

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT KNOXVILLE
July 22, 2026 Session

FILED

09/28/2026

Clerk of the
Appellate Courts

STATE OF TENNESSEE v. DARIUS ARTAMUS SMITH

**Appeal from the Criminal Court for Knox County
No. 121582 G. Scott Green, Judge**

No. E2025-00534-CCA-R3-CD

Following a trial, a Knox County jury found Defendant, Darius Artamus Smith, guilty of first degree premeditated murder, burglary of an automobile, misdemeanor reckless endangerment, employing a firearm during the commission of a dangerous felony, abuse of a corpse, evading arrest, reckless driving, running a stop sign, and improper passing. The trial court imposed a total effective sentence of life. On appeal, Defendant contends that: (1) the evidence is insufficient to support his convictions; (2) the trial court erred when it denied his request for a new trial based upon juror misconduct; and (3) the trial court erred by admitting evidence of Defendant's gang affiliation. Following a thorough review, we affirm the judgments of the trial court.

Tenn. R. App. P. 3 Appeal as of Right; Judgments of the Criminal Court Affirmed

ROBERT L. HOLLOWAY, JR., J., delivered the opinion of the court, in which ROBERT H. MONTGOMERY, JR., and STACY L. STREET, JJ., joined.

Chelsea C. Moore (on appeal and at trial), Knoxville, Tennessee; and Randall E. Reagan (at trial), Knoxville, Tennessee, for the appellant, Darius Artamus Smith.

Jonathan Skrmetti, Attorney General and Reporter; Caroline Weldon, Assistant Attorney General; Charmé P. Allen, District Attorney General; and Jordan H. Murray and G. Lawrence Dillon, Assistant District Attorneys General, for the appellee, State of Tennessee.

OPINION

I. Factual and Procedural Background

This appeal arises from the March 30, 2022 shooting death of the victim, Justin Goins, while he was seated inside his vehicle in the driveway of a house shared by his ex-girlfriend and Defendant. The proof at trial showed that Defendant shot the victim multiple times, killing him. Defendant then moved the victim's vehicle to another location, wrapped the victim's body in plastic sheeting, and hid the victim's body underneath a tarp in the back of a minivan. Officers with the Knoxville Police Department (KPD) discovered the victim's body several days later after Defendant crashed the minivan while fleeing from a traffic stop.

Based upon this conduct, the May 2022 term of the Knox County Grand Jury indicted Defendant on the following charges:

Count	Offense	Victim
1	First degree premeditated murder	Justin Goins
2	First degree felony murder during the perpetration of or attempt to perpetrate the crime of theft	Justin Goins
3	First degree felony murder during the perpetration of or attempt to perpetrate the crime of burglary	Justin Goins
4	Burglary of an automobile	Justin Goins
5	Theft of property with the value of at least \$10,000 but less than \$60,000	Justin Goins
6	Felon in possession of a firearm-prior violent felony	
7	Attempted first degree murder	Layla Saffell ¹
8	Employing a firearm during the commission of a dangerous felony, to wit: attempted first degree murder	
9	Abuse of a corpse	
10	Evading arrest in a motor vehicle	

¹ We note that, in the indictment, her last name is spelled "Soffell." At the trial, she says that it is spelled "Saffell."

11	Reckless Driving	
12	Running a stop sign	
13	Improper passing	

Pretrial motion hearing

Following his indictment, Defendant filed several motions, including Motion in Limine No. 3, in which Defendant requested that the State and its witnesses be prohibited from mentioning his alleged gang affiliation during trial. At a hearing on the motion, Layla Saffell testified that she and Defendant were dating at the time of the offenses and that they met through their mutual affiliation with the Gangster Disciples. Ms. Saffell explained that she was present on March 30, 2022, when Defendant shot the victim, who was her ex-boyfriend. Ms. Saffell stated that, after Defendant shot the victim, he fled the scene with the victim in the victim's car. Ms. Saffell then left the scene in her car along with her infant son. Before she could get far, however, a car containing several other members of the Gangster Disciples stopped her and told her to follow them; one of the men then got into Ms. Saffell's car to ensure that she did as they instructed.

Ms. Saffell testified that she was told to drive to a house belonging to a fellow gang member, "Paco." When she arrived, "Paco" asked her, "[H]ow did your baby daddy get flipped over into the passenger seat of the car, head down, feet up[?]" Ms. Saffell asked "Paco" how he knew about the shooting, and he said that Defendant showed up at his house with the victim and told him, "I just caught a body." Ms. Saffell explained that the other gang members told Defendant to leave the area and that then they came to meet her. She said that she wanted to go to the police but that this was "an immediate problem" and that she was "no longer allowed to leave."

Ms. Saffell explained that, over the next day and a half, she was prevented from going anywhere by herself and that her cell phone was confiscated by the other gang members. She said that she was taken to an apartment belonging to a gang member's girlfriend and made to spend the night and that the gang members inside the apartment "all had guns." Ms. Saffell testified that, the following day, a gang member disposed of the clothing she wore at the time of the shooting. The gang members told her that, if she told anyone, she "was either going down or . . . was going to die."

Ms. Saffell stated that on the evening of March 31, a female gang member persuaded the man holding her car keys to let her go. Ms. Saffell then picked up her son from her best friend's residence and asked her best friend to take her to a hotel room where she could

“spend [her] last night with [her] kid.” The next day, Ms. Saffell stopped a patrol officer and told him that she needed to talk to a detective.

Ms. Saffell said that, when she first spoke to the detective handling the victim’s case, she did not tell him the truth about the victim’s shooting because she feared Defendant and the other members of the Gangster Disciples. She said, however, that once Defendant was arrested, she told the detective the truth about what happened to the victim.

Following Ms. Saffell’s testimony, the prosecutor argued that the State needed to introduce the evidence of Defendant’s affiliation with the Gangster Disciples because it would be “impossible for Ms. Saffell to testify truthfully . . . without explaining all of that[.]” noting that it “gives the jury the complete picture[.]” The prosecutor asserted that evidence of Defendant’s gang affiliation explained why Ms. Saffell “didn’t go to the police sooner” and “why her statements that she gave to the police were initially not fully truthful.” The prosecutor continued:

So all this connection to the gang, how [Ms. Saffell] was held against her will and intimidated and ultimately went to the police, but still unsure about her situation because [Defendant] was still at large, I think are all important to understand. And why these other people were willing to take the steps they took to hold her, all go back to this gang affiliation and the fact that this is all part of the Gangster Disciples trying to prevent [Defendant’s] arrest and prosecution for murder.

In response, defense counsel asserted that the prejudicial effect of such testimony “substantially outweighs any probative value that the State would gain, given . . . society’s view on gang affiliation.” Defense counsel contended that Ms. Saffell’s claim she was held against her will was “questionable at best” and that there were “ways to discuss these other people without getting into gang affiliation.” Counsel asserted that testimony about Defendant’s gang affiliation was not relevant or necessary to complete the story, noting that “the defense [has] prepared [its] theory around the romantic relationship without bringing up gang affiliation whatsoever.”

The trial court determined that the evidence of Defendant’s gang affiliation was admissible. Analyzing the issue under Tennessee Rule of Evidence 404(b), the court accredited Ms. Saffell’s testimony and found that Defendant’s gang affiliation was established by clear and convincing evidence. The court further found that the evidence was admissible for the non-propensity purpose of providing necessary contextual background, concluding that there was “just no way realistically to tell this story” without the evidence. Finally, the court determined that the probative value of the gang affiliation evidence “clearly outweighs the prejudicial impact[.]” The trial court reasoned that the

prejudice to Defendant from the revelation that he was a member of the Gangster Disciples “is greatly watered down by the fact that the State’s star witness is in fact one as well.” The court stated:

[T]his is not a witness who is going to testify, yeah, I knew he was a Gangster Disciple but I’ve never touched that stuff. I don’t do that. She’s going to admit herself that she was a Gangster Disciple as well. And my understanding is, based on the representations made I believe this morning, that what the defense in this case is going to be is that, look, the real killer is the one the State’s calling to the witness stand, i.e., Ms. Saffell. It’s not [Defendant].

Jury trial

The case proceeded to trial in April 2024. Lashawnda Sims testified that she had dated the victim for about two and one half months prior to his death. Ms. Sims said that on March 30, 2022, she called the victim around 1:30 p.m. “to see where he was” because they were supposed to go furniture shopping for their shared residence. The victim told her that he needed to meet with someone before going to look at furniture. The victim, however, never returned home. Ms. Sims tried to call the victim about twenty times but got no answer. She also messaged him on Facebook, but he did not reply.

Ms. Sims testified that she continued to call the victim’s cell phone the next day and that, around 3:00 p.m., a Knoxville Utilities Board (KUB) pipe worker answered the phone. The KUB pipe worker said that he found the victim’s phone on Atlantic Avenue in the middle of the street. Concerned, Ms. Sims began looking for the victim at his mother’s house and at Ms. Saffell’s residence without success. She also called several people that the victim knew and learned that no one had spoken to him recently.

Ms. Sims stated that in March 2022, the victim owned a black 2014 Mercedes-Benz E350, which was purchased from C&C Motors. Ms. Sims explained that, based upon information she obtained from C&C Motors about the location of a tracking device on the car, she and a friend went to a residence on Leon Drive where they found the car parked behind the residence. Ms. Sims opened the doors to the black Mercedes and noticed that the inside of the car was clean. Ms. Sims testified that the car usually contained seat covers, a steering wheel cover, floor mats, and personal items belonging to the victim. She said, however, that “[e]verything was gone out of the car” and that the car smelled “bleachy.”

Ms. Sims testified that she did not know who lived at the Leon Drive residence and that she had never been there with the victim. She knocked on the door of the residence,

but no one answered. Ms. Sims noted that, in addition to the victim's black Mercedes, there was a red Chrysler Town & Country minivan parked at the residence.

Ms. Sims and her friend left the Leon Drive residence, but Ms. Sims returned later that day with her aunt. When she arrived, Ms. Sims noticed a white Honda that had "just backed in" at the residence and was "still running." Ms. Sims intended to ask the car's occupants about the victim's location, but as she approached the car, it pulled out of the driveway. Ms. Sims testified that there were two people inside the white Honda, and she identified Defendant as the driver. Ms. Sims and her aunt attempted to follow Defendant, but they eventually lost sight of the car. Ms. Sims then called the police and returned to Leon Drive, where she found that the black Mercedes was no longer parked at the residence.

Ms. Sims acknowledged that the victim owned handguns in March 2022 but said that he was not a gang member. She also acknowledged that, prior to his death, the victim owed money to a man named Desmond Hatchett. She explained that because the victim's ex-girlfriend, Ms. Saffell, had stolen thousands of dollars from the victim, the victim had been unable to pay Mr. Hatchett.

Layla Saffell testified that she was the victim's ex-girlfriend and that they shared a son together, who was born in December 2021. While pregnant, Ms. Saffell became "affiliated" with the Gangster Disciples in August 2021. Regarding her role in the gang, Ms. Saffell explained that she was a "pawn[,] " which was "someone that . . . got money from selling drugs."

Ms. Saffell testified that she met Defendant, who was also a member of the Gangster Disciples, at the end of January 2022 and that she and Defendant began a relationship shortly thereafter. She stated that, in late March 2022, Defendant owned a silver and black handgun. She said that she and Defendant sold heroin and methamphetamine, as did the victim.

Ms. Saffell stated that she rented a house on West Emerald Avenue and that Defendant frequently stayed there with her; the victim also stayed at her house "[o]ff and on" until March 6, 2022—the day of their son's baptism. She explained that, after the birth of their son, she and the victim were "still messing around" and were in a relationship "off and on[.]" However, in January 2022, she found out about the victim's relationship with Ms. Sims; as a result, the relationship between Ms. Saffell and the victim was "[r]ocky" from then until his death. Ms. Saffell often argued with the victim and Ms. Sims through text messages and in public. About two weeks before the victim's death, Ms. Saffell told the victim in a text message that she was going to "shoot it out" with him. Ms. Saffell testified, however, that she did not own a gun.

Ms. Saffell testified that, in late March 2022, she drove a silver Hyundai Sonata and that she purchased a red Chrysler Town & Country minivan for Defendant to use in his cleaning business. She agreed that she purchased a shop vacuum for Defendant's business but denied ever buying a tarp or car cover for the inside of the minivan. She stated that Defendant kept the minivan in front of his mother's residence on Leon Drive. According to Ms. Saffell, cars were parked in front of the residence, never behind it. To her knowledge, the victim had never been to the Leon Drive residence or known of its location.

Ms. Saffell stated that on March 30, 2022, Defendant came to her house in her silver Hyundai Sonata; Defendant had a man whom she knew as "John," who was later identified as Jonathan Garrett, with him in the car. Ms. Saffell explained that John was someone to whom Defendant sold drugs. Defendant went inside the house, leaving John sitting in the front passenger seat of Ms. Saffell's car. At that time, the victim pulled up behind Ms. Saffell's car in his black Mercedes, and Ms. Saffell went outside to speak to him. The victim rolled down his driver's side window and was "smoking a blunt." Ms. Saffell testified, "And we started talking about the baby. He asked how he was doing; where he was. And he wanted me to get in the car with him to smoke." She told the victim to come back later. Ms. Saffell testified that, while speaking to the victim, she saw a gun lying on the floorboard of the front passenger seat. She described the gun as a "black chopper" that was "maybe a foot long."

Ms. Saffell stated that she and Defendant had gotten into an argument earlier that morning because Defendant had thought she had been having sex with the man who supplied the drugs they sold. She explained that she asked the victim to leave because she "didn't want any more issues" between her and Defendant. However, when she told the victim to come back later, the victim said she was "doing too much." At that time, Defendant came out of the house and asked her several times, "Who is that[?]" When Ms. Saffell did not respond, Defendant approached the victim's black Mercedes and began yelling. Defendant opened the driver's side door, and Ms. Saffell warned him that the victim had a gun.

Ms. Saffell testified:

[Defendant] opened the door and he swung on [the victim]. They just started fighting. And then by the time I made it from the hood to the driver's side door, they had [the victim's] gun going back and forth to each other's head fighting over it.

She said that the victim was still seated in the driver's seat and that he never got out of the car or "even took his seat belt off." Ms. Saffell began screaming at the victim and

Defendant saying that they were “going to kill themselves.” At one point, the victim got Defendant in a chokehold and screamed, “I’m not here for this.”

Ms. Saffell testified that the victim’s hands were on the “chopper” gun, that Defendant’s hands were on top of the victim’s hands, and that they continued fighting while the victim had Defendant in the chokehold. She then told the victim to trust her and to let go of Defendant. When the victim let go of Defendant, she got between the two men. Defendant then “raise[d] up the chopper gun.” She told him to put down the gun, and the victim told Defendant, “I’m not here for this. I’m just here for my son.” Ms. Saffell reminded Defendant that her child was inside the house and again urged him to put down the gun. Defendant told her to “stop protecting [the victim]” and tugged at her shirt, but she would not move. Defendant then produced his silver and black gun and pointed it at the victim.

Ms. Saffell testified that the “chopper” gun was in Defendant’s right hand “down at his side,” and that he pointed the silver and black gun with his left hand. The victim then grabbed Ms. Saffell and pulled her into his lap. She and the victim began “rocking side-to-side,” and the victim said he “just wanted [them] to be cordial.” Ms. Saffell testified, however, that “before he [could] get the whole ‘cordial’ word out,” Defendant fired the silver and black gun at them. Ms. Saffell said that she was still in the victim’s lap when Defendant fired the first shot and that she thought she had been shot until she felt the victim’s hands “hit [her] lap.” She then stood up, turned around, and saw blood coming out of the victim’s head and his eyes “rolling[.]” As Ms. Saffell ran to the back door of her house, she heard several more gunshots. Ms. Saffell testified that John fled from her silver Hyundai “when the guns came out.”

After collecting her son from inside the house, Ms. Saffell ran back outside and got into her car. She pulled out of the driveway and turned left, but she was met by a car containing members of the Gangster Disciples. The gang members, whom Ms. Saffell knew by their “street names,” “Snap” and “Meat Bone,” blocked her car, and “Snap” got into her car and made her drive to the home of another gang member less than a mile away.

Ms. Saffell testified that, when she arrived at the gang member’s home, a man named “Paco” asked how “[her] baby daddy g[o]t flipped upside down in the passenger seat . . . of his Mercedes.” Ms. Saffell said that the gang members made her drop off her son with her best friend, Selena, and then they returned to the gang member’s home. She said that the gang members would not let her leave and that they took her car.

Ms. Saffell was later taken to an apartment belonging to “Snap’s” girlfriend at Townview Towers Apartments (Townview). Although they took Ms. Saffell’s car to the apartment, “Snap” drove, and he instructed her not to say anything once there. Ms. Saffell

was not allowed to leave the apartment that night. She testified that she had been scared and unable to call 911. She explained that she did not have a cell phone while at Townview because gang members had taken her phone from her. She had hidden a second phone inside her son's diaper bag, but the diaper bag was with her son at Selena's.

Ms. Saffell stated that, on the following day, "Snap" called a female gang member to "come and be with [her]." The female gang member took Ms. Saffell to a store to purchase new clothes, and Ms. Saffell was instructed to put the clothing she wore at the time of the shooting into a trash bag. Later that day, "Snap" received a phone call from another female gang member who wanted to meet with Ms. Saffell, and he drove Ms. Saffell to that person's residence in Western Heights.

Ms. Saffell testified:

I had a conversation with the sisters explaining what happened. And that made them mad that they weren't called. So they made me get in the car with them and had "Snap's" girl take back my car to Townview, and "Snap" had someone pick him up, and we went to . . . Harriet Avenue.

Ms. Saffell said that they met several male gang members on Harriet Avenue but that she was not allowed to get out of the car. Ms. Saffell believed the female gang members were going to kill her once they got back into the car, but they ended up taking her to Selena's house to get her son. They then took her back to Townview, took her car keys from "Snap," gave her the keys, and told her to "run."

Ms. Saffell testified that she went back to Selena's house, where she retrieved her second phone and began answering calls from the victim's family. She told the victim's family and Selena that she did not know the victim's location. She asked Selena to take her and her son to a hotel in Gatlinburg, which was where she spent the night.

The next day, Ms. Saffell returned to Knoxville and approached a police officer who was parked on the side of the road on Linden Avenue. She told the officer that she needed to speak to the detective handling her "baby daddy's murder case." Initially, the officer wanted to pass her phone number along to the detective so that he could call her later, but Ms. Saffell told the officer that she "wasn't leaving." The officer then contacted Detective Tim Riddle.

Ms. Saffell admitted that she was not truthful when she initially spoke to Detective Riddle. She told Detective Riddle that she knew nothing about the victim's disappearance or death and that the victim might be in Sevierville. When asked why she lied to Detective Riddle, Ms. Saffell said that she feared Defendant and the Gangster Disciples. She

explained that, after Defendant's arrest, she had felt safe telling Detective Riddle the truth about what had happened.

On cross-examination, Ms. Saffell agreed that, at the beginning of March 2022, she owed money to the victim and Mr. Hatchett. She testified that the victim took her food stamp card and a television from her house on March 3 or 4. She said that the victim took the television to Ms. Sims' home, which upset her.

Nevertheless, the victim spent the night at her house on March 5, 2022, as their son's baptism was the next morning. The victim did not show up for the baptism, and Ms. Saffell got into an argument with him when she returned to the house. During the argument, Ms. Saffell got into the victim's black Mercedes with their son, but then she got out of the car, leaving the baby inside of it. Ms. Saffell drove her car to a nearby store, and as she was driving back to the house, she saw the victim walking down the street. She asked where the baby was, and the victim replied, "Where you left him[.]"

Ms. Saffell testified that, when she retrieved the baby from the victim's car, she also took a safe belonging to the victim from the car. When the victim realized that she stole his safe, he "busted" out a window at her house. Ms. Saffell recalled that the safe contained \$3,500, and an ounce and one-half of methamphetamine, and an ounce of heroin, which she acknowledged belonged to Mr. Hatchett. Ms. Saffell testified that she later told Mr. Hatchett she took the money and drugs from the victim and used some of the money to fix her window.

Ms. Saffell agreed that she sent a text message to the victim on March 8, 2022, which read, "Bro, ya family gone have you on a shirt as soon as I find [you.]" She explained that this meant she "hoped [the victim] died." She also told the victim, "You better hope the police find you first." Ms. Saffell testified that she also exchanged text messages with Ms. Sims on March 19, 2022, after the victim allegedly stole her car from her driveway. In one message, Ms. Saffell told Ms. Sims:

[The victim] could have faced me but he knew I would have shot him where he stand. I'm so over this sh*t. I swear on my son, I'm gonna take his life and this ain't no mad [baby mama] talking, this is gangster talking.

Special Agent Blake Downing, with the Federal Bureau of Investigation, testified as an expert in the field of cellular device location and analysis. Special Agent Downing was provided with cell phone records for phone numbers that were associated with the victim, Defendant, and Ms. Saffell, and he was asked to determine if the records were consistent with the phones' having been near certain locations. Special Agent Downing testified that analysis of cell phone activity on March 30, 2022, from 1:28 p.m. to 1:32

p.m., showed that the victim's, Defendant's, and Ms. Saffell's cell phones were in the area of Ms. Saffell's house on West Emerald Avenue. He explained that the last activity on the victim's phone that day occurred at 1:48 p.m.; he said this meant one of two things—the victim's phone was turned off, or it was somewhere there was no service. Special Agent Downing testified, however, that because there were multiple cell towers providing service for the area, it was likely that the victim's phone was turned off. Special Agent Downing also stated that his analysis showed Ms. Saffell's phone used a cell tower near Townview at 3:14 p.m. on March 30, 2022.

Jonathan Garrett testified that he had intended to purchase half a gram of heroin from Defendant on March 30, 2022. He explained that he met Defendant in a store parking lot across the street from Ms. Saffell's house. Mr. Garrett then got into a car driven by Defendant, and Defendant pulled into the driveway of Ms. Saffell's house. Defendant parked the car and went inside while Mr. Garrett remained in the front passenger seat of the car.

Mr. Garrett testified that, while waiting for Defendant, a black car pulled into the driveway behind him. Ms. Saffell then exited the house and approached the driver of the black car. About a minute later, Defendant came back outside asking Ms. Saffell repeatedly, "Who is that?" Mr. Garrett then heard Ms. Saffell yelling at Defendant to "stop[.]" Mr. Garrett looked back towards the black car and saw that Defendant "was in the car fighting with" the driver. Ms. Saffell then yelled at Defendant, "Stop. He's got a gun. Look. It's right there."

Mr. Garrett testified that, when he heard "something about a gun[.]" he opened the car door. He saw Defendant stand back from the black car holding a "large-framed black automatic handgun in his left hand, and . . . a silver handgun in his right hand." Defendant dropped the gun in his left hand and "jack[ed] the slide on the silver handgun." Mr. Garrett testified, "[W]hen he did that, I got out of there."

As Mr. Garrett ran down the driveway back towards the store parking lot, he heard five gunshots. After a pause of a few seconds, he heard a final gunshot. He then got into his vehicle and left the area. He testified that he had spoken to Detective Riddle several days later about what he had witnessed.

KPD Officer John Stevens testified that at 2:52 p.m. on March 31, 2022, he responded to a residence on Leon Drive after Ms. Sims called 911 to report that the victim was missing. Officer Stevens explained that he responded to the Leon Drive residence because Ms. Sims provided information regarding the location of the victim's black Mercedes. When he arrived, Officer Stevens knocked on the front door of the residence but got no response, and he noted that the black Mercedes was not there. Officer Stevens

then walked behind the residence and saw a red minivan. The minivan had tinted windows, but Officer Stevens used his cell phone light to see through the tint. Officer Stevens saw “some cleaning supplies, buckets, [and a] spray can” inside the minivan. Additionally, he saw a canvas tarp “or some type of covering” in the back of the minivan that appeared to obscure something underneath it. Officer Stevens testified that he later contacted C&C Motors and was provided with an updated GPS location for the black Mercedes, which showed the vehicle was in South Knoxville near John Sevier Highway.

KPD Detective Austin Jordan testified that on April 1, 2022, he was involved in a vehicle pursuit. Detective Jordan explained that he responded to the area of Western Heights after a license plate reader flagged a red Chrysler Town & Country minivan, which was a vehicle of interest in the victim’s missing person’s case. When Detective Jordan saw the red minivan, he initiated a traffic stop, but the driver of the vehicle—later identified as Defendant—failed to stop. As Detective Jordan pursued the minivan, Defendant lost control of the vehicle and struck a tree, disabling the vehicle. Defendant fled on foot, but Detective Jordan successfully located him and took him into custody.

Merinda Fisher, a KPD crime scene technician, testified that around 4:30 p.m. on March 31, 2022, she responded to a location on French Road in reference to a black Mercedes. When she arrived, Ms. Fisher photographed the car; the doors were open, and there was a strong smell of bleach coming from the car. Ms. Fisher testified that the floormats were missing and that there was no steering wheel cover inside the car. She stated that swabs were taken from various areas in the vehicle and sent to the Tennessee Bureau of Investigation (TBI) crime laboratory for testing.

Ms. Fisher said that she responded to the intersection of Elm and Virginia Avenue the following day. When she arrived, she photographed a wrecked red minivan. She testified that the minivan contained personal items belonging to Defendant, including Defendant’s driver’s license and mail with his name on it. She said that the minivan was towed to an evidence bay because officers at the scene had observed “something in the cargo area that looked suspicious.” Once there, the back of the minivan was opened, and Ms. Fisher photographed a reddish-brown stain in the cargo area, as well as a gray car cover. When the car cover was removed, officers located a “nude Black male,” later identified as the victim, “wrapped in plastic.” Ms. Fisher took swabs from various parts of the minivan and the victim’s body, which were also sent to the lab for testing.

Special Agent Terra Asbury testified that she worked in the Forensic Biology Unit of the TBI’s Knoxville crime laboratory. Special Agent Asbury said that, in connection with this case, she analyzed several swabs collected from the victim’s black Mercedes. She said that presumptive tests of the swabs collected from the front windshield and center console indicated the presence of human blood and that the DNA profile from the blood

matched the victim. She said that no DNA from Ms. Saffell or Defendant was found inside the car.

Special Agent Asbury also tested swabs collected from the red minivan. She stated that testing of swabs from door handles revealed a DNA profile that was a mixture of at least two individuals, including at least one male. She explained, however, that because it was a limited profile, the testing was inconclusive for comparison purposes.

Special Agent Asbury said that analysis of DNA found on swabs taken from the victim's ankles showed a mixture of at least two individuals, a male and a female. She said that she identified the victim as the male contributor. She was able to exclude Ms. Saffell as the contributor of the female DNA.

KPD Detective Tim Riddle testified that he was the lead detective in the case and that on March 31, 2022, he responded to the Leon Drive residence to assist patrol officers regarding a report of a missing person. Detective Riddle spoke to the victim's family members, who were gathered at the location, and then spoke to the owner of the residence—Defendant's mother. After Defendant's mother gave consent for Detective Riddle to look inside the residence and around the property, he observed a red Chrysler Town & Country minivan behind the residence. He did not enter the minivan, but looking through the windows, he saw a shop vacuum and some cleaning supplies. He also saw a gray car cover or tarp "piled in the very back . . . next to the hatchback"

Detective Riddle testified that on the evening of March 31, patrol officers returned to Defendant's mother's residence to secure the red minivan at Detective Riddle's request; however, the vehicle was no longer at the residence. Detective Riddle then entered the license plate number for the minivan into a License Plate Recognition (LPR) system.

Detective Riddle testified that on April 1, 2022, Detective Jordan told him that the LPR system placed the red minivan on Oldham Avenue. He told Detective Jordan, who was nearby, that the vehicle was "probably involved in a homicide" and instructed him to "chase it." Detective Jordan then reported that the red minivan crashed at Virginia and Elm Street and that Defendant fled on foot. Detective Riddle said that Defendant was eventually apprehended at Ms. Saffell's house on West Emerald Avenue.

Detective Riddle testified that, while at the scene of the crash, he and other officers noticed "something suspicious in the back of [the] van." When the tailgate of the minivan "was lifted to a . . . certain extent[,]" Detective Riddle could smell the odor of decomposition coming from the minivan, and he felt confident that there was a "dead body" inside the vehicle. The minivan was transported to the police department's evidence bay

and secured until Detective Riddle obtained a search warrant. When the minivan was processed, the victim's body was found "wrapped in plastic" in the back of the vehicle.

Detective Riddle testified that he first interviewed Ms. Saffell on April 1, 2022. He agreed that she was not initially truthful but said that she eventually told him about Mr. Garrett. He was then able to locate Mr. Garrett, who was cooperative and came to the police department for an interview.

On cross-examination, Detective Riddle acknowledged that Mr. Hatchett supplied drugs to the victim and Ms. Saffell. Detective Riddle stated that another detective interviewed Mr. Hatchett in connection with the case. From that interview, Detective Riddle learned that, prior to the victim's murder, Ms. Saffell had stolen drugs and money from the victim that had belonged to Mr. Hatchett.

At this point in the trial, the parties stipulated that the value of the victim's black Mercedes E350 was "more than \$1,000 but not more than \$2,500 and is classified as an E-felony."

Dr. Gayle Suzuki testified that she was an assistant medical examiner for the Knox County Regional Forensic Center and that she performed the victim's autopsy on April 3, 2022. Dr. Suzuki explained that the autopsy revealed that the victim's cause of death was gunshot wounds to the "head and neck and chest." She testified that the victim suffered a total of five gunshot wounds. There was one to the left cheek, one to the left side of the head, two to the left side of the neck, and one to the left side of the chest. Dr. Suzuki stated that the gunshot to the left cheek was a "contact range" shot, noting that there was a muzzle print imprint on the skin at the entrance site. She said that the other gunshot wounds were "indeterminate range," meaning that she could not determine how far away the gun was when fired. She noted that the victim's body had shown "decompositional changes[.]" including discoloration of the skin and skin "slippage."

On cross-examination, Dr. Suzuki said that the victim's toxicology testing showed that the victim had fentanyl and marijuana in his system, as well as therapeutic levels of his prescription Tramadol.

Following deliberations, the jury returned its verdict as follows:

Count	Offense	Verdict
1	First degree premeditated murder	Guilty

2	First degree felony murder during the perpetration of or attempt to perpetrate the crime of theft	Not guilty
3	First degree felony murder during the perpetration of or attempt to perpetrate the crime of burglary	Not guilty
4	Burglary of an automobile	Guilty
5	Theft of property with the value of at least \$10,000.00 but less than \$60,000.00	Not guilty
6	Felon in possession of a firearm-prior violent felony ²	
7	Attempted first degree murder	Guilty of misdemeanor reckless endangerment
8	Employing a firearm during the commission of a dangerous felony, to wit: attempted first degree murder	Guilty
9	Abuse of a corpse	Guilty
10	Evading arrest in a motor vehicle	Guilty
11	Reckless Driving	Guilty
12	Running a stop sign	Guilty
13	Improper passing	Guilty

The trial court sentenced Defendant to concurrent terms of life for first degree premeditated murder; four years for burglary of an automobile; eleven months and twenty-nine days for misdemeanor reckless endangerment; six years for employing a firearm during the commission of a dangerous felony; four years for abuse of a corpse; four years for evading arrest in a motor vehicle; six months for reckless driving; thirty days for running a stop sign; and thirty days for improper passing.

Motion for new trial hearing

Defendant filed a timely motion for new trial and an amended motion for new trial. In the amended motion for new trial, Defendant alleged, among other things, that the jury foreperson at his trial considered facts not in evidence in violation of his oath as a juror and

² The State entered a nolle prosequi as to this charge.

that jurors were exposed to extraneous prejudicial information. Defendant attached to the amended motion for new trial an affidavit from defense investigator Paul Hatch and the transcript of an audio recording of Mr. Hatch's interview with the jury foreperson.

At the motion for new trial hearing, Defendant sought to call the jury foreperson to testify. The State objected and noted that Defendant attached a transcript of the foreperson's interview with Mr. Hatch to his motion such that "we know what he's going to say[.]" The trial court commented that a juror may only be called upon to testify about extraneous prejudicial information, outside influence, or about there being a quotient verdict. Upon questioning by the trial court, the foreperson denied that the jury was exposed to any extraneous prejudicial information or outside influence and denied that there was a "gambling or quotient verdict[.]" The court then sustained the State's objection but allowed Defendant to make an offer of proof in the form of the transcript of the foreperson's interview with Mr. Hatch.

The interview transcript reflects that Mr. Hatch asked the jury foreperson if there was anything that could have potentially caused him to render a different verdict. The foreperson replied:

I know that defendants are not required to testify on their own behalf.

. . . .

But if [Defendant] could have got up there and said, . . . I wasn't there, or I was here, or this happened this way, this really happened this way. Or if he had another witness, you know, that said, no, I was with him over here. You know, and if I obviously, if that was case, maybe this thing wouldn't have [been] brought . . . to trial, but I don't know. Just hearing from the defendant -- anytime you don't hear from the defendant. I mean, we all know that he's innocent until proven guilty, and they have to prove it.

. . . .

[W]e had it hammered in by the Judge, by the defense attorney; we understood that not testifying is not an admission of guilt. It's not . . . pleading the Fifth doesn't mean you're guilty it just means you're not going to . . . dig yourself deeper if you don't have to. We understood that. I don't think that that caused anybody to automatically say he was guilty[.]

The trial court denied the motion for new trial in a written order. This timely appeal follows.

II. Analysis

A. Sufficiency of the evidence

In the heading of his first issue, Defendant asserts that the evidence presented at trial was insufficient to sustain his convictions for first degree premeditated murder, burglary of an automobile, misdemeanor reckless endangerment, employing a firearm during a dangerous felony, and abuse of a corpse. As noted by the State, however, Defendant only offers argument in support of his claim as it relates to the offenses of first degree premeditated murder and employing a firearm during the commission of a dangerous felony. This court has made clear that “[s]imply raising an issue is not sufficient to preserve it for appellate review.” *State v. Enoch*, No. W2023-01032-CCA-R3-CD, 2024 WL 3261421, at *9 (Tenn. Crim. App. July 1, 2024) (quoting *State v. Gooch*, No. M2022-01395-CCA-R3-CD, 2024 WL 2814624, at *4 n.4 (Tenn. Crim. App. June 3, 2024)), *no perm. app. filed*. Tennessee Rule of Appellate Procedure 27(a)(7) requires that the appellant present an argument for each issue, setting forth the “reasons why the contentions require appellate relief” and containing “citations to the authorities and appropriate references to the record[.]” Additionally, Rule 10(b) of the rules of this court states that “[i]ssues which are not supported by argument, citation to authorities, or appropriate references to the record will be treated as waived[.]” Tenn. Ct. Crim. App. R. 10(b); *see also State v. Molthan*, No. M2021-01108-CCA-R3-CD, 2022 WL 17245128, at *2 (Tenn. Crim. App. Nov. 28, 2022) (finding waiver when the defendant did not “make any argument in support of this issue in his brief” and did not “cite to any authorities or appropriate references in the record”), *no perm. app. filed*. Here, because of the inadequacy of Defendant’s brief, we must respectfully conclude that Defendant has waived appellate consideration of the sufficiency of the State’s evidence as it relates to his convictions for burglary of an automobile, misdemeanor reckless endangerment, and abuse of a corpse. *See id.*

Turning to the question of the sufficiency of the evidence for first degree premeditated murder and employing a firearm during the commission of a dangerous felony, we note that our standard of review for a sufficiency-of-the-evidence challenge is “whether, after viewing the evidence in the light most favorable to the prosecution, *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.” *Jackson v. Virginia*, 443 U.S. 307, 319 (1979) (emphasis in original); *see also* Tenn. R. App. P. 13(e). Questions of fact, the credibility of witnesses, and the weight of the evidence are resolved by the fact finder. *State v. Bland*, 958 S.W.2d 651, 659 (Tenn. 1997). This court will not reweigh the evidence. *Id.* Our standard of review “is the same whether the conviction is based upon direct or circumstantial evidence.” *State v. Dorantes*, 331 S.W.3d 370, 379 (Tenn. 2011) (quoting *State v. Hanson*, 279 S.W.3d 265,

275 (Tenn. 2009)) (internal quotation marks omitted). Accordingly, the evidence need not exclude every other reasonable hypothesis except that of the defendant's guilt, provided the defendant's guilt is established beyond a reasonable doubt. *Id.* at 381.

A guilty verdict removes the presumption of innocence, replacing it with a presumption of guilt. *Bland*, 958 S.W.2d at 659; *State v. Tuggle*, 639 S.W.2d 913, 914 (Tenn. 1982). The defendant bears the burden of proving why the evidence was insufficient to support the conviction. *Bland*, 958 S.W.2d at 659; *Tuggle*, 639 S.W.2d at 914. On appeal, the "State must be afforded the strongest legitimate view of the evidence and all reasonable inferences that may be drawn therefrom." *State v. Vasques*, 221 S.W.3d 514, 521 (Tenn. 2007).

1. First degree premeditated murder

Regarding his conviction for first degree premeditated murder, Defendant argues that the evidence is insufficient to support his conviction because it was based upon the "inconsistent and illogical" testimony of Ms. Saffell, which he argues "was crafted during hours in an interrogation room with the suggestions of detectives." Defendant further contends that the State failed to prove premeditation, noting that it offered no evidence that he had a motive to kill the victim or that he had "sufficient time to escape the excitement and passion of having a gun pointed at his head before firing at [the victim]."

Premeditated first degree murder is, as charged in this case, "[a] premeditated and intentional killing of another[.]" Tenn. Code Ann. § 39-13-202(a)(1). With respect to first degree murder, a person acts intentionally "when it is the person's conscious objective or desire to cause the death of the alleged victim." *State v. Page*, 81 S.W.3d 781, 790 (Tenn. Crim. App. 2002); see *State v. Oeser*, No. M2019-01052-CCA-R3-CD, 2020 WL 7312174, at *7 (Tenn. Crim. App. Dec. 11, 2020), *perm. app. denied* (Tenn. Mar. 17, 2021). Premeditation "is an act done after the exercise of reflection and judgment." Tenn. Code Ann. § 39-13-202(e). "'Premeditation' means that the intent to kill must have been formed prior to the act itself. It is not necessary that the purpose to kill preexist in the mind of the accused for any definite period of time." *Id.* Additionally, "[t]he mental state of the accused at the time the accused allegedly decided to kill must be carefully considered in order to determine whether the accused was sufficiently free from excitement and passion as to be capable of premeditation." *Id.*

"Because premeditation involves the defendant's state of mind, of which there is often no direct evidence, we have long recognized that premeditation may be proved by circumstantial evidence . . . and may be inferred from the manner and circumstances of the killing[.]" *State v. Reynolds*, 635 S.W.3d 893, 916 (Tenn. 2021) (internal citations and quotation marks omitted). Whether premeditation is present in a given case is a question

of fact to be determined by the jury from all the circumstances surrounding the killing. *State v. Davidson*, 121 S.W.3d 600, 615 (Tenn. 2003) (citing *State v. Suttles*, 30 S.W.3d 252, 261 (Tenn. 2000); *State v. Pike*, 978 S.W.2d 904, 914 (Tenn. 1998)).

Our supreme court has discussed that “numerous specific circumstances . . . may bear on the existence of premeditation,” including,

- (1) The use of a deadly weapon on an unarmed victim;
- (2) The particular cruelty of the killing;
- (3) Threats or declarations of intent to kill;
- (4) The procurement of a weapon;
- (5) Any preparations to conceal the crime undertaken before the crime was committed;
- (6) The destruction or seclusion of evidence of the killing;
- (7) Calmness after the killing;
- (8) Evidence of motive;
- (9) The use of multiple weapons in succession;
- (10) The infliction of multiple wounds or repeated blows;
- (11) Evidence that the victim was retreating or attempting to escape when killed;
- (12) The lack of provocation on the part of the victim; and
- (13) The failure to render aid to the victim.

Reynolds, 635 S.W.3d at 916-17 (citations omitted). However, this “list of specific circumstances developed through Tennessee caselaw is not exhaustive,” and the trier of fact “is not limited to any specific evidence when determining whether a defendant intentionally killed the victim after the exercise of reflection and judgment.” *Id.* at 917 (citing *State v. Leach*, 148 S.W.3d 42, 54 (Tenn. 2004)); see *Davidson*, 121 S.W.3d at 615; Tenn. Code Ann. § 39-13-202(e). “Ultimately, then, premeditation may be established by

any evidence from which a rational trier of fact may infer that the killing was done after the exercise of reflection and judgment.” *Reynolds*, 635 S.W.3d at 917 (internal citations and quotation marks omitted).

Viewed in the light most favorable to the State, the evidence shows that on March 30, 2022, Defendant shot and killed the victim while the victim sat in his black Mercedes in the driveway of Ms. Saffell’s house. The victim had a gun inside his car, and he and Defendant fought over it, and Defendant took it from him. The victim released Defendant from a chokehold and told Defendant that he was “not here for this” and that he only wanted to see his son. Defendant then pointed the victim’s gun at the victim. The victim and Ms. Saffell urged Defendant to put down the gun, which he did, but Defendant then produced his silver and black handgun and pointed it at the victim, who was still seat-belted in the car. Defendant shot the victim five times in the head, neck, and left side of his chest. Defendant then fled the scene with the victim in the victim’s car, and Ms. Sims observed the car parked behind Defendant’s mother’s house the next day. When the victim’s car was recovered, officers found that it had been wiped down with bleach. Several days after the shooting, officers attempted a traffic stop of Defendant’s red minivan. Defendant refused to stop, lost control of the minivan, crashed into a tree, and fled on foot. In the back cargo area of the minivan, officers discovered the victim’s decomposing body, which had been “wrapped in plastic” and hidden underneath a car cover. A rational juror could have found from the proof presented at trial that Defendant intentionally killed the victim.

Moreover, a rational juror could have found that Defendant acted with premeditation. As recounted above, the evidence shows that Defendant used a deadly weapon on an unarmed victim. Defendant inflicted multiple wounds, shooting the victim in vital areas including the head, chest, and neck, with one of the gunshot wounds being a “contact” wound. After shooting the victim, Defendant failed to render aid and, instead, fled the scene with the victim in the victim’s car. Defendant then attempted to destroy evidence by wiping down the victim’s car with bleach. He also stripped the victim, wrapped him in plastic, and hid the victim’s body underneath a car cover in the back of the red minivan.

Despite Defendant’s claim that Ms. Saffell’s testimony was “inconsistent and illogical,” the jury clearly accredited her testimony, as was its prerogative, and this court will not reweigh the evidence. *Bland*, 958 S.W.2d at 659. Accordingly, the evidence is sufficient to support Defendant’s conviction for first degree premeditated murder, and he is not entitled to relief.

2. Employing a firearm during the commission of a dangerous felony

Defendant argues that his conviction for employing a firearm during the commission of a dangerous felony cannot stand because he was acquitted of the predicate dangerous felony of attempted first degree murder of Ms. Saffell. He contends that the jury had to find him guilty of attempted first degree murder as charged in Count 7 but, instead, returned a guilty verdict on the lesser-included offense of misdemeanor reckless endangerment. Defendant insists that, because of the jury's not guilty verdict on the attempted first degree murder charge, the evidence is necessarily insufficient to support a finding that he employed a firearm during the commission of a dangerous felony, as charged in Count 8.

In Tennessee, it is an offense to employ a firearm during the commission of a dangerous felony or an attempt to commit a dangerous felony. Tenn. Code Ann. § 39-17-1324(b)(1)-(2). However, a person may not be charged with a violation of subsection (b) if possessing or employing a firearm is an essential element of the underlying dangerous felony as charged. Tenn. Code Ann. § 39-17-1324(c). A “dangerous felony” includes attempted first degree murder. Tenn. Code Ann. § 39-17-1324(i)(1)(A); Tenn. Code Ann. § 39-17-1324(i)(1)(BB).

Defendant's challenge to the sufficiency of the evidence for employing a firearm during the commission of a dangerous felony deals with inconsistent verdicts. The law governing this issue provides that “consistency between verdicts on separate counts of an indictment is not necessary.” *Wiggins v. State*, 498 S.W.2d 92, 93 (Tenn. 1973). The Tennessee Supreme Court has explained:

For instance, a defendant may be charged with committing both a felony murder and the predicate felony. The jury then may convict the defendant of the felony murder but acquit the defendant of the predicate felony. It is well-settled under Tennessee law that the defendant is not entitled to relief from the felony murder conviction in this situation as long as the evidence was sufficient to support his murder conviction.

State v. Davis, 466 S.W.3d 49, 72 (Tenn. 2015). Appellate courts will not disturb seemingly inconsistent verdicts, as doing so would require inappropriate speculation into the jury's reasoning. *Wiggins*, 498 S.W.2d at 93; *Davis*, 466 S.W.3d at 77 (stating that “[t]he validity accorded to [inconsistent] verdicts recognizes the sanctity of the jury's deliberations and the strong policy against probing into its logic or reasoning, which would open the door to interminable speculation”) (quoting *United States v. Zane*, 495 F.2d 683, 690 (2nd Cir. 1974)). Each count in an indictment is treated as a separate indictment, and if there is sufficient evidence to support the defendant's conviction, the verdicts will be upheld. *Wiggins*, 498 S.W.2d at 93-94. Furthermore, the trier of fact has within its

discretion the ability to return a verdict finding the defendant guilty of some counts and not guilty of others pursuant to the evidence adduced at trial. *See* 7 Tenn. Prac. Pattern Jury Instr. T.P.I.–Crim. 41.03 (“The crime charged in each count of the indictment is a separate and distinct offense. You must decide each charge separately on the evidence and the law applicable to it. The defendant may be found guilty or not guilty of any or all of the offenses charged.”). “In short, ‘inconsistent jury verdicts are not a basis for relief.’” *State v. Smith*, No. W2016-00720-CCA-R3-CD, 2017 WL 945941, at *4 (Tenn. Crim. App. Jan. 5, 2017) (quoting *Davis*, 466 S.W.3d at 77).

We note that the issue of inconsistent verdicts has been discussed in cases involving convictions for employing a firearm during the commission of a dangerous felony when the defendant was acquitted of the predicate felony. *See State v. Johnson*, No. E2015-00545-CCA-R3-CD, 2016 WL 297886, at *6 (Tenn. Crim. App. Jan. 26, 2016) (finding that the facts supported the defendant’s conviction for employing a firearm during the commission of a dangerous felony when the dangerous felony was attempted first degree murder, despite being convicted of the lesser-included offense of facilitation of attempted first degree murder), *perm. app. denied* (Tenn. June 23, 2016); *State v. Ellison*, No. W2013-02786-CCA-R3-CD, 2014 WL 6977725, at *7-9 (Tenn. Crim. App. Dec. 10, 2014) (concluding that the defendant’s employment conviction was supported by the evidence even though he was acquitted of the predicate dangerous felony of attempted first degree murder and instead convicted of the lesser-included offense of misdemeanor reckless endangerment, with the court noting the case was a “textbook” example of inconsistent verdicts), *perm. app. denied* (Tenn. June 17, 2015).

In this case, despite having only convicted Defendant of the lesser-included offense of misdemeanor reckless endangerment in Count 7, the jury specifically found that Defendant was guilty of employing a firearm during the commission of a dangerous felony, to wit: attempted first degree murder. Viewing the evidence in the light most favorable to the State, the evidence is sufficient to support Defendant’s conviction for this offense. Ms. Saffell, who was dating Defendant at the time of the offense, testified that Defendant had accused her of cheating on him and that they had fought hours before the shooting. She stated that, when the victim arrived at her house in his black Mercedes, Defendant repeatedly asked her who was in the car but that she did not answer. Defendant and the victim fought, and Defendant pulled out his black and silver handgun. Ms. Saffell stated that she was seated in the victim’s lap inside the victim’s car when Defendant fired the gun at them. Ms. Saffell initially thought she had been shot but quickly realized the bullet had struck the victim, and she fled the car. Despite the jury’s inconsistent verdicts, the evidence is sufficient to support Defendant’s conviction for employing a firearm during the commission of the dangerous felony of attempted first degree murder. Defendant, therefore, is not entitled to relief.

B. Juror misconduct claim

Defendant next contends that the trial court erred in denying his motion for new trial based upon the jury foreperson's alleged violation of his oath as a juror. Defendant raises two allegations of juror misconduct: (1) that the foreperson failed to disclose during voir dire his bias and partiality, i.e., that he would draw negative implications from Defendant's failure to testify and to present alibi witnesses and (2) that, during deliberations, the foreperson exposed other jurors to extraneous prejudicial information.

The Sixth Amendment to the United States Constitution and article I, section 9 of the Tennessee Constitution both guarantee the accused the right to trial "by an impartial jury." U.S. Const. amend. VI; Tenn. Const. art. I, § 9. The Tennessee Constitution has been interpreted to guarantee a jury free from "disqualification on account of some bias or partiality toward one side or the other of the litigation." *Carruthers v. State*, 145 S.W.3d 85, 94 (Tenn. Crim. App. 2003) (quoting *State v. Akins*, 867 S.W.2d 350, 354 (Tenn. Crim. App. 1993)). "An unbiased and impartial jury is one that begins the trial with an impartial frame of mind, that is influenced only by the competent evidence admitted during the trial, and that bases its verdict on that evidence." *State v. Smith*, 418 S.W.3d 38, 45 (Tenn. 2013) (citing *State v. Adams*, 405 S.W.3d 641, 650-51 (Tenn. 2013), *overruled on other grounds by Collier ex rel. Chayce C. v. Roussis*, --- S.W.3d ----, 2026 WL 2207688, at *13 (Tenn. 2026); *Durham v. State*, 188 S.W.2d 555, 558 (Tenn. 1945)).

1. Failure to disclose bias and partiality during voir dire

This court recognizes the importance of guarding the jury selection process to ensure that a defendant is afforded a fair trial and that the verdict is reached by an impartial jury. *Akins*, 867 S.W.2d at 354. "The ultimate goal of voir dire is to ensure that jurors are competent, unbiased and impartial." *State v. Hugueley*, 185 S.W.3d 356, 390 (Tenn. 2006). Voir dire provides for the impaneling of a fair and impartial jury through questions that allow counsel to intelligently exercise challenges, and jurors are obligated to make "full and truthful answers . . . neither falsely stating any fact nor concealing any material matter." *Akins*, 867 S.W.2d at 354 (quoting 47 Am. Jur. 2d, Jury § 208 (1969)) (internal quotation marks omitted).

Generally, there are two categories of challenges to a juror's qualifications: propter defectum ("on account of defect") and propter affectum ("on account of prejudice"). *Carruthers*, 145 S.W.3d at 94 (citing *Akins*, 867 S.W.2d at 355). Propter defectum challenges are "based upon general disqualifications, such as alienage, family relationship, or statutory mandate" and must be raised prior to the return of the verdict. *Id.* Propter affectum challenges, which are "based upon the existence of bias, prejudice, or partiality towards one party in the litigation actually shown to exist or presumed to exist from

circumstances,” may be raised after the verdict in a motion for new trial. *Id.* Here, Defendant makes a propter affectum challenge, alleging bias and partiality by the jury foreperson.

The defendant bears the burden of establishing a prima facie case of bias or partiality. *Akins*, 867 S.W.2d at 355. A presumption of prejudice arises when “a juror willfully conceals (or fails to disclose) information on voir dire which reflects on the juror’s lack of impartiality.” *Id.* The State, however, may rebut the presumption through evidence establishing the absence of “actual prejudice” or “actual partiality.” *Id.* at 357.

Here, Defendant contends that the jury foreperson “lied during voir dire when he said that he would not hold [his decision not to testify] against [Defendant] and brought into the jury room bias and partiality[.]” This claim is unsupported by the record. The transcript of the foreperson’s interview with Mr. Hatch contains no such admission. Rather, when Mr. Hatch asked the foreperson whether the defense could have done anything different to change the jury’s verdict, the foreperson suggested the possibility of Defendant’s testifying about something that would have exonerated him. He acknowledged, however, that Defendant was not required to testify and affirmed that Defendant was “innocent until proven guilty” by the State. Nothing in his interview with Mr. Hatch indicates that the foreperson held Defendant’s decision not to testify against him or that he harbored bias against Defendant. This issue is without merit.

2. Exposure to extraneous prejudicial information

Defendant also contends that the foreperson exposed other jurors to extraneous prejudicial information during deliberations. The Tennessee Supreme Court has recognized that a jury’s exposure to extraneous prejudicial information or improper outside influence during trial renders the validity of the verdict “questionable.” *Adams*, 405 S.W.3d at 650 (citing *State v. Blackwell*, 664 S.W.2d 686, 688 (Tenn. 1984)). Extraneous prejudicial information is defined as “information in the form of either fact or opinion that was not admitted into evidence but nevertheless bears on a fact at issue in the case.” *Id.* (citations omitted).

As the party challenging the validity of the verdict, Defendant has the burden of presenting admissible evidence that the jury was exposed to extraneous prejudicial information or improper outside influence. *Id.* Once Defendant makes an initial showing that the jury was exposed to extraneous prejudicial information or an improper outside influence, a rebuttable presumption of prejudice arises, and the burden shifts to the State to explain the conduct or establish that the conduct was harmless. *Id.* at 651 (citing *Walsh v. State*, 166 S.W.3d 641, 647 (Tenn. 2005)).

Tennessee Rule of Evidence 606(b) guides trial courts in determining whether evidence is admissible to challenge a verdict. Rule 606(b) states:

Upon an inquiry into the validity of a verdict or indictment, a juror may not testify as to any matter or statement occurring during the course of the jury's deliberations or to the effect of anything upon any juror's mind or emotions as influencing that juror to assent to or dissent from the verdict or indictment or concerning the juror's mental processes, except that a juror may testify on the question of whether extraneous prejudicial information was improperly brought to the jury's attention, whether any outside influence was improperly brought to bear upon any juror, or whether the jurors agreed in advance to be bound by a quotient or gambling verdict without further discussion; nor may a juror's affidavit or evidence of any statement by the juror concerning a matter about which the juror would be precluded from testifying be received for these purposes.

Tenn. R. Evid. 606(b). The rule "permits juror testimony to establish the fact of extraneous information or improper influence on the juror; however, juror testimony concerning the effect of such information or influence on the juror's deliberative process is inadmissible." *Walsh*, 166 S.W.3d at 649.

In this case, Defendant challenged the validity of the verdict in his motion for new trial. At a subsequent hearing, the trial court complied with Rule 606(b) and permitted the defense to call the foreperson to testify. Upon questioning, the foreperson denied that the jury was exposed to any extraneous prejudicial information or outside influence and denied that there was a "gambling or quotient verdict[.]" The trial court then allowed Defendant to make an offer of proof consisting of the transcript of the foreperson's interview with Mr. Hatch. Neither the foreperson's testimony nor the interview transcript demonstrates that the foreperson brought extraneous prejudicial information to the jury's attention. Given the complete lack of proof in support of this claim, the trial court properly denied Defendant's request for a new trial. This issue is without merit.

C. Admission of evidence of Defendant's gang affiliation

Defendant argues that the trial court erred in admitting testimony regarding his affiliation with the Gangster Disciples. He insists that Ms. Saffell's testimony regarding gang affiliation was "completely unnecessary to establish a connection between anyone because Ms. Saffell's intimate relationships with [the victim] and [Defendant] were the connection" and that her testimony regarding gang affiliation "made no fact of consequence related to whether [Defendant] murdered [the victim] more or less probable." Defendant further argues that Ms. Saffell's testimony about the actions of other gang

members after the shooting painted an “inflammatory, disquieting, intimidating, and aggressive picture” and “unjustly bolstered her credibility by creating the idea that [they] . . . knew . . . [Defendant] killed [the victim] and were willing to kidnap and kill Ms. Saffell to protect him because they were in the same gang.”

Rule 404(b) of the Tennessee Rules of Evidence provides:

Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show action in conformity with the character trait. It may, however, be admissible for other purposes. The conditions which must be satisfied before allowing such evidence are:

(1) The court upon request must hold a hearing outside the jury’s presence;

(2) The court must determine that a material issue exists other than conduct conforming with a character trait and must upon request state on the record the material issue, the ruling, and the reasons for admitting the evidence;

(3) The court must find proof of the other crime, wrong, or act to be clear and convincing; and

(4) The court must exclude the evidence if its probative value is outweighed by the danger of unfair prejudice.

Tenn. R. Evid. 404(b); *see also State v. Thacker*, 164 S.W.3d 208, 240 (Tenn. 2005); *State v. Parton*, 694 S.W.2d 299, 302 (Tenn. 1985). Rule 404(b) is generally one of exclusion, but evidence of other acts may be admissible for other non-propensity purposes, such as “to establish motive, intent, identity, absence of mistake, or common plan or scheme,” or when necessary to provide a “contextual background.” *State v. Little*, 402 S.W.3d 202, 210 (Tenn. 2013), *abrogated on other grounds by State v. Thomas*, 687 S.W.3d 223 (Tenn. 2024); *see* Tenn. R. Evid. 404(b), Advisory Comm’n Cmts.

If the trial court substantially complies with the procedural requirements of Rule 404(b), we will review the trial court’s determination for an abuse of discretion. *Thacker*, 164 S.W.3d at 240 (citing *State v. DuBose*, 953 S.W.2d 649, 652 (Tenn. 1997)); *State v. Baker*, 785 S.W.2d 132, 134 (Tenn. Crim. App. 1990). However, if the trial court fails to substantially comply with the requirements of the rule, then the trial court’s decision should be afforded no deference by the reviewing court. *DuBose*, 953 S.W.2d at 652.

Here, the trial court complied with the procedural requirements of Rule 404(b) by holding a jury-out hearing. The trial court found that the State proved Defendant's gang affiliation by clear and convincing evidence, that it was relevant to a material issue other than propensity, and that the probative value outweighed the risk of unfair prejudice. Thus, we will review the trial court's decision for an abuse of discretion. *Thacker*, 164 S.W.3d at 240 (citing *DuBose*, 953 S.W.2d at 652; *Baker*, 785 S.W.2d at 134).

In ruling to admit evidence of Defendant's affiliation with the Gangster Disciples, the trial court found that the evidence was admissible for the non-propensity purpose of providing necessary contextual background, concluding that Defendant's and Ms. Saffell's gang affiliation was crucial to the jury's understanding of the case. The court noted that the defense planned to present Ms. Saffell as the actual perpetrator of the offense. It was, therefore, critical for the State to be able to explain Ms. Saffell's actions after the shooting, including why she did not talk to police about the victim's murder for several days and why she lied to Detective Riddle about what happened to the victim. Moreover, the record demonstrated that the State did not seek to introduce evidence of gang affiliation to prove that Defendant killed the victim in conformity with that affiliation. As noted by the State, our supreme court has found similar evidentiary rulings to be well within the trial court's discretion. *See Reynolds*, 635 S.W.3d at 921-22 (concluding that the trial court did not abuse its discretion in admitting the evidence of gang membership). Thus, we conclude that the trial court did not abuse its discretion in admitting evidence of Defendant's gang affiliation. Defendant is not entitled to relief on this claim.

III. Conclusion

Based upon the foregoing, we affirm the judgments of the trial court.

s/Robert L. Holloway, Jr.
ROBERT L. HOLLOWAY, JR., JUDGE