

No. 1-16-0512

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IN THE
APPELLATE COURT OF ILLINOIS
FIRST DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellee,)	Cook County.
)	
v.)	No. 12 CR 15690
)	
ANTHONY HULL,)	Honorable
)	Thaddeus L. Wilson,
Defendant-Appellant.)	Judge, presiding.

JUSTICE HOFFMAN delivered the judgment of the court.
Presiding Justice Rochford and Justice Hall concurred in the judgment.

ORDER

¶ 1 *Held:* The defendant's conviction for felony murder affirmed over his challenge to the use of home invasion as a predicate offense, his challenge to admission of custodial statements, his claim that he was entitled to a fitness hearing, and his claim that the presentence investigation was inadequate.

¶ 2 Following a jury trial, the defendant, Anthony Hull, was found guilty of first degree murder and home invasion and sentenced to 35 years' imprisonment. On appeal, the defendant contends: (1) his felony murder conviction should be reversed because the predicate offense of

home invasion was committed with the same felonious purpose as the murder; (2) the circuit court erred when it admitted his videotaped statements because they were not voluntary where, at the time they were given, he was 16 years old, suffered from mental illness, and was subject to coercive actions by the police and his own mother; (3) he was denied due process of law when the circuit court refused to order a fitness hearing despite the existence of a *bona fide* doubt regarding his fitness; and (4) he is entitled to a new sentencing hearing where the circuit court's sentence was based on an inadequate presentence investigation (PSI). For the following reasons, we affirm.

¶ 3 Prior to trial, the defendant filed a motion to quash arrest and suppress evidence, arguing that he was arrested without probable cause. The circuit court held that the police had probable cause to arrest the defendant and denied the motion.

¶ 4 The defendant also filed a motion to suppress statements he made while in police custody. On August 22, 2014, the circuit court ordered a behavioral clinical exam (BCX) of the defendant because his motion alleged that he lacked the ability to understand the *Miranda* warnings. On September 8, 2014, the circuit court noted that Forensic Clinical Services had indicated that the defendant was uncooperative and oppositional during the evaluation and that his lack of cooperation appeared volitional. As a result, Forensic Clinical Services was not able to offer an opinion regarding the issues for which the defendant had been referred. The circuit court made the following comment: “[I]f [the defendant] thinks that being uncooperative with Forensic Clinical Services is helping his cause, I will only say that I doubt it seriously.”

¶ 5 On November 5, 2014, the circuit court requested the status of the BCX. Defense counsel indicated that a BCX had not been completed because the doctor alleged the defendant was

uncooperative. The circuit court responded, "Send him down to Elgin. He can sit in a mental health hospital there for a year and then we will come back and do this case." After discussion, the circuit court indicated "Perhaps I need to have a fitness hearing." After further discussion, the circuit court added the following: "This case will be here even if it's ten years later. It's not going anywhere. If he thinks acting out and failing or refusing to cooperate is going to help his cause, he is sadly mistaken because the case will still be here." The circuit court ordered a BCX for fitness and ability to understand *Miranda*.

¶ 6 On February 6, 2015, the circuit court indicated that it had received two reports. The first indicated that the defendant was fit to stand trial. The second indicated that the defendant had the ability to understand *Miranda* rights. The fitness report, which is contained in the record, opined that the defendant was capable of assisting in his defense. The report indicated defendant had been prescribed an antidepressant and an antihistamine often used as a sleep aid and the defendant did not report any side effects. The report opined that the medications did not impair his ability to assist counsel in his defense. The circuit court continued the matter for a hearing on defendant's motion to suppress statements.

¶ 7 At the hearing on the defendant's motion to suppress statements, Chicago police detective Daniel Stanek testified that he interviewed the defendant at the area central police station on July 27, 2012. The defendant was in an interview room, and was not handcuffed. Detective Stanek waited until approximately 3:15 p.m. to conduct the interview because he was waiting for the defendant's mother, Gwendolyn Hull, to arrive. The defendant, his mother, and Detective Reiff were present for the interview. Detective Stanek began the interview by informing the defendant of his *Miranda* rights which he read from a preprinted card. The

interview room was equipped with audio and video recording devices. At some point, Detective Stanek became aware that the video equipment was not working, and the defendant was moved to another room. The circuit court reviewed the audio recordings.

¶ 8 Detective Stanek testified that he interviewed the defendant a total of four times on July 27. The first interview began at 3:15 p.m. and lasted approximately one hour. He and Detective Reiff left the room for approximately one half hour, leaving the defendant alone with his mother. The detectives returned for a second interview lasting approximately 20 minutes. At 7:42 p.m., they conducted a third interview with the defendant and his mother. Rodney Meeks, who Detective Stanek described as a relative, was also present for the interview. The interview lasted approximately 12 minutes. Detective Stanek conducted a final interview beginning at approximately 11:35 p.m. after learning that the video equipment was not functioning properly. Detective Stanek further testified that the defendant was provided with food and water and allowed to use the restroom. The defendant answered Detective Stanek's questions and never indicated that he did not understand.

¶ 9 Gwendolyn Hull, the defendant's mother, testified that in July 2012, the defendant was 16 years old. Hull testified that the defendant had a "voice in his head," "like a demon." The defendant was first diagnosed with mental health problems in 2004. She stated that he was "kind of slow paced, so he was very slow." The defendant was sent to a special school and eventually placed in a special high school "for children like him."

¶ 10 Hull further testified that, on July 27, 2012, five police officers came to her home. They placed the defendant in handcuffs and took him from her home. She did not go with them. Approximately one hour later, she received a phone call from a detective asking her to come to

the police station, and later two detectives picked her up and took her there. The detectives took her into an interview room with the defendant and began questioning him. Hull further testified as follows:

“Q: Now, after about an hour, did you leave the—did the detectives leave the room with you?”

A: I really can't remember because it was a few words was said and I got kind of upset and they stopped talking because everybody was screaming and hollering, and I had got mad and I just told them to stop, you know. He was already emotional and they screaming and slamming the walls [*sic*], you know. It was—It was horrible. I just told them to stop. And they took me in one room and talked with me again, you know.”

¶ 11 Hull testified that she left the police station at approximately 4:30 p.m. because the detectives told her they were done questioning the defendant. At approximately 5:30 p.m. the detectives called her to come to the station again. A friend, Rodney Meeks, took her to the police station. When she arrived, detectives told her that the defendant needed to be viewed in a line-up, and they took the defendant out of the interview room for the line-up. At approximately 7 p.m., the detectives interviewed the defendant again. A detective told Hull and Meeks that the defendant had not been identified in the line-up, and that they would call her when they released him. She and Meeks left the police station again. Shortly after she returned home, a detective called and told her the defendant was being released. Meeks drove her back to the station and waited in his car. However, when Hull entered the police station, a detective told her that the defendant would not be released.

¶ 12 On cross-examination, Hull testified that the defendant had been diagnosed with “fritzomaniac” or “fritzo,” something that she could not pronounce, “due to the voices he was having problems with.” Hull admitted that she could not remember the name of the doctor who made the diagnosis. According to Hull, the defendant went to school, went out on his own, had a girlfriend, and was a “completely independent 16-year-old.” This was not the defendant’s first contact with police, and he had been arrested twice before, but Hull testified, “it was nothing major.” Hull admitted that neither she nor the defendant ever requested an attorney. She acknowledged that, at some point during the first interview, she asked whether the defendant was going to need an attorney, but testified she could not remember the detective telling her that he could not advise her on the subject. She testified that she advised the defendant to tell the detectives the truth.

¶ 13 Rodney Meeks testified that, in 2012, he was living with Hull and the defendant. His testimony regarding the interviews was generally consistent with Hull’s testimony. Meeks also testified that he did not remember the defendant being advised of his *Miranda* rights.

¶ 14 Detective Scott Reiff testified in rebuttal. He testified that, when Meeks was present, the defendant was informed of his *Miranda* rights. During the 11:35 p.m. interview, Meeks asked if there was a public defender on duty and he told Meeks that there was not and that usually a lawyer would be appointed when the defendant goes to court. According to Detective Reiff, the defendant gave appropriate responses to the questions he was asked, and the defendant never said that he had voices in his head or that he was hearing things. No one asked that the interviews be stopped, and no one asked for an attorney.

¶ 15 On cross-examination, Detective Reiff admitted that, after answering Meeks's question, he did not remind the defendant that if he wanted an attorney one would be appointed for him.

¶ 16 The circuit court denied the defendant's motion to suppress. The court noted, in pertinent part:

“Given the totality of the circumstances of this case, the defendant was age 16 at the time, his mother was present, *Miranda* warnings were given. Defendant acknowledged that he understood his [r]ights. An audio/video recording was made of the interviews. The defendant was offered food and drink. With the exception of a brief period of yelling by I think Detective Volvos [*sic*] I think it was, the interrogation of the defendant was not coercive or abusive.”

The circuit court concluded that the defendant knowingly, voluntarily, and intelligently waived his right to counsel.

¶ 17 On May 12, 2015, during a status hearing, defense counsel requested a “BCX for fitness.” Counsel argued that the defendant “is in my experience been not able to bring on his defense at this time. He is in Division Eight. He has a long history of mental illness and a very serious matter.” The circuit court denied the request noting that defendant had recently undergone a BCX. Counsel argued that mental illness is not static. The following exchange resulted:

“THE COURT: So what is different?”

MS. STREFF [Defense Counsel]: He is extremely paranoid. He cannot make rational decisions how to proceed with this case. He's charged with first degree murder on a felony murder charge. He didn't shoot anyone.

THE COURT: People get convicted of that every day in this building.

MS. STREFF: I know. That's nothing to be proud of.

THE COURT: And it's unfortunate that people his age can't seem to put their wrap their head around that fact that it happens every day, and that's nothing new.

MS. STREFF: Well, it is for him—

THE COURT: He's been told numerous times, and we have gone over that, and we have gone over that with him, and so the fact that he's having trouble coming to grips with the situation that he finds himself in is not *bona fide* doubt in my mind that there is a fitness issue—

MS. STREFF: I'm not saying that is his only reason, Judge. He has a mental illness. It is again coming to the core [*sic*]. I've spent a lot of time with him within the last two weeks at the jail and also today. This is serious, I would like to try this case. I've been working on it very diligently, but under these circumstances, I don't think he's going to get a fair trial because he will not be able to make the decisions he needs to make so this is extremely serious, and I do not make this lightly. He has a long history of mental illness. Again I take this seriously. I'd like for it to get to trial, but I cannot do that effectively with the condition he's in right now.”

Following further discussion, the circuit court held that there was no *bona fide* doubt regarding the defendant's fitness in light of the earlier reports from Forensic Clinical Services.

¶ 18 Trial commenced on May 18, 2015. Because of the nature of the defendant's challenge, only a summary recitation of the trial evidence is required. In July 2012, 16-year-old Dondra Sharkey lived in an apartment on East 71st Street in Chicago. The building was owned by his grandparents who lived in an apartment across the hall. On July 25, 2012, Sharkey was in his

apartment eating dinner, listening to music, and watching television. He had propped the door to the apartment open because the weather was hot. As he sat in his room, a young man entered with a shirt tied around his head. A second man entered holding a revolver. Sharkey later learned that the man holding the revolver was Douglas Bufford. Bufford had a shirt tied around his face and a red hat on his head. A third man entered the room holding a shotgun, while a fourth peeked around the front door to the apartment. The men ordered Sharkey to get up, and he obeyed. While Sharkey was standing there, the shotgun “went off,” striking Bufford in the head. The men fled the apartment, leaving Bufford lying on the floor. Sharkey went across the hall to his grandmother’s apartment and asked her to call the police.

¶ 19 When the police arrived, they spoke to Sharkey. A crowd had gathered near the apartment, and Sharkey pointed out four men he believed were involved in the home invasion and shooting. The defendant was not in that group.

¶ 20 On July 27, 2012, after speaking to Jermalle Brown, one of the men identified by Sharkey, the police arrested the defendant at his mother’s apartment. Detective Reiff testified that he interviewed the defendant, who initially denied involvement in the shooting, before subsequently admitting to being part of the group that entered Sharkey’s apartment building. A recording of the defendant’s statements to Detective Reiff was played for the jury but has not been included in the record. Bufford was alive when the defendant was interviewed by Detective Reiff, but subsequently died, and the defendant was arrested and charged with felony murder on August 2, 2012.

¶ 21 The defendant recalled Detective Reiff as a witness for the defense and introduced additional video and audio recordings. The defendant elected not to testify.

¶ 22 Following arguments and deliberations, the jury found the defendant guilty of home invasion and felony murder. While posttrial motions were pending, defense counsel requested the circuit court order a BCX for fitness for sentencing. In a report dated September 9, 2015, a psychiatrist opined that the defendant was fit for sentencing. The report noted that the defendant was taking an antidepressant and an antianxiety medication, but opined that the defendant would be fit with or without the medications.

¶ 23 The defendant filed a motion for a new trial. After hearing arguments, the circuit court denied the motion, and the matter proceeded to sentencing. The circuit court indicated that it had received a presentence investigation (PSI) report and asked the parties whether there were any corrections or amendments. Defense counsel responded, “No, judge. I do have—I tendered to the State a supplemental report prepared by Ms. Sobocka, our mitigation expert, and it really fleshes out what is in the PSI.” The supplemental report does not appear in the record.

¶ 24 The State called Michael Grady in aggravation. Grady testified that he is employed as assistant general counsel for the Cook County Sheriff’s Department. Grady’s duties included conducting inmate disciplinary hearings, and reviewing inmate disciplinary records. Grady was familiar with the defendant, having conducted several of his disciplinary hearings. The defendant had been written up on multiple occasions for disciplinary reasons. In October 2014, when a corrections officer attempted to handcuff the defendant, the defendant pushed the officer, knocking him over a bench. As a result, the defendant was charged with aggravated battery of a police officer. In July 2013, the defendant began making verbal threats saying he was going to kill everyone. He kicked at an officer who was attempting to take him off the tier and was given time in segregation as a result. In August of 2013, the defendant was involved in an incident

where he squirted a substance that smelled like feces out of the chuckhole of his cell. In October 2014, the defendant was placed in segregation after an officer discovered shampoo bottles filled with urine and feces in his cell.

¶ 25 Following additional argument in aggravation and mitigation, the circuit court sentenced the defendant to 35 years' incarceration on the murder charge and merged the home invasion count. The defendant moved to reduce his sentence. The circuit court denied the motion, and the defendant appealed.

¶ 26 The defendant first contends that his murder conviction must be reversed because the home invasion charge it is predicated on shares the same felonious purpose as the murder. We disagree.

¶ 27 Felony murder is one of three types of first degree murder in Illinois. *People v. O'Neal*, 2016 IL App (1st) 132284, ¶ 23. Felony murder results when the defendant commits or attempts to commit a forcible felony, and during the commission of that felony, a death occurs. *Id.*; 720 ILCS 5/9-1(a)(3) (West 2012). To avoid the possibility that the State could use felony murder to avoid the burden of proving an intentional or knowing murder, our supreme court has adopted a two-part test for determining whether a felony can serve as the predicate offense for felony murder: (1) whether the act was inherent in the murder itself; and (2) whether the defendant had a felonious purpose in committing the predicate felony independent of the murder itself. *O'Neal*, 2016 IL App (1st) 132284, ¶ 39 (citing *People v. Davison*, 236 Ill. 2d 232, 243 (2010)).

¶ 28 The defendant argues that his case is analogous to *O'Neal*, because the State did not charge or prove an independent felonious purpose. We disagree. There was no evidence presented suggesting that anyone entered Sharkey's apartment with the intent of killing Bufford.

To the contrary, if anyone was an intended target, it was Sharkey. The defendant and the men he associated himself with, went to Sharkey's apartment with the clear intent of committing a home invasion, and possibly a murder, but they never expressed any intent to harm Bufford. The individuals who entered Sharkey's apartment, including the defendant, had the clear intent to commit a felony, *i.e.*, home invasion. While they were committing that felony, one of the participants was shot and killed, without any apparent intent on the part of the shooter. Therefore, the defendant is criminally liable for the death of his fellow participant. See *People v. Lowery*, 178 Ill. 2d 462, 469 (1997) (applying the proximate cause theory of felony murder.) Accordingly, we find no merit in the defendant's argument that the murder was committed with the same felonious purpose as the home invasion of which he was convicted.

¶ 29 The defendant next contends that the circuit court erred when it held that his confession was voluntary and the statements admissible at trial. Again we disagree.

¶ 30 A ruling on a motion to suppress evidence is subject to a two-part standard of review. Findings of fact and credibility determinations made by the circuit court are accorded great deference and will be reversed only if they are against the manifest weight of the evidence. *People v. Slater*, 228 Ill. 2d 137, 149 (2008). The ultimate legal question of whether the evidence was subject to suppression, however, is reviewed *de novo*. *Id.* When a defendant challenges the admissibility of a confession through a motion to suppress, the State bears the burden of proving the confession is voluntary by a preponderance of the evidence. *Id.*

¶ 31 We find that the State met its burden in this case. As the State notes on appeal, the circuit court found that the defendant was read *Miranda* warnings, was given food and water during the interrogation, was allowed to have his mother present during his interrogation, and was allowed

to use the restroom as necessary. We note that, at one point, a detective raised his voice and struck the wall of the interrogation room. However, the circuit court, which observed this incident on the video recordings, did not find that this isolated incident rose to the level of coercion. There is virtually nothing in the record to support the defendant's assertion that his will was over ridden or that he was coerced into confessing. Further, we have reviewed the same recordings presented to the circuit court and have found nothing in the recordings which would lead us to a different conclusion.

¶ 32 The defendant argues that special consideration must be given to his mental state, because he suffered from mental illness and heard voices. We note simply that his mother's testimony regarding these issues lacked clarity. For example, the defendant's mother testified that he had been diagnosed with "fritzomaniac" which is clearly not an accurate medical diagnosis. Moreover, she was unable to recall the name of the defendant's doctor, the school he attended, or any details of his treatment. Furthermore, Detective Reiff testified that the defendant answered questions appropriately and never indicated that he was hearing voices during the interrogation. Most importantly, the circuit court heard all of the testimony regarding the defendant's mental state, watched the video recordings of the interviews, and concluded that, despite the defendant's allegations of mental illness, his statements were given voluntarily. As a reviewing court we must give deference to these factual determinations. See *Slater*, 228 Ill. 2d at 149. Therefore, we cannot conclude that the circuit court's determination that the defendant's statements were voluntary was against the manifest weight of the evidence.

¶ 33 The defendant next contends that there was a *bona fide* doubt regarding his fitness such that the circuit court erred in not ordering a fitness hearing. The defendant acknowledges that he

failed to preserve this issue by raising it in his posttrial motion, however, he urges us to consider it as plain error.

¶ 34 The first step in the plain-error analysis is to determine whether error occurred at all. *People v. Thompson*, 238 Ill. 2d 598, 613 (2010). It is well settled that prosecuting a defendant who is unfit to stand trial violates his due process rights. *People v. Stokes*, 333 Ill. App. 3d 655, 660 (2002). A defendant is fit to stand trial unless a mental or physical problem renders him unable to understand the nature and purpose of the proceedings against him or to aid in his own defense. *Id.* “ ‘Fitness speaks only to a person’s ability to function within the context of a trial; a defendant may be fit to stand trial even though the defendant’s mind is otherwise unsound.’ ” *People v. Hiatt*, 2018 IL App (3d) 160751, ¶ 22 (quoting *People v. Griffin*, 178 Ill. 2d 65, 79 (1997)). A defendant is presumed fit to stand trial. *Id.*

¶ 35 A *bona fide* doubt exists as to a defendant’s fitness when the facts raise a real, substantial, and legitimate doubt regarding a defendant’s ability to participate in his defense. *People v. Westfall*, 2018 IL App (4th) 150997, ¶ 54. Relevant factors that a circuit court may consider include: (1) the defendant’s behavior and demeanor; (2) prior medical opinions regarding the defendant’s competence; and (3) defense counsel’s representations about the defendant’s competence. *Id.* Whether a *bona fide* doubt exists is a factual inquiry left to the discretion of the circuit court. *Id.*

¶ 36 There is simply nothing in the record before us suggesting a *bona fide* doubt regarding the defendant’s fitness for trial. A BCX was performed on the defendant shortly before trial and the physician who examined him opined that he was fit for trial. A BCX performed shortly after trial found the defendant fit for sentencing. There is no indication in the record of inappropriate

courtroom behavior or any suggestion of disordered thought processes. Although the defendant's mother indicated that he suffered from some mental illness and heard voices, there was no documentation of this history presented. The mother's testimony was vague at best, and her opinions conflicted with the opinion of the mental health professional who examined the defendant closer to trial. Similarly, although defense counsel opined that the defendant's mental illness was interfering with his preparation for trial, this opinion was not supported with concrete evidence. For example, defense counsel never asserted that the defendant was incapable of identifying the roles played by individuals in the courtroom, or that he was incapable of expressing to counsel the basic principles of his defense. Although defense counsel indicated that the defendant was "paranoid" and incapable of making good decisions about his defense, there is no requirement that a defendant make wise decisions about his defense. Fitness for trial does not require perfect mental health; it only requires that a defendant's mind be sound within the context of a trial, that he understands the purpose of the proceedings and can assist in his own defense. *Hiatt*, 2018 IL App (3d) 160751, ¶ 22. Therefore, we conclude that the circuit court did not abuse its discretion when it refused to order a fitness hearing. Because there was no error, there can be no plain error.

¶ 37 Finally, the defendant contends that he is entitled to a new sentencing hearing because the PSI report prepared by the probation department was "wholly inadequate," where the probation officer preparing the PSI did not obtain information about the defendant from sources such as schools, family, and treating physicians. The State responds that the defendant has forfeited any error based on the adequacy of the PSI. The State argues that any inadequacies in the PSI are the result of the defendant's refusal to cooperate with the investigator and are therefore akin to

“invited error.” The defendant replies arguing that the error constitutes plain error and that, if forfeited, the error constitutes ineffective assistance of counsel. We disagree.

¶ 38 Under the doctrine of invited error, a defendant may not request that the circuit court proceed in one manner and then later contend on appeal that doing so was in error. *People v. Lucas*, 231 Ill. 2d 169, 174 (2008). For example, a defendant cannot be heard to complain about the sufficiency of a PSI when the defendant frustrates the preparation of the PSI by willfully absenting himself from the interviews. *People v. Fortune*, 234 Ill. App. 3d 531, 534-35 (1992).

¶ 39 The PSI indicates that, although the defendant met with the person preparing the PSI, he refused to answer any questions. We do note, however, that defense counsel represented to the court that a mitigation specialist met with the defendant and “fleshe[d] out” the PSI. The defendant nonetheless argues that the PSI was inadequate because it failed to meet all statutory requirements. The defendant notes that the PSI contained no information on his physical and mental history and condition, family situation and background, economic status, education, occupation and personal habits. See 730 ILCS 5/5-3-2(a)(1)) (West 2016). The mitigation report was not included in the record, and, therefore, we have no idea to what extent it compensated for the deficiencies in the PSI. We simply note that the appellant has the burden to present a complete record and where the record is inadequate for our review we must presume that the circuit court acted in conformity with the law and had a sufficient factual basis. See *People v. Threatte*, 2017 IL App (2d) 160161, ¶ 17 (citing *Foutch v. O’Bryant*, 99 Ill. 2d 389, 391-92 (1984)).

¶ 40 The record reflects that the defendant refused to cooperate with the probation department, opted instead to supplement the PSI with a report from his own mitigation specialist, and now

seeks relief by claiming the PSI was inadequate. If lack of detail in the PSI constitutes error, we find that it does so solely as the result of the defendant's failure to cooperate with the PSI investigator. We find no practical difference between a defendant who, as in this case, is present for the interview but refuses to answer questions, and a defendant, like the *Fortune* defendant, who refuses to attend the interview. Therefore, we conclude any error created by the lack of information in the PSI constitutes invited error.

¶ 41 The defendant alternatively contends that trial counsel's actions in accepting the incomplete PSI without objection constitute ineffective assistance of counsel. Defense counsel was specifically asked whether there were any additions or corrections to the PSI and replied that none were necessary, opting instead to present the report of a mitigation specialist. Defense counsel urged the circuit court to proceed to sentencing without additions to the PSI beyond the mitigation report, which counsel indicated "really fleshes out" the PSI.

¶ 42 To establish ineffective assistance of counsel a defendant must demonstrate both that counsel's performance fell below professional standards and that he has suffered prejudice as a result, *i.e.*, that absent counsel's deficient performance the outcome of the proceeding would have been different. *People v. Harris*, 206 Ill. 2d 293, 303 (2002). If a reviewing court determines that a defendant did not suffer prejudice, the court need not consider performance. *Id.*

¶ 43 Here, we find that the defendant has not established prejudice. On appeal, the defendant presents only speculation that the outcome of the sentencing hearing might have been different if the PSI was "adequate." We find it unlikely that the outcome would have changed. The circuit court heard ample evidence of the defendant's inability to conform his behavior to the rules of life in confinement including evidence that he assaulted corrections officers and attempted to use

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shampoo bottles to squirt feces on them. The court also had before it a mitigation report that in counsel's words fleshed out the inadequacies of the PSI. Therefore, we conclude that the outcome of the proceeding would not have been different and that the defendant cannot establish ineffective assistance of counsel as a result.

¶ 44 For the foregoing reasons, the judgment of the circuit court of Cook County is affirmed.

¶ 45 Affirmed.