

MOTION TO EXCLUDE WITNESS

¶ 67 Illinois Rule of Evidence 615 (eff. Jan. 1, 2011) provides, “At the request of a party the court shall order witnesses excluded so that they cannot hear the testimony of other witnesses, and it may make the order of its own motion.” While some jurisdictions, including the federal courts, consider the exclusion of witnesses to be a matter of right, in Illinois exclusion of witnesses is a matter within the sound judicial discretion of the trial court. *People v. Mack*, 25 Ill. 2d 416, 422, 185 N.E.2d 154 (1962).

¶ 68 “[A]n abuse of discretion occurs where the trial court's decision is arbitrary, fanciful, or unreasonable to the degree that no reasonable person would agree with it.” *People v. McDonald*, 2016 IL 118882, ¶ 32, 412 Ill.Dec. 858, 77 N.E.3d 26. Further, our supreme court has made it clear that motions to exclude witness should normally be allowed, and in order to uphold a trial court's denial of a motion to exclude, the record should disclose a sound basis for the denial. *People v. Dixon*, 23 Ill. 2d 136, 140, 177 N.E.2d 206 (1961). So long as a trial judge is exercising sound judicial discretion, it is not reversible error for a trial judge to exempt a witness from an order excluding all witnesses in the absence of a showing of prejudice to the defendant. *People v. Miller*, 26 Ill. 2d 305, 307, 186 N.E.2d 317 (1962).

¶ 69 It is well settled under Illinois law that a testifying police officer may be present at trial during other witnesses' testimony and sit at the prosecutor's table with counsel. See *People v. Leemon*, 66 Ill. 2d 170, 174, 5 Ill.Dec. 250, 361 N.E.2d 573 (1977); *Miller*, 26 Ill. 2d at 307, 186 N.E.2d 317; *People v. Chennault*, 24 Ill. 2d 185, 188, 181 N.E.2d 74 (1962); *Dixon*, 23 Ill. 2d at 138, 177 N.E.2d 206; *People v. Strader*, 23 Ill. 2d 13, 23, 177 N.E.2d 126 (1961); *People v. Townsend*, 11 Ill. 2d 30, 47, 141 N.E.2d 729 (1957).

Additionally, as lead detective in the case, Christian was designated as the State's representative. [Ill. R. Evid. 615](#) (eff. Jan. 1, 2011) (“This rule does not authorize exclusion of *** (2) an officer or employee of a party which is not a natural person designated as its representative by its attorney ***.”); see [Fed. R. Evid. 615](#), Advisory Committee Notes to the 1974 Enactment (stating that investigative agents are within the group specified under the second exception under analogous federal rule).

***473 **319 18¶ 71**

Furthermore, defendant has failed to establish that he was prejudiced by Christian's presence. “Exclusion of witnesses from the courtroom during trial is a time-honored practice designed to preclude one witness from shaping his testimony to conform to that of those who preceded him on the stand.” [People v. Johnson](#), 47 Ill. App. 3d 362, 369, 6 Ill.Dec. 66, 362 N.E.2d 701 (1977). The sole issue raised by the defense regarding Christian's presence was that he testified to unmemorialized threats made to Collins. Even assuming *arguendo* that this testimony was prejudicial, defendant does nothing to link that testimony to the fact that Christian was present for the presentation of other testimony and evidence. None of the State's other witnesses testified about Collins. Further, those threats *were* memorialized in the recorded interview between Collins and Christian after Collins had fled to Iowa. Therefore, defendant has failed to show that he was prejudiced by Christian's presence or that the trial court abused its discretion in permitting Christian to remain in the courtroom.

[People v. Chatman](#), 2022 IL App (4th) 210716, ¶¶ 67-69, 203 N.E.3d 456, 472, [appeal allowed](#), 201 N.E.3d 568 (Ill. 2023)