defendant to call and elicit testimony from Lacy about her involvement. Lacy acknowledged speaking with the office of the Illinois Attorney General about a proffer agreement and use immunity for Marquis and then entering into the discussed proffer agreement. Lacy explained the proffer agreement was based upon an agreement made with Marquis by the former state's attorney of Vermillion County. Lacy asserted she had not spoken with any representative from the office of the Illinois Attorney General about the substance of defendant's case. Based upon the testimony and arguments presented, the court denied defendant's motions, finding “[t]he conflict issue *** has been resolved

*** appropriately" and the relief requested by defendant was "an extreme remedy *** not warranted by the current situation."

¶ 15

D. Jury Trial

¶ 16 In April 2019, the trial court conducted a jury trial. The following is gleaned from the evidence presented.

¶ 17 On the evening of July 31, 2015, Deontae Franklin, Joshua Robinson, and Terlandon Givens attended a party in Danville, Illinois. Givens and Joshua got into an altercation, and Givens robbed Joshua at gunpoint. Gunshots were then heard, and Joshua was later treated for wounds consistent with a gunshot to his leg.

¶ 18 Marquis Robinson testified, on August 1, 2015, he went to purchase drugs from Joshua. Marquis drove to Joshua's location in his girlfriend's blue Chevy Malibu. While there, Joshua told Marquis that Givens had shot him, he wanted revenge on Givens, and "he had some money out for him."

¶ 19 While he was with Joshua, Marquis, who worked as an unlicensed cab driver, received a phone call from Theodore Hill. Hill wanted a ride and told Marquis that he was standing outside Marquis's apartment. Marquis went to his apartment, and he and Hill began talking outside. While Marquis and Hill were talking, Joshua and a few other people pulled up and approached Hill, at which point Marquis attempted to intervene between Hill and Joshua. Despite Marquis's efforts, Joshua drew a gun and began firing at Hill, and Hill and Marquis ran. Hill and Marquis were unscathed, and Joshua eventually left. Marquis and his girlfriend then gave Hill a ride to the local bowling alley and eventually Marquis dropped off his girlfriend at her mother's house and took the Malibu back to his apartment.

¶ 20 Soon after Marquis returned to his apartment, defendant arrived. Marquis invited

defendant inside, and the two drank and conversed about the past day's events for several hours. At the same time, Marquis sold drugs from his apartment. Eventually, defendant told Marquis that he wanted to talk to Joshua, and the two drove to Joshua's house where defendant and Joshua talked privately. When defendant got back in Marquis's car, defendant told Marquis that Joshua had offered him \$6000 to shoot Givens and Hill, he accepted the offer, and Joshua gave him a \$500 advance payment. Defendant then offered Marquis \$200 to drive him around that evening, which Marquis accepted.

¶ 21 Defendant and Marquis drove to the house of defendant's uncle, David Mott, and then eventually to Marquis's apartment. Marquis saw defendant had a gun with him, which he described as a .40-caliber "silver and black Millennium." Defendant, in an attempt to locate Hill and Givens, called Givens on Marquis's phone and offered to sell Givens some guns. Givens and defendant agreed defendant should talk to Hill so defendant could sell Hill and Givens the guns. Shortly after the call ended, Hill called Marquis's phone and talked to defendant, telling defendant that he was at home.

¶ 22 Defendant and Marquis drove to the house Hill shared with his girlfriend, Zarra Strickland. Marquis and defendant joined Hill and Strickland inside, where Hill was snorting cocaine. Eventually, both defendant and Marquis also used cocaine. Marquis later went to the bathroom, and when he returned to the living room, defendant and Hill were discussing whether to rob Joshua, which confused Marquis because defendant had agreed with Joshua to shoot Hill and Givens.

¶ 23 Shortly before midnight, defendant, Marquis, and Hill got into the Malibu to drive to the liquor store. Marquis drove, Hill sat in the front passenger seat, and defendant sat behind the driver's seat. On the way to the liquor store, the three men saw Joshua at a gas station, and Hill

and defendant expressed a desire to do something to Joshua, but Marquis talked them out of it by pointing out the presence of cameras and the fact the Malibu would be on video. Defendant then suggested the group retrieve his car, leave Marquis for the evening, and use Strickland as a driver to find Joshua and carry out their plan.

¶ 24 Defendant, Marquis, and Hill headed back to Hill's house and picked up Strickland, who entered the car and sat behind the front passenger seat. Defendant then directed Marquis where to go, and Marquis believed they were going to find defendant's car. Defendant led Marquis down Logan Avenue, and when they came to a stop at the intersection of Logan and Kimber Street, defendant repeatedly fired a gun from the backseat, striking Hill and then Strickland.

¶ 25 Defendant then put the gun to the back of Marquis's head and directed Marquis to an abandoned house on the outskirts of Danville. The house had belonged to the grandparents of defendant's girlfriend, and defendant had lived there in 2010. A wooded area lay directly to the north of the house.

¶ 26 Once at the house, defendant, after taking the keys to car, dragged Hill's body, followed by Strickland's body, to the tree line. Defendant placed Strickland's body on top of Hill's body. Defendant forced Marquis to get out of the car and directed him to fire the .40-caliber handgun at the bodies, in what Marquis perceived as an effort to implicate Marquis and ensure Marquis would not "tell on him." Marquis complied.

¶ 27 Defendant and Marquis got back in the car, and defendant told Marquis to drive to defendant's house in Indianapolis, via Interstate 74. Along the way, defendant used Marquis's phone to make several calls to his girlfriend, Tamara Page. Cell phone records show numerous calls were placed from Marquis's phone to Page between midnight and 4:30 a.m. Page also testified defendant called her from Marquis's phone several times in the early morning hours and

told her that he was with Marquis.

¶ 28 When they arrived at defendant's house, Marquis became sick. Marquis went inside, and defendant began cleaning the car. Defendant cleaned the car for the next few hours and then came inside to disassemble the .40-caliber gun and take a shower. Page returned home from work shortly after 8 a.m. on August 2, 2015. The three then went to buy seat covers for the car. Because Marquis was still sick, defendant suggested Page take the Malibu and drive Marquis back home to Danville while defendant followed in his own car. As the two cars travelled to Danville, Page used Marquis's phone to call defendant, who was using Page's phone. Once in Danville, Page dropped off Marquis and the Malibu and got into defendant's car with defendant. Page and defendant went to the house of defendant's parents and then returned home. Cell phone tower analysis later confirmed Marquis's phone travelled from Danville to east Indianapolis after midnight on August 2, 2016, and returned to Danville later that morning.

¶ 29 Later that day, Marquis, at defendant's direction, went to Mott's house so Mott could clean the Malibu. Mott testified he cleaned the front passenger seat and carpet and noticed blood. Marquis used the Malibu the next day, but it still smelled. The following day, Mott cleaned the car a second time. As Mott methodically cleaned the car that time, he noticed a bullet hole in the front passenger door.

¶ 30 During the early morning hours of August 4, 2015, a worker hired to clear brush and trees arrived at the abandoned house where the bodies of Hill and Strickland had been disposed. The worker noticed a smell and eventually found the bodies and "flies everywhere."

¶ 31 Crime scene investigator Timothy LeMasters testified about processing the scene and collecting evidence at the abandoned house. LeMasters took photographs which were admitted at trial without objection as State's exhibit Nos. 1-2 through 1-35. At trial, LeMasters referred to

the photographs while he described the house, the location and condition of the bodies, and the other evidence he collected. LeMasters explained he found the bodies along the northern tree line, stacked on top of each other and crisscrossed. He noted significant decomposition of the bodies, a strong odor, and the presence of insects and flies. Hill's body lay face up, Strickland's body lay face down on top of Hill's body, and a significant number of maggots had infested both bodies. Hill's jeans were down around his ankles, and Strickland's shirt was up near her shoulders, which suggested to LeMasters they had been dragged to that location. LeMasters testified State's exhibit No. 1-11 was a close-up photograph of Strickland's face, after she had been turned over, showing extensive decomposition due to maggot activity. LeMasters testified State's exhibit No. 1-12 was a similar close-up photograph of Hill. The State briefly and simultaneously published the two exhibits.

¶ 32 LeMasters collected maggot samples from the bodies. Dr. Anne Perez, an expert in forensic entomology, later opined, due to the size and development of the maggots, Hill and Strickland were placed at the location sometime leading up to sunset on August 1, 2015, and sunrise on August 2, 2015. Dr. Perez indicated she reached her opinion after reviewing, amongst other things, photographs taken at the scene.

¶ 33 LeMasters collected dried blood samples from "away from the victim's location," which was found to match Hill and Strickland and suggested they were moved from one point to another before they were found. LeMasters also collected two pieces of glass with a "partial footwear impression." Later analysis revealed the pattern on the impression matched the pattern on the sole of the shoes defendant wore at the time of his arrest. One of defendant's shoes also bore human deoxyribonucleic acid (DNA) from two individuals, but analysis could not conclusively identify the contributors to that DNA. LeMasters collected a .40-caliber casing found

next to the bodies and a .40-caliber casing found on the sidewalk just north of the house.

¶ 34 The next day, on August 4, 2015, Dr. Shiping Bao conducted autopsies of Hill and Strickland. Bao noted Hill's upper body was "decomposed" with "extensive" maggot activity. Bao noted two entrance gunshot wounds to Hill's left temple, one exit gunshot wound on Hill's right cheek, and one exit gunshot wound on the right side of Hill's neck. Bao concluded both gunshots had traveled downward from Hill's temple to his face and neck. Bao also noted another entrance wound on the right side off Hill's neck and determined this bullet was lodged in Hill's left back. Finally, Bao noted a gunshot wound to Hill's right chest.

¶ 35 When examining Strickland, Bao noted her body was "severely decomposed" and contained significant maggot activity. Bao observed Strickland had one entrance gunshot wound on the back left of her head and one exit gunshot wound on the right side of her face above her eye.

¶ 36 On August 6, 2015, Marquis drove to Indianapolis and gave defendant the Malibu. Defendant advertised the Malibu for sale on Craigslist. Defendant found a buyer.

¶ 37 On September 25, 2015, police seized the Malibu from its new owner. LeMasters processed the vehicle on September 30, 2015. LeMasters noticed the front passenger door panel had a bullet hole. He also lifted a fingerprint from that area, which was later found to match a fingerprint from defendant. LeMasters removed the outer part of the front seat cushion and found blood stains matching Hill. LeMasters further observed a bullet hole in the rear passenger door, from which he retrieved a .40-caliber bullet. Finally, LeMasters found blood on the rear door panel matching Strickland.

¶ 38 Detectives contacted Marquis's girlfriend shortly after her car was seized and informed her the Malibu was involved in a crime. She then confronted Marquis and defendant, and

defendant assured her “that he [(defendant)] did it” and that “Marquis didn’t do any of this.”

¶ 39 On October 24, 2015, police interviewed defendant. When asked where he was on August 1, 2015, defendant responded “instantaneous[ly]” that he was with Page and his young daughter. Defendant denied any involvement in the murders. He also denied selling the Malibu. After the interview, defendant, who was in custody, twice called Page from the jail. In the first call, defendant told Page he had informed police he was with her on August 1, 2015. In the second call, defendant asked Page whether police were looking for or had arrested Marquis.

¶ 40 Just a few days later, Mott, who was in custody for a separate offense, wrote a note to police stating, “My name is David Mott I need to talk to detectives about the double homicide ASAP” and “I have knew [sic] info about the case.” Mott spoke with investigators on October 27, 2015. At the November 12, 2015, grand jury proceedings, Mott testified he had shared a jail cell with defendant and had asked defendant about the murders. Defendant admitted to Mott, “Man, me and Marquis messed up. We did it.” Defendant also told Mott a .40-caliber gun was used to commit the murders. At trial, Mott recanted his grand jury testimony and asserted it had been coerced by police.

¶ 41 Marquis, a convicted felon, acknowledged repeatedly lying to the police about the murders of Hill and Strickland. Marquis also acknowledged entering into an agreement with the State, through the office of the Illinois Attorney General, in which he would testify truthfully in defendant’s case and plead guilty to one count of concealment of a homicidal death in exchange for the State not charging him with the murders, moving to dismiss a second count of concealment of a homicidal death, and recommending he be sentenced to eight years in prison with day-for-day credit.

¶ 42 Following its deliberations, the jury returned guilty verdicts.

¶ 43

E. Posttrial Proceedings

¶ 44 In May 2019, defendant filed a posttrial motion for judgment notwithstanding the verdicts or, alternatively, a new trial, which he later supplemented. In his motion, defendant argued, in relevant part, the trial court erroneously (1) denied his pretrial motions seeking to bar Marquis from testifying at trial and to disqualify the office of the Illinois Attorney General and (2) disqualified Bezner as one of his attorneys. Following a hearing, the court denied defendant's posttrial motion and then proceeded to sentencing. The court sentenced defendant to serve the remainder of his life in prison.

¶ 45 This appeal followed.

¶ 46

II. ANALYSIS

¶ 47 On appeal, defendant argues (1) the denial of his pretrial motions seeking to bar Marquis from testifying at trial and to disqualify the office of the Illinois Attorney General deprived him of the right to a fair trial, (2) the disqualification of Bezner as one of his attorneys deprived him of the right to representation by counsel of choice, and (3) his trial counsel's failure to object to, and the trial court's failure to *sua sponte* prohibit, the admission and publication of State's exhibit No. 1-11 deprived him of the right to the effective assistance of counsel and constituted plain error. The State disagrees with each of defendant's arguments.

¶ 48

A. Denial of Pretrial Motions

¶ 49 First, defendant asserts the denial of his pretrial motions seeking to bar Marquis from testifying at trial and to disqualify the office of the Illinois Attorney General deprived him of the right to a fair trial. Specifically, defendant contends Lacy's continued involvement with assisting the office of the Illinois Attorney General in securing the testimony of Marquis was a conflict of interest and her later recusal from the investigation into Marquis's actions, without

more, could not undo the resulting harm.

¶ 50 Generally, a prosecutor's conflict of interest is remedied by the appointment of a special prosecutor. See 55 ILCS 5/3-9008(a-10) (West 2016) (providing for the appointment of a special prosecutor upon a finding that a state's attorney has an actual conflict of interest in the cause or proceeding); *People v. Polonowski*, 258 Ill. App. 3d 497, 503, 629 N.E.2d 1162, 1167 (1994) ("[A]ssuming a disqualifying conflict did exist, the trial court could have eliminated it by the appointment of a special prosecutor."). In the event the appointment of a special prosecutor does not remedy a prosecutor's conflict of interest, alternative relief may be required to safeguard a defendant's right to a fair trial. See *People v. Garrett*, 207 Ill. App. 3d 458, 461, 566 N.E.2d 33, 35 (1991) (finding an ethical violation related to the interview of a witness did not justify, in the absence of prejudice to the defendant, prohibiting the witness from later testifying).

¶ 51 Even assuming, *arguendo*, Lacy's continued involvement with assisting the office of the Illinois Attorney General in securing the testimony of Marquis was a conflict of interest, defendant has not shown the failure to bar Marquis from testifying at trial or to disqualify the office of the Illinois Attorney General deprived him of the right to a fair trial. First, defendant asserts Lacy's involvement "tainted" any testimony from Marquis and "[n]o trial at which [Marquis] testified could be a fair one." Defendant provides no support for his conclusory assertions, and we find nothing in the record to suggest Lacy's involvement had any effect on Marquis's testimony. Next, defendant asserts the continued prosecution by the office of the Illinois Attorney General after it worked with Lacy to secure Marquis's testimony placed the office of the Illinois Attorney General "in a position to be open to the charge that [his] confidences were betrayed." We disagree. The office of the Illinois Attorney General was never in a position of obtaining defendant's confidences, and its communication with Lacy concerning Marquis was necessary so long as Lacy

had control over the investigation into Marquis's actions. See 55 ILCS 5/3-9005 (West 2016) (providing it is the duty of the state's attorney “[t]o commence and prosecute all actions, suits, indictments and prosecutions, civil and criminal, in the circuit court for the county, in which the people of the State or county may be concerned”).

¶ 52 In the end, (1) Lacy ceded control over the investigation into Marquis's actions and rescinded any prior agreements with him and (2) the trial court appointed a special prosecutor in the investigation into Marquis's actions and permitted defendant's counsel to examine Lacy about her involvement. Based upon our review of the record, we find, consistent with the finding of the trial court, any conflict of interest resulting from Lacy's continued involvement with assisting the office of the Illinois Attorney General in securing the testimony of Marquis was remedied by the recusal of Lacy from the investigation into Marquis's actions, the rescission of any prior agreements with Marquis, and the appointment of a special prosecutor in the investigation into Marquis's actions, and we reject defendant's contention that, without more, he was deprived of the right to a fair trial. Defendant has not established a violation of the right to a fair trial.

¶ 53 **B. Disqualification of Counsel**

¶ 54 Next, defendant asserts the disqualification of Bezner as one of his attorneys deprived him of the right to representation by counsel of choice. Specifically, defendant contends the State did not satisfy the test set forth in *People v. Ortega*, 209 Ill. 2d 354, 808 N.E.2d 496 (2004), governing a challenge to an accused's constitutional right to counsel of choice.

¶ 55 In response, the State identifies a threshold matter—whether the constitutional right to representation by counsel of choice is implicated under the facts of this case. In his initial brief, defendant simply cites *United States v. Gonzalez-Lopez*, 548 U.S. 140, 146 (2006), for the proposition that an individual accused of a crime has a constitutional right to retain counsel. The

State, in turn, asserts, citing Bezner's comment that defendant did not choose her, the right to counsel of choice is not implicated because Bezner was effectively appointed counsel. In reply, defendant acknowledges "an indigent defendant does not have a constitutional right to choose their appointed counsel" but asserts, citing the trial court's comment that it would not have appointed Bezner had she filed a petition to appoint co-counsel, Bezner was not appointed counsel and, therefore, the case law applying to appointed counsel does not apply.

¶ 56 The sixth amendment right to assistance of counsel (U.S. Const., amend. VI) includes both the right to effective representation and "the right to select and be represented by one's preferred attorney." *Wheat v. United States*, 486 U.S. 153, 159 (1988); accord *People v. Rivera*, 2013 IL 112467, ¶ 37, 986 N.E.2d 634. The right to counsel of choice is not, however, absolute and has been limited in several respects. *Wheat*, 486 U.S. at 159; *Rivera*, 2013 IL 112467, ¶ 37. The "essential aim" of the sixth amendment "is to guarantee an effective advocate for each criminal defendant rather than to ensure that a defendant will inexorably be represented by the lawyer whom he prefers." *Wheat*, 486 U.S. at 159.

¶ 57 Setting aside the factual dispute of whether Bezner was effectively appointed or retained counsel, it is undisputed defendant's lead counsel had been appointed. The only authority defendant cites in support of his claim is *Gonzalez-Lopez*. In that case, the United States Supreme Court unequivocally stated, "[T]he right to counsel of choice does not extend to defendants who require counsel to be appointed for them." *Gonzalez-Lopez*, 548 U.S. at 144. Defendant provides this court with no authority or reasoned argument explaining why, contrary to the statement in *Gonzalez-Lopez*, the sixth amendment guarantees an indigent defendant who has been appointed counsel the right to choose co-counsel to assist appointed counsel. Absent a showing the constitutional right to representation by counsel of choice is implicated under the facts of this case,

we need not consider whether the State satisfied any test governing a State's challenge to an accused's counsel of choice. Defendant has not established a violation of the right to representation by counsel of choice.

¶ 58 C. Admission and Publication of State's Exhibit No. 1-11

¶ 59 Last, defendant asserts his trial counsel's failure to object to, and the trial court's failure to *sua sponte* prohibit, the admission and publication of State's exhibit No. 1-11 deprived him of the right to the effective assistance of counsel and constituted plain error. Specifically, defendant contends State's exhibit No. 1-11, a photograph of Strickland, was inadmissible because it was both irrelevant and unduly prejudicial.

¶ 60 Generally, “[i]f photographs [of a decedent] are relevant to prove facts at issue, they are admissible and may be shown to the jury unless the prejudicial nature of the photographs outweighs their probative value.” *People v. Chapman*, 194 Ill. 2d 186, 219, 743 N.E.2d 48, 69 (2000). “Among the valid reasons for admitting photographs of a decedent are to prove the nature and extent of the injuries, the position, condition, and location of the body, and the manner and cause of death; to corroborate a defendant’s confession; and to aid in understanding the testimony of a pathologist or other witness.” *Id.* at 220.

¶ 61 State's exhibit No. 1-11 depicts Strickland's deteriorated face, covered in maggots. At trial, the State presented the photograph during LeMasters's testimony. LeMasters explained the photograph depicted the condition of Strickland on the morning her body was discovered. The photograph was also introduced after Dr. Perez discussed the maggot activity on Strickland's and Hill's bodies, including what the size of the maggots indicated about their age and, by extension, the time Strickland's and Hill's bodies were placed at the abandoned house. At a minimum, we find the photograph was relevant to show the condition of Strickland's body when it was found

and to help explain the testimony of the State's witnesses. Further, while the photograph may be characterized as gruesome, we cannot say it is so gruesome as to overcome its probative value, especially given the other evidence presented. Specifically, we find the nature of the murders and the other photographs of the condition of the victims' bodies when they were found were themselves gruesome, so the photograph of Strickland's face was not so additionally gruesome as to overcome its probative value.

¶ 62 Accordingly, we find State's exhibit No. 1-11 admissible and, therefore, trial counsel's failure to object to, and the trial court's failure to *sua sponte* prohibit, its admission and publication could not have deprived defendant of the right to the effective assistance of counsel or constituted plain error. Defendant has not established a violation of the right to effective assistance of counsel or plain error.

¶ 63 III. CONCLUSION

¶ 64 We affirm the trial court's judgment.

¶ 65 Affirmed.



SUPREME COURT OF ILLINOIS

SUPREME COURT BUILDING
200 East Capitol Avenue
SPRINGFIELD, ILLINOIS 62701-1721
(217) 782-2035

FIRST DISTRICT OFFICE
160 North LaSalle Street, 20th Floor
Chicago, IL 60601-3103
(312) 793-1332
TDD: (312) 793-6185

May 25, 2022

In re: People State of Illinois, respondent, v. Glenn Torres, petitioner.
Leave to appeal, Appellate Court, Fourth District.
128202

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 06/29/2022.

Very truly yours,

A handwritten signature in cursive ink that reads "Cynthia A. Grant".

Clerk of the Supreme Court