

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT JACKSON

Assigned on Briefs August 4, 2026

FILED

09/15/2026

Clerk of the
Appellate Courts

STATE OF TENNESSEE v. LAMARCUS TERRELL CARPENTER

Appeal from the Circuit Court for Tipton County
No. 11515 A. Blake Neill, Judge

No. W2025-01060-CCA-R3-CD

The Defendant, Lamarcus Terrell Carpenter, was convicted in the Tipton County Circuit Court of being a felon in possession of a firearm after having been convicted of a felony crime of violence, a Class B felony; being a felon in possession of a handgun, a Class E felony; and resisting arrest, a Class B misdemeanor, and received an effective sentence of sixteen years in confinement. On appeal, the Defendant claims that the evidence is insufficient to support his conviction of resisting arrest and that the prosecutor's inappropriate statements during the State's cross-examination of the Defendant and during the State's closing argument warrants a new trial. Based upon our review, we affirm the judgments of the trial court.

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

JOHN W. CAMPBELL, SR., J., delivered the opinion of the court, in which STEVEN W. SWORD and STACY L. STREET, JJ., joined.

Raven Prean-Morris (on appeal), Assistant Public Defender - Appellate Division, and Mellissa A Downing and Frank Deslauriers (at trial), Assistant Public Defenders, for the appellant, Lamarcus Terrell Carpenter.

Jonathan Skrmetti, Attorney General and Reporter; G. Kirby May, Assistant Attorney General; Mark E. Davidson, District Attorney General; and Sean Hord and James Walter Freeland, Jr., Assistant District Attorneys General, for the appellee, State of Tennessee.

OPINION

FACTS

In November 2024, the Tipton County Grand Jury indicted the Defendant for the aggravated assault with a deadly weapon of his girlfriend, A.C.;¹ two counts of possessing a firearm after having been convicted of a felony crime of violence; resisting arrest; and theft of a firearm.² On February 10, 2025, the Defendant filed a motion to disqualify Assistant District Attorney General James Walter Freeland, Jr., (hereinafter “General Freeland”) and his office from prosecuting him. The Defendant asserted in the motion that the existence of an actual conflict of interest required recusal and, in the alternative, that an appearance of impropriety was grounds for disqualification.

On February 18, 2025, the trial court held a hearing on the motion in which the Defendant testified that General Freeland and a circuit court judge, who was unrelated to the present case, organized “a hit” on him while he was in prison. The Defendant said that General Freeland and the judge conspired with prison staff and prisoners to kill him and that the conspiracy resulted from “a grudge” General Freeland had against the Defendant and his brother. The trial court asked if the Defendant had any proof of the conspiracy, and the Defendant answered, “Well, it ain’t no proving it. He should be able to prove it himself. He familiar with it.” General Freeland did not cross-examine the Defendant but advised the trial court that he prosecuted the Defendant in previous cases and that he prosecuted the Defendant’s half-brother in Fayette County “20 years ago.” At the conclusion of the hearing, the trial court found no actual conflict of interest or appearance of impropriety and denied the motion.

The trial court held a bifurcated trial in May 2025, first trying the Defendant for aggravated assault, resisting arrest, and theft of a firearm. Deputy Andrew Harrington of the Tipton County Sheriff’s Office (“TCSO”) testified that he was responsible for maintaining evidence collected by officers and identified a black Taurus .38 Special handgun that he received from Deputy Jimmy Joyner. Deputy Joyner obtained the gun, with serial number J040956, in the early morning hours of May 5, 2024. Deputy Harrington said that he test-fired the weapon and that it was “very much operable.”

On cross-examination, Deputy Harrington testified that the gun was not loaded when he received it because “[f]or safety, everything is unloaded before it’s given to me.” He did not know if the gun was loaded when Deputy Joyner obtained it, and no fingerprint analysis was performed on the weapon.

¹ Because A.C.’s son, J.C., was a minor when he testified at trial, we will refer to A.C. and J.C. by their initials in order to protect J.C.’s identity.

² The theft statute provides that “[a] person commits theft of property if, with intent to deprive the owner of property, the person knowingly obtains or exercises control over the property without the owner’s effective consent.” Tenn. Code Ann. § 39-14-103(a). The indictment specifically charged the Defendant with exercising control of the firearm.

Travis Warren testified that in November 2023, he was living on Tuxedo Drive in Covington. On November 3, 2023, Mr. Warren reported to the Covington Police Department (“CPD”) that his black Taurus .38 Special revolver had been stolen. He later learned the gun had been recovered. The State showed Mr. Warren the Taurus .38 Special identified by Deputy Harrington, and Mr. Warren said the gun looked like the one he “previously owned.” He said that he could not remember the gun’s serial number but that he provided the serial number to the CPD when he reported the gun stolen. He said he did not give or sell the gun to the Defendant. He then stated, “That gun was locked in a box with a trigger guard on it and buried in my dresser. It walked out by somebody other than by him.”

On cross-examination, Mr. Warren testified that he was “[f]amiliar” with the Defendant and that they may have met previously “through associations of other people.” He said that he was “[p]ositive” the Defendant did not take his gun and that “I would know if he was in my house to take it.” Mr. Warren did not tell the CPD that the Defendant took the weapon.

Thirteen-year-old J.C. testified that in May 2024, he was living with his mother, A.C.; his two brothers; and the Defendant on Liberty Trace Smith Road in Brighton. The Defendant had been living with J.C.’s family since December 2023. On May 4, 2024, A.C. and the Defendant attended a wedding. When they returned home that night, J.C. was asleep in his bedroom but was awakened by arguing. J.C. said he heard A.C. say, “[D]on’t point that gun at me.” J.C. left his bedroom and asked A.C. and the Defendant what was going on. A.C. told J.C. that “[s]omething happened” and that the Defendant had a gun. J.C. returned to his bedroom and heard A.C., who was standing outside his bedroom, tell him to call 911. J.C. said that A.C. was “frightened, scared” and that he called 911 as she had instructed. The police arrived fifteen to twenty minutes later.

J.C. testified that he saw the Defendant with a gun during the incident. He told the police about the weapon, but A.C. did not. J.C. told the jury that the Defendant’s argument with A.C. “escalated” and that A.C.’s “talking back” made the Defendant “snap.” J.C. said that the Defendant was “on a whole other level of being mad” at A.C. and that J.C. had never seen the Defendant with a gun before that night.

On cross-examination, J.C. testified that A.C. owned a gun and that he saw A.C. in possession of her gun that night. He explained that when he heard A.C. and the Defendant arguing, he left his bedroom to see what was happening and saw them in the kitchen. He did not see either of them with a gun at that time. However, J.C. later saw his mother holding her gun when she was standing outside his bedroom. J.C. said A.C. had retrieved her gun for protection from the Defendant. Sometime later, the Defendant handed his gun to J.C. A.C. told the Defendant, “[N]o, don’t hand that to him[.]” A.C. took the

Defendant's gun from J.C. and went outside. A.C. unloaded the weapon and put the bullets on top of the air conditioner unit.

J.C. testified that he never saw the Defendant point the Defendant's gun at A.C. The Defendant went into A.C.'s bedroom, gathered some belongings, and left the residence. J.C. said that he did not know what happened to the Defendant's gun but acknowledged that A.C. was the last person he saw with the Defendant's gun.

A.C. testified that she had known the Defendant about fifteen years and that they developed a romantic relationship in December 2023. In May 2024, the Defendant was living with her and her three children in her home. On May 4, A.C. and the Defendant attended a wedding. When they arrived home about 10:00 p.m., they got into an argument. The Defendant went into the bedroom he shared with A.C. and put some belongings into his backpack so he could leave. A.C. said that they continued to argue and that they were "[n]ot really yelling but loud talking."

A.C. testified that she owned a black Smith & Wesson nine-millimeter pistol and that she procured her gun during the argument because she was concerned for her safety "[i]n a way." She did not point her gun at the Defendant and did not know if he saw her holding the gun. When the Defendant walked outside with his backpack to leave, A.C. locked the door behind him. The Defendant ripped the screen on the door and tried to get back inside. J.C. asked what was happening, and A.C. told him to call 911.

A.C. testified that she told the Defendant, "[D]on't point -- anything at me." She said she did not tell him, "Don't point that gun at me." She described J.C. as "a good kid" and said she did not know why he claimed she made the latter statement. She said she also did not put any bullets on top of an air conditioner. A.C. said that while the Defendant was outside and was leaving her property, she saw him placing his gun into his belt buckle.

A.C. testified that when the police arrived, J.C. told them that he saw the Defendant holding a revolver. A.C. acknowledged that she did not tell the police about the Defendant's having a gun or about being in fear of the Defendant. She told the police that she wanted the Defendant to leave her home. A.C. later spoke with a domestic violence coordinator from the district attorney's office and refused to give a formal statement to the coordinator. She acknowledged that she was subpoenaed to testify in a previous hearing, that she failed to show up for the hearing, and that she had to bond out of jail. She said that "[s]ome" fear was involved in her decision not to cooperate with the State's case against the Defendant but that she mainly did not cooperate because she did not want to get "involved."

On cross-examination, A.C. testified that she and the Defendant consumed alcohol at the wedding but that they were not intoxicated. She acknowledged that she ordered the Defendant to leave her house and that she “kick[ed] him out.” The Defendant did not leave immediately but left thirty to forty-five minutes later. A.C. said that she thought she talked with the 911 operator and that the Defendant was still present when she was on the telephone with 911. A.C. wanted the operator to send a police officer because A.C. was worried the Defendant would harm her due to “how angry he was.” At that time, the Defendant was still outside A.C.’s home. When the police arrived, A.C. spoke with an officer. She said that she did not remember what she told the officer but that she did not say the Defendant possessed a gun. Defense counsel asked if anyone had threatened her with “sanctions” or “repercussions” for her trial testimony, and she said no.

On redirect-examination, A.C. testified that she was “really distraught” when she spoke with the police officer. She said that she did not remember the officer asking her questions and that she did not remember answering “no” when the officer asked if the Defendant used or threatened to use a weapon. She did not know what gun the Defendant possessed that night and denied telling the officer that she saw the Defendant with a revolver, explaining that J.C. said the gun was a revolver. She said that if she told the officer the Defendant pointed the gun at her and threatened to shoot her, that statement was false.

Deputy Jimmy Joyner of the TCSO testified that he responded to A.C.’s home at 11:48 p.m. on May 4, 2024. He spoke with A.C. and J.C. and filled out a domestic assault form. Deputy Joyner asked A.C. the questions on the form and wrote her responses on the form for her. Although there was a section on the form for A.C. to provide a statement, she refused. She also refused to sign the form. Deputy Joyner completed the form at 11:55 p.m.

Deputy Joyner testified that one of the questions on the form asked if the suspect used or threatened to use force. A.C. answered the question in the affirmative. Deputy Joyner asked A.C. about the type of weapon, and she said it was a revolver. He asked her how the Defendant had threatened her, and she said the Defendant had claimed he was going to shoot her. Deputy Joyner was at A.C.’s home for fifteen to twenty minutes and requested that dispatch issue a be-on-the-lookout, also known as a “BOLO,” for the Defendant. About ten minutes later, Deputy Joyner learned the Defendant had been located at a residence on Fry Cove Road in Covington.

Deputy Joyner testified that he drove to the residence in Covington and that he heard “screaming” inside an apartment when he exited his police vehicle. He also heard Corporal Jamie Hunt of the CPD saying, “[G]ive me your hands” and “[L]et [me] get the gun.” Deputy Joyner went inside the apartment and saw Corporal Hunt “struggling” with the

Defendant. CPD Officer Brook Moore was also present. Corporal Hunt informed Deputy Joyner that the Defendant had a gun on his person. Deputy Joyner said that he “went hands on to assist” Corporal Hunt, that Corporal Hunt pulled a black revolver from the Defendant’s pants pocket, and that Deputy Joyner tased the Defendant. The Defendant fell onto the floor, and Deputy Joyner handcuffed him. Deputy Joyner described taking the Defendant into custody as follows:

So as soon as I tased him, he went to the ground, I jumped on top of him, got one arm behind his back. Was attempting to get the other arm. He was laying on it and refused to give it to me. I delivered one strike to his side kidney area, and he gave me his other arm and I handcuffed him.

The Defendant was not rendered unconscious by the taser. The State asked why Deputy Joyner thought he needed to deploy his taser, and Deputy Joyner answered, “Because it reduced risk of injury or harm to anyone on the scene.”

Deputy Joyner testified that after he took the Defendant into custody, Corporal Hunt placed the revolver, which was loaded, onto a table. Deputy Joyner removed the ammunition from the gun, secured the weapon in his police vehicle, and checked to see if the gun was listed as stolen in the NCIC database.³

Deputy Joyner acknowledged that Officer Moore’s body camera recorded the incident, and the State played the recording for the jury. The video showed Officer Moore entering the apartment. The Defendant and Corporal Hunt were facing each other. The Defendant’s right hand was around Corporal Hunt’s left hand, and Corporal Hunt’s right hand was holding onto the Defendant’s left pants pocket. Corporal Hunt kept telling the Defendant not to touch the gun, and the Defendant kept saying he did not have a gun. Officer Moore approached them, grabbed the Defendant’s right wrist, and told him, “Let go of her hand.” Officer Moore removed the Defendant’s right hand from Corporal Hunt’s left hand, and the Defendant responded, “No, she’s touching me.” The Defendant struggled with the officers. He broke free from Officer Moore’s grasp, so Officer Moore pointed her taser at him and told him to put his hands above his head. Meanwhile, Corporal Hunt, with her right hand still holding onto the Defendant’s left pants pocket, used her left hand to grab the Defendant’s left arm. She told him, “I’m just going to pull it out.” The Defendant continued to say he did not have a gun, so Corporal Hunt spread her palm over his pocket and asked, “What is this?” She told him to let her take the gun out of his pocket so they

³ “NCIC” is the acronym for the National Crime Information Center. *See Bragg v. State*, No. E2023-01247-CCA-R3-PC, 2024 WL 4625135, at *1 (Tenn. Crim. App. Oct. 30, 2024), *no perm. app. filed*.

could talk, but he continued to say he did not have a gun. Corporal Hunt yelled, “Let me take it out so I can take it outside, and we can talk!”

Shortly thereafter, Deputy Joyner, who was holding a pair of handcuffs in his right hand, came into view and approached the Defendant. Corporal Hunt told Deputy Joyner that the Defendant had a gun. Deputy Joyner tried to handcuff the Defendant’s left arm, but the Defendant pulled his arm away and yelled, “I don’t have nothing!” Deputy Joyner put the handcuffs onto a table and used his right hand to grab the Defendant while he used his left hand to take his taser off his belt. He told the Defendant to “stop” and to “get on the ground,” but the Defendant continued saying, “I don’t got nothing!” Corporal Hunt managed to pull a small black revolver out of the Defendant’s pants pocket. She stepped out of the way, and Deputy Joyner deployed his taser on the Defendant. The Defendant fell to the ground moaning, and Deputy Joyner began to handcuff him. The duration of the video was one minute, thirty-seven seconds.

On cross-examination, Deputy Joyner acknowledged that he filled out the domestic assault form based on statements made by both A.C. and J.C. He said that A.C. did not seem to be intoxicated and that he did not smell alcohol on her person. He did not ask A.C. if she wanted to pursue criminal charges against the Defendant; Deputy Joyner chose to pursue charges on behalf of the State. Deputy Joyner said that as he entered the apartment in Covington, he could hear the CPD officers telling the Defendant to “quit reaching and quit fighting” the officers. Deputy Joyner said that he grabbed the Defendant’s arms because the Defendant was “actively fighting” Corporal Hunt and that the Defendant was “jerking away” from Deputy Joyner. Defense counsel asked if those actions formed the basis for Deputy Joyner’s charging the Defendant with resisting arrest, and Deputy Joyner stated, “Yes And then the fact he would not give me his arm once he was on the ground. He kept tucking his arm preventing me from cuffing him.” Deputy Joyner acknowledged that the taser “temporarily incapacitated” the Defendant. He said, though, that a taser incapacitated a suspect for only five seconds and that the Defendant “was still laying on his arm refusing to give it to me.” Deputy Joyner acknowledged that he did not advise the Defendant that the Defendant was “under arrest” before he deployed the taser.

On redirect-examination, Deputy Joyner acknowledged that the Defendant used force against the officers before Deputy Joyner deployed the taser. Deputy Joyner would not have deployed the taser if the Defendant had complied with the officers.

Corporal Jamie Hunt testified that she was working the “midnight shift” in the early morning hours of May 5, 2024, and that she learned of a BOLO for the Defendant.⁴ Police

⁴ At the time of trial, Corporal Hunt had been promoted to sergeant. However, we will refer to her by her rank at the time of the incident.

officers began looking for him in places they knew he frequented, and Corporal Hunt found his car in front of a residence on Fry Cove Road. Corporal Hunt was the first officer to arrive, followed by Officer Moore and then Deputy Joyner.

Corporal Hunt testified that she was wearing a body camera, and the State played her body camera video for the jury. The video showed her exiting her patrol car and walking up to an apartment door. A woman was standing at the screen door, and Corporal Hunt told the woman that she wanted to speak with the Defendant. The Defendant came to the door, and the woman, whom the Defendant later identified as his niece, opened the door for the officer. Corporal Hunt asked the Defendant, "You ain't got nothing on you, do you?" The Defendant motioned for Corporal Hunt to come inside, but she remained at the door and stated, "Come here. Let me make sure you ain't got nothing on you." The Defendant refused, so Corporal Hunt calmly stated, "Look, I got five kids. It's just me. I just want to make sure you don't have any weapons on you so we can talk." She asked the Defendant if she could pat him down, but the Defendant wanted to know why she was there. Corporal Hunt told him that the police had been told to look for his car. She again asked if she could pat him down for weapons, but he walked away from her. She entered the apartment, grabbed the back of his pants, and told him to stop. She reached around him, felt his left front pants pocket, and stated, "Don't touch the gun!" The Defendant grabbed her left hand with his right hand, turned to face her, and said he did not have a gun. Corporal Hunt stated, "You do have a gun!" By that time, Officer Moore had entered the apartment and could be heard telling the Defendant, "Let go of her hand." A struggle ensued, and Corporal Hunt's body camera was knocked onto the floor. The video went black, but the camera continued to record the same audio as the previous video played by the State.

After the State played Corporal Hunt's body camera video, Corporal Hunt testified that the Defendant's walking away from her when she asked to conduct a pat-down led her to think he had "something" in his pocket. She said she reached down to touch his pocket and felt a gun. She stated that "[t]ensions were high," that she was in fear, and that she knew the Defendant would shoot her if he removed the gun from his pocket. She eventually was able to remove the gun, and Deputy Joyner tased the Defendant. However, the Defendant would not remove his right arm from underneath his body so that Deputy Joyner could handcuff him. Corporal Hunt later learned the gun had been stolen from a home on Tuxedo Drive.

On cross-examination, Corporal Hunt testified that she had never met the Defendant prior to May 5, 2024, but that he "seemed intoxicated." She acknowledged that she initially told the Defendant that she "just wanted to talk" and that she never told him that he was "under arrest." Even after she felt the gun in his pocket, she did not advise him that he was under arrest. At the conclusion of Corporal Hunt's testimony, the State rested its case.

The Defendant testified that he and A.C. attended a wedding on May 4, 2025, but that they did not argue when they returned home. He said that he left A.C.'s home immediately without going inside, that he did not assault her, and that she called the police on him because she thought he went to another woman's house. Instead, the police found him at his cousin's house. Corporal Hunt never told the Defendant that he was under arrest, and the Defendant did not know why she was there. He walked away from her because he did not want to talk with her, so she ran up behind him and grabbed his pants. Deputy Joyner entered the apartment and tased the Defendant. The Defendant said that he was unable to move after being tased but that, when he "finally came back," he gave Deputy Joyner his other arm so that Deputy Joyner could handcuff him. He said that he had never seen Mr. Warren previously and that he did not take Mr. Warren's gun.

At the conclusion of the Defendant's direct testimony, defense counsel asked if the Defendant wanted to say anything else that was relevant to his case. The Defendant stated:

Really this case -- to me, it's like a foul play, I think, because of me and Walt Freeland. My family, he been in my family for years, so I know him. He ain't going to admit it in this courtroom, like a lot of the officers getting on this stand just making up these stories, like [Corporal] Hunt and the rest of them, sitting up here making up these little lies and stuff like that.

Walt Freeland trying to get [A.C.] and whatchacallit. That's why he arrested, to lie on the stand like I tried to do something to her. Like I threatened to kill her or some stuff like that. I know good and well, she called the police on me, because she thinking I am over at another female house. And he trying to press this on them.

General Freeland then began his cross-examination of the Defendant by asking as follows:

Q. Mr. Carpenter, am I to understand that you think all this evidence that's been presented about you is based solely on my not liking you or having something against you?

A. Most of it, of course.

Q. In fact, you tried to get me off from being the prosecutor?

A. Of course.

Q. Didn't you?

A. Because -- and you know why.

Q. Right. Well, yes, you say that I and another judge, not this judge, plotted your murder; didn't you? You swore to that under oath?

A. I almost lost my life because of your supposed-to-be hit.

Q. You almost lost your life, your testimony is, because a hit was ordered on you by me and by another, not this judge, and another judge? Is that what you're --

A. Of course.

Q. Okay. And that's why you think all of this has just . . . been manufactured against you?

A. No, no, no, no, no, no, no, no. Not with this [A.C.] situation. I know the only reason she called the police on me is because she was thinking I was over [at] a female[']s] house. But the thing -- it's a lot of stuff with you. I asked to get you off my case for a reason, and you know the reason.

Q. I appreciate the compliment. But I am here.

A. It ain't about no compliment. It's about a fair trial for everybody.

The Defendant then testified that he was born in December 1983 and that he was convicted of possession of cocaine with intent to sell in January 2016. He said Corporal Hunt and Deputy Joyner lied about Corporal Hunt's removing a gun from his pocket. The Defendant acknowledged that Corporal Hunt put a gun onto a table but alluded that Corporal Hunt "planted" the gun. The following colloquy then occurred:

Q. What makes you so important we give a damn about you, Lamarcus Carpenter? You act like --

A. With you. With you.

Q. Somebody of importance. You're just a punk.

[DEFENSE COUNSEL]: Your Honor, objection, Your Honor.

THE WITNESS: Listen -- listen --

THE COURT: I'll sustain the objection.

THE WITNESS: You --

THE COURT: Hold on a second, Mr. Carpenter. When your attorney objects, you got to stop talking, okay? So we can make sure you're not saying anything you're not supposed to say or any of the rest of it, all right?

THE WITNESS: Yes, sir.

GENERAL FREELAND: I'll rephrase it. I won't get personal. I try not to get personal until personality is brought in it.

BY GENERAL FREELAND:

Q. But you seem to have an inflated opinion of your importance, that you're --

[DEFENSE COUNSEL]: Objection. Does Mr. Freeland want to testify, or does he want to ask a question?

GENERAL FREELAND: There's a question at the end.

THE COURT: Let's move it along.

BY GENERAL FREELAND:

Q. What gives you the nerve to suggest that an officer, two officers would lie under oath, face perjury charges, at least loss of job, possible imprisonment to get you, you?

A. The same way you would do it on a foul play.

Q. And I would do it, too, is that what you're saying?

A. (No response.)

Q. Why are you so important?

A. You know -- you know -- you been at me and my brother because of my brother and them for years and years and years. And like I just said, I almost lost my life because of you, that's why I wanted to get you off and get somebody else, so I could have a fair trial, because you ain't going to sit up here in front of these people and tell them about how you been at me and my brother and them for years and years when we was kids because of what my older brother and them did.

You ain't going to tell them none of that because of your position. But you would get your officer -- a couple of your officers would. That's what they call a foul play to come in here and lie for you.

Q. You think I control the officers and get them to lie?

A. (No response.)

The Defendant testified that he did not have a gun in his pocket on May 5, that his pocket was too small to contain a gun, and that Corporal Hunt and Deputy Joyner lied about his having the weapon. The Defendant said that when he and A.C. returned home from the wedding, he "jumped in [his] car and left." Therefore, J.C. could not have seen him with a gun. The Defendant described J.C. as "a good little child" and said he did not know why J.C. lied about seeing the Defendant with a revolver. The Defendant maintained that A.C. called the police because she thought he went to another woman's residence. The Defendant said A.C. later found out he went to a family member's home, which explained why she changed her story at trial.

At the conclusion of the Defendant's testimony, the defense rested its case. The jury found the Defendant not guilty of aggravated assault and theft but convicted him of resisting arrest.

In the second phase of the trial for the charges of possession of a firearm after having been convicted of a felony crime of violence, the State recalled Deputy Joyner to the stand. Deputy Joyner testified that he saw another officer remove a Taurus .38 caliber revolver from the Defendant's pocket on May 5, 2024. The parties stipulated to the Defendant's having a 2016 conviction of facilitation of aggravated kidnapping and a 2018 conviction of aggravated assault with a deadly weapon. After the State's presentation of the proof, the trial court instructed the jury on possession of a firearm after having been convicted of a felony crime of violence, i.e., aggravated assault, and possession of a handgun by a convicted felon, i.e., facilitation of aggravated kidnapping. The jury convicted him of both offenses.

The trial court held a sentencing hearing on May 27, 2025, and sentenced the Defendant as a Range II offender to sixteen years for being a felon in possession of a firearm after having been convicted of a felony crime of violence, a Class B felony; as a Range III, career offender to six years for being a felon in possession of a handgun, a Class E felony; and to six months for resisting arrest, a Class B misdemeanor. The trial court merged the two convictions of being a felon in possession of a firearm and ordered that the Defendant serve all of the sentences concurrently for a total effective sentence of sixteen years.

ANALYSIS

I. Sufficiency of the Evidence

The Defendant claims that the evidence is insufficient to support his conviction of resisting arrest because the officers did not inform him that he was “under arrest” or the reason for his arrest. He further claims he did not use any force to prevent the officers from effectuating his arrest, asserting that he was unable to resist after Deputy Joyner tased him. The State argues that the evidence is sufficient. We agree with the State.

When the sufficiency of the evidence is challenged on appeal, the relevant question of the reviewing court 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); *see also* Tenn. R. App. P. 13(e) (“Findings of guilt in criminal actions whether by the trial court or jury shall be set aside if the evidence is insufficient to support the findings by the trier of fact of guilt beyond a reasonable doubt.”); *State v. Evans*, 838 S.W.2d 185, 190-91 (Tenn. 1992); *State v. Anderson*, 835 S.W.2d 600, 604 (Tenn. Crim. App. 1992).

Therefore, on appeal, the State is entitled to the strongest legitimate view of the evidence and all reasonable inferences that may be drawn from it. *State v. Williams*, 657 S.W.2d 405, 410 (Tenn. 1983). All questions involving the credibility of witnesses, the weight and value to be given the evidence, and all factual issues are resolved by the trier of fact. *State v. Pruett*, 788 S.W.2d 559, 561 (Tenn. 1990). “A jury conviction removes the presumption of innocence with which a defendant is initially cloaked and replaces it with one of guilt, so that on appeal a convicted defendant has the burden of demonstrating that the evidence is insufficient.” *State v. Tuggle*, 639 S.W.2d 913, 914 (Tenn. 1982).

The guilt of a defendant, including any fact required to be proven, may be predicated upon direct evidence, circumstantial evidence, or a combination of both direct and circumstantial evidence. *State v. Pendergrass*, 13 S.W.3d 389, 392-93 (Tenn. Crim. App.

1999). The standard of review for the sufficiency of the evidence is the same whether the conviction is based on direct or circumstantial evidence or a combination of the two. *State v. Dorantes*, 331 S.W.3d 370, 379 (Tenn. 2011).

The indictment alleged that the Defendant obstructed Deputy Joyner from “effecting his arrest.” Tennessee Code Annotated section 39-16-602(a) states:

It is an offense for a person to intentionally prevent or obstruct anyone known to the person to be a law enforcement officer, or anyone acting in a law enforcement officer’s presence and at the officer’s direction, from effecting a stop, frisk, halt, arrest or search of any person, including the defendant, by using force against the law enforcement officer or another.

Tennessee Code Annotated section 39-16-602(b) provides that, except in a case of self-defense, “it is no defense to prosecution under this section that the . . . arrest . . . was unlawful.” “‘Intentional’ means that a person acts intentionally with respect to the nature of the conduct or to a result of the conduct when it is the person’s conscious objective or desire to engage in the conduct or cause the result[.]” Tenn. Code Ann. § 39-11-106(a)(21). “Force” is defined as “compulsion by the use of physical power or violence and shall be broadly construed[.]” *Id.* at § 39-11-106(a)(14). “‘Passive resistance’ generally does not constitute using force as contemplated by the preventing or obstructing an arrest statute.” *State v. Burgess*, 532 S.W.3d 372, 393 (Tenn. Crim. App. 2017); *see State v. Corder*, 854 S.W.2d 653, 655 (Tenn. Crim. App. 1992) (concluding that evidence of defendant’s refusing to get into patrol car and directing obscene language at officers was not sufficient to support conviction of resisting arrest). However, a defendant’s “efforts” to prevent an officer from handcuffing the defendant are “sufficient to support the element of force.” *State v. Baker*, No. W2018-00732-CCA-R3-CD, 2019 WL 2404977, at *6 (Tenn. Crim. App. June 7, 2019) (quoting *State v. Hestand*, No. M2014-02208-CCA-R3-CD, 2015 WL 10684326, at *8 (Tenn. Crim. App. Oct. 7, 2015)), *perm. app. denied* (Tenn. Sept. 20, 2019).

In support of his claim that the evidence is insufficient because the officers failed to inform him that he was “under arrest” and the reason for his arrest, the Defendant cites Tennessee Code Annotated section 40-7-106(a), which requires that a police officer inform a defendant of the reason for an arrest unless the defendant is in the process of committing the offense or being pursued after an escape. However, Tennessee Code Annotated section 40-7-106(a) is a criminal procedure statute that goes to the lawfulness of an arrest, which was not an issue raised at trial or on appeal. *See, e.g., State v. Hill*, 638 S.W.2d 827, (Tenn. Crim. App. 1982) (although officer statutorily required to inform suspect of reason for arrest, arrest not unlawful when defendant knew or had notice of reason for arrest); *State*

v. Robinson, 622 S.W.2d 62, 68 (Tenn. Crim. App. 1980) (arrest not rendered unlawful by officer's stating wrong offense for arrest).

Taken in the light most favorable to the State, the evidence established that the Defendant possessed a gun at A.C.'s home in Brighton and that he threatened to shoot A.C. Soon thereafter, Deputy Joyner learned the Defendant had been located at a residence in Covington and went to the scene. Upon exiting his vehicle, Deputy Joyner heard Corporal Hunt and the Defendant arguing inside an apartment and heard Corporal Hunt telling the Defendant to let her remove the gun from the Defendant's pocket. Officer Moore's video, which we have carefully reviewed, shows Corporal Hunt trying to restrain the Defendant while keeping her hand on his left pants pocket so that he could not get to the gun. The video also shows Deputy Joyner approaching the Defendant with a pair of handcuffs. At that point, the Defendant knew he was being arrested. However, when Deputy Joyner tried to handcuff the Defendant's left wrist, the Defendant pulled away from him, and a struggle ensued. Deputy Joyner ordered the Defendant to stop and to get onto the ground, but the Defendant refused to comply. Deputy Joyner testified that even after he tased the Defendant, the Defendant refused to put one of his arms behind his back to be handcuffed. From this evidence, a reasonable jury could have concluded that the Defendant intentionally resisted being arrested by Deputy Joyner. The evidence is sufficient to support his convictions of resisting arrest.

II. Claims of Improper Prosecutor Statements

The Defendant claims that the prosecutor made improper statements during his cross-examination and the State's closing argument that warrant a new trial. In order to prevail on this claim, a defendant must show that the conduct committed by the prosecution was so inflammatory or improper that it affected the verdict to the defendant's detriment. *Harrington v. State*, 385 S.W.2d 758, 759 (Tenn. 1965); *State v. Gray*, 960 S.W.2d 598, 609 (Tenn. Crim. App. 1997). In making this determination, we consider five factors:

1. The conduct complained of viewed in context and in light of the facts and circumstances of the case.
2. The curative measures undertaken by the court and the prosecution.
3. The intent of the prosecutor in making the improper statement.
4. The cumulative effect of the improper conduct and any other errors in the record.
5. The relative strength or weakness of the case.

Judge v. State, 539 S.W.2d 340, 344 (Tenn. Crim. App. 1976); *see also State v. Buck*, 670 S.W.2d 600, 609 (Tenn. 1984).

A. Cross-Examination

First, the Defendant contends that General Freeland asked improper questions on cross-examination by asking the Defendant about the Defendant's dislike of General Freeland and about the Defendant's attempt to have General Freeland removed from his case. The Defendant also cites the following statements made by the prosecutor: "What makes you so important we give a damn about you, Lamarcus Carpenter? You act like somebody of importance. You're just a punk."; "But you seem to have an inflated opinion of your importance[.]"; "What gives you the nerve to suggest that an officer, two officers would lie under oath, face perjury charges, at least loss of job, possible imprisonment to get you, you?"; "And I would do it, too, is that what you're saying?"; "Why are you so important?"; and "You think I control the officers to get them to lie?" The State argues that the Defendant waived most of this issue because the only comment he challenged in his motion for new trial was the prosecutor's referring to him as "a punk" and that, in any event, he is not entitled to relief. We agree with the State that the Defendant is not entitled to relief.

The Defendant asserted in his motion for new trial that "Assistant District Attorney Freeland used a derogatory slang term in reference to the [D]efendant during his cross-examination causing further undue prejudice to the [D]efendant." The parties did not address the issue at the brief hearing on the motion for new trial. In the trial court's order denying the motion, the trial court recalled that the Defendant objected to the prosecutor's calling the Defendant "a punk" but that the trial court immediately sustained the objection and that the Defendant did not request a curative instruction. The trial court concluded that the comment was inappropriate but found that the Defendant was not prejudiced by the comment, particularly in light of the fact that the jury acquitted the Defendant of two charges in the indictment.

We agree with the Defendant and the trial court that the prosecutor's calling the Defendant "a punk" was improper. However, the Defendant has not shown that the misconduct affected the outcome of his trial. The Defendant objected to the comment, and the trial court sustained the objection. Although the trial court did not give a curative instruction sua sponte, the Defendant did not request an instruction. *See State v. Griffis*, 964 S.W.2d 577, 599 (Tenn. Crim. App. 1997), *abrogated on other grounds by State v. Thomas*, 687 S.W.3d 223 (Tenn. 2024). Moreover, we agree with the trial court that the jury's acquitting the Defendant of two counts shows that the jurors carefully considered the evidence. The evidence, which included a video recording of the incident,

overwhelmingly supports the Defendant's convictions of possession of a firearm and resisting arrest. The video shows the Defendant using force to prevent Deputy Joyner from handcuffing him and shows Corporal Hunt removing the handgun from the Defendant's pocket after the Defendant repeatedly told her that he did not have a gun.

As for the prosecutor's questioning the Defendant about his dislike of General Freeland and his attempt to have General Freeland removed from his case, we note that it was the Defendant who chose to interject his inflammatory conspiracy theory into the trial during his direct testimony. That said, it was improper for the prosecutor to engage in a personal dispute with the Defendant on cross-examination. However, defense counsel did not contemporaneously object to General Freeland's comments. *See* Tenn. R. App. P. 36(a) ("Nothing in this rule shall be construed as requiring relief be granted to a party . . . who failed to take whatever action was reasonably available to prevent or nullify the harmful effect of an error"); *State v. Gilley*, 297 S.W.3d 739, 762 (Tenn. Crim. App. 2008) ("The failure to make a contemporaneous objection constitutes a waiver of the issue on appeal."). The Defendant also did not raise General Freeland's comments in the motion for new trial or at the hearing on the motion, and, consequently, the trial court did not address the comments in its order denying the motion. *See* Tenn. R. App. P. 3(e) (stating that an issue regarding misconduct of counsel must be raised in the motion for a new trial, or it will be treated as waived). Therefore, the Defendant's claim of prosecutorial misconduct regarding those comments is waived.

The Defendant requests that we review the prosecutor's comments for plain error. We may consider an issue to be plain error only when all five of the following factors are met:

(a) the record must clearly establish what occurred in the trial court; (b) clear and unequivocal rule of law must have been breached; (c) a substantial right of the accused must have been adversely affected; (d) the accused did not waive the issue for tactical reasons; and (e) consideration of the error is "necessary to do substantial justice."

State v. Adkisson, 899 S.W.2d 626, 641-42 (Tenn. Crim. App. 1994) (footnotes omitted); *see also State v. Smith*, 24 S.W.3d 274, 283 (Tenn. 2000) (adopting the *Adkisson* test for determining plain error). Additionally, the "'plain error' must be of such a great magnitude that it probably changed the outcome of the trial." *Adkisson*, 899 S.W.2d at 642 (quoting *United States v. Kerley*, 838 F.2d 932, 937 (7th Cir. 1988)).

As stated previously, the evidence against the Defendant was overwhelming because the video shows the Defendant pulling away from Deputy Joyner when Deputy Joyner tried to handcuff him and shows Corporal Hunt pulling a gun from the Defendant's

pocket. Thus, consideration of the prosecutor's error is not necessary to do substantial justice, and the error is not so great magnitude that it probably changed the outcome of the trial. The Defendant is not entitled to plain error relief.

B. Closing Argument

Second, the Defendant claims that the prosecutor made improper comments during the State's closing argument by vouching for the credibility of the police officers and J.C. and by insinuating that the Defendant was a liar. The Defendant acknowledges that he failed to object to the prosecutor's statements or raise the issue in his motion for new trial but asserts that the prosecutor's improper statements rise to the level of plain error. The State argues that the Defendant is not entitled to plain error relief. Again, we agree with the State.

Tennessee courts "have traditionally provided counsel with a wide latitude of discretion in the content of their final argument" and trial judges with "wide discretion in control of the argument." *State v. Zirkle*, 910 S.W.2d 874, 888 (Tenn. Crim. App. 1995). A party's closing argument "must be temperate, predicated on evidence introduced during the trial, relevant to the issues being tried, and not otherwise improper under the facts or law." *State v. Middlebrooks*, 995 S.W.2d 550, 557 (Tenn. 1999). Improper closing argument occurs when the prosecutor intentionally misstates the evidence or misleads the jury on the inferences it may draw from the evidence; expresses his or her personal opinion on the evidence or the defendant's guilt; uses arguments calculated to inflame the passions or prejudices of the jury; diverts the jury from its duty to decide the case on the evidence by injecting issues broader than the guilt or innocence of the accused under the controlling law or by making predictions on the consequences of the jury's verdict; and intentionally refers to or argues facts outside the record, other than those which are matters of common public knowledge. *State v. Goltz*, 111 S.W.3d 1, 6 (Tenn. Crim. App. 2003).

The Defendant contends that the following argument by the prosecutor was improper:

Let me suggest to you, in 47 years of practicing law, a defendant has the right to testify or not testify. It's strictly his right. When he does testify, he takes an oath like everybody else. And knowing the penalties for perjury says whatever he says.

So why is Lamarcus Carpenter not to be believed in anything he says? . . . He was angry because the whole system apparently, according to him, including me and an unnamed judge and officers that were sworn to do their duty perjured themselves, framed themselves.

So if Lamarcus Carpenter was truthful, I don't have the right to address you. I am a corrupt individual that should not have the opportunity to have the privilege of being an assistant district attorney to address you. If Lamarcus Carpenter is telling the truth, the officers that testified, not only do they not have the right to be officers, if that were true, they should be fired, they should be imprisoned. I guess depending on what exactly he says I did, I should be in prison if Lamarcus Carpenter is telling the truth.

If he's not telling the truth, he's a liar by definition and not to be believed. And what I suggest to you is what an inflated opinion he has of himself to state under oath what he said. To say that the officers perjured themselves, planted evidence, lied under oath. And even that 13-year-old boy for no really good reason perjured himself.

. . . .

This gets to be an easy case, because it pits the credibility of that man down there over sworn officers of the law and a 12-year-old boy, who has no reason to lie at all.

. . . .

And [the Defendant's] saying, I hadn't got a gun. . . . Under everything you've heard, that was an outright lie.

. . . .

I submit to you, what [J.C.] said, what the kid said -- and it's a shame that the mama don't back her kid, but what the kid said was the truth.

. . . .

Lamarcus under all the circumstances knew full well, come on. He knew full well why the police were knocking at his door 45 minutes after he had displayed a gun at this girlfriend and with a kid there and everything and gotten her mad. He knew full well what it was about. He played dumb.

. . . .

But who is the bully in this situation? It's not Jamie Hunt. It's Lamarcus Carpenter.

....

He insulted your intelligence by saying, I didn't even have a gun, which made the officers perjurers.

And think about this, what an ego to think that all of these forces are conspiring against him. . . . Why would he think so highly of himself that professionals would put their careers on the line for the idea of somehow getting him? It makes no sense. His testimony makes no sense.

....

He's not showing his arm. He's resisting. That's resisting arrest. That is a classic video of a resisting arrest.

Initially, we do not think the prosecutor was vouching for the credibility of Corporal Hunt and Deputy Joyner but was responding to the Defendant's testimony that the officers lied about his having a gun and his alluding to their planting the evidence despite the video evidence to the contrary. The prosecutor's statements about the Defendant, though, are more concerning. Although the prosecutor appropriately recalled the evidence and argued why the jury should not believe the Defendant, particularly the Defendant's false claim that he did not have a gun, the prosecutor's characterizing the defendant as a "liar" and repeated comments about the Defendant's ego constituted personal opinion that went beyond the scope of the evidence presented at trial. *See Goltz*, 111 S.W.3d at 9 (prosecutor's repeated characterization of defendant as a thief and a liar was improper). Likewise, the prosecutor should not have vouched for J.C.'s credibility by saying that that J.C. had no reason to lie and by saying that J.C. was telling the truth. *See State v. Pitts*, No. M2022-00581-CCA-R3-CD, 2023 WL 105623, at *10 (Tenn. Crim. App. Jan. 5, 2023) (stating that "the jury very well could have attributed undue credibility to the victim-witnesses based on the State's comment" that the victim "had no reason to lie"), *no perm. app. filed*.

Nevertheless, we are convinced that a substantial right of the Defendant was not adversely affected and that consideration of the issue is not necessary to do substantial justice. The prosecutor advised the jury early in his argument, "You are to judge the credibility of the witnesses." Moreover, the trial court informed the jury in the final instructions, "You are the exclusive judges of the credibility of the witnesses and the weight to be given to their testimony." We generally presume that the jury follows the instructions of the trial court. *See State v. Butler*, 880 S.W.2d 395, 399 (Tenn. Crim. App. 1994).

Finally, as stated previously, the evidence against the Defendant was overwhelming, and the jury's acquitting the Defendant of aggravated assault and theft shows that the jury was able to consider the evidence and render its verdicts based on the proof presented. For all these reasons, we conclude that the Defendant is not entitled to plain error relief. *See State v. Gann*, 251 S.W.3d 446, 463 (Tenn. Crim. App. 2007) (concluding that defendant failed to show plain error when evidence of defendant's guilt was "more than sufficient," defendant was acquitted of two charges, and trial court instructed jury that counsels' arguments were not evidence).

CONCLUSION

Upon our review, we affirm the judgments of the trial court.

s/ JOHN W. CAMPBELL
JOHN W. CAMPBELL, SR., JUDGE