

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT KNOXVILLE
December 18, 2025 Session

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Appellate Courts

STATE OF TENNESSEE v. CHRISTOPHER STRATER FALLS

**Appeal from the Criminal Court for Morgan County
No. 22-CR-85 Jeffery H. Wicks, Judge**

No. E2025-00503-CCA-R3-CD

The Defendant, Christopher Strater Falls, appeals from his convictions for first degree felony murder and theft of property valued at \$10,000 or more but less than \$60,000, for which he received an effective sentence of life imprisonment. On appeal, the Defendant contends that the evidence was insufficient to support his convictions because the State failed to establish a theft of the victim’s vehicle or that he was the perpetrator of the victim’s murder. The Defendant also argues that the trial court erred in admitting certain hearsay statements made by the victim, including large portions of a four-page letter she had authored expressing her fear of the Defendant and her desire to end their relationship, as well as pointing toward him as a suspect in the event of her death, under the “then existing state of mind” exception of Tennessee Rule of Evidence 803(3). After reviewing the record and the parties’ briefs, we affirm the judgments of the trial court.

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

KYLE A. HIXSON, J., delivered the opinion of the court, in which TOM GREENHOLTZ and STEVEN W. SWORD, JJ., joined.

Joshua D. Hedrick, Knoxville, Tennessee (on appeal); Jeremy W. Haynes, Wartburg, Tennessee (at motion for new trial hearing); and Walter Johnson, Lenoir City, Tennessee (at trial), for the appellant, Christopher Strater Falls.

Jonathan Skrmetti, Attorney General and Reporter; Ryan W. Davis, Assistant Attorney General; Russell Johnson, District Attorney General; and Jonathan S. Edwards and Robert C. Edwards, Assistant District Attorneys General, for the appellee, State of Tennessee.

OPINION

I. FACTUAL AND PROCEDURAL HISTORY

The victim, Julia Manning, and the Defendant had been involved in a tumultuous romantic relationship for about one year, during 2021 and 2022. Following an argument with the Defendant around June 20, 2022, the Defendant was seen leaving the victim's residence driving the victim's Subaru Forester, and the victim was never heard from again. The victim's decomposed body was later discovered in her residence located in the Lansing community on July 7, 2022. Thereafter, the Defendant was arrested in Illinois on July 21, 2022, while in possession of the victim's vehicle, as well as several other items belonging to the victim. Thereafter, a Morgan County grand jury indicted the Defendant for first degree felony murder, second degree murder, and theft of property valued at \$10,000 or more but less than \$60,000. *See* Tenn. Code Ann. §§ 39-13-202(a)(2), -210; -14-103. The Defendant ultimately proceeded to a three-day jury trial beginning on June 4, 2024.

A. Motion *in Limine*

Immediately prior to trial, the Defendant submitted a motion *in limine* seeking to exclude as inadmissible hearsay certain out-of-court statements made by the victim to “any of the following individuals, Becky Draper, Marcus Morgan, Jessica Phillips, Danielle Lawson, Shane Bunch, Charlie Hamby, and Ezekial Potter, or any other [such] statement.” The motion also requested that a letter, purported to have been written by the victim and delivered to Charlie Hamby on February 22, 2022, be excluded as inadmissible hearsay evidence. The Defendant “attach[ed] as exhibits [t]hereto the statements of Becky Draper, Charlie Hamby, Shane Bunch, and Ezekiel Potter.” This included Ms. Draper's entire written statement to the police and summations of the audio-recorded statements that Mr. Hamby, Mr. Bunch, and Mr. Potter had given to the authorities. No specific lines from any of these statements were identified as objectionable.

On June 3, 2024, the day before the trial was to begin, the trial court held a hearing on the motion. The State presented testimony from Mr. Hamby, Ms. Phillips, Ms. Draper, and Ms. Lawson, all of whom testified regarding the volatile nature of the relationship between the victim and the Defendant, as well as the victim's fear of the Defendant. In addition, Mr. Hamby testified to the circumstances surrounding the victim's providing him with her hand-written letter on February 22, 2022. A copy of the unredacted letter and the envelope that accompanied it were admitted as exhibits for identification purposes.¹ Next, Ms. Phillips testified that, about a month prior to discovery of the victim's body, the victim

¹ The exhibits from this hearing are not included in the record on appeal.

instructed her to “call the law” if she saw the Defendant near the victim’s residence. Ms. Phillips was also asked about a specific incident when the victim had a flat tire. Ms. Phillips relayed that her brother, Marcus Morgan, had gone over to the victim and asked if she needed help changing the tire. According to Ms. Phillips, the victim told Mr. Morgan to “just go back in because if” the Defendant saw him, then it was “only going to make it worse for [her].” In response, Mr. Morgan returned to Ms. Phillips’ home because he did not want “conflict with them.” Then, Ms. Draper testified that she recorded entries documenting various events she had witnessed involving the victim and the Defendant and as to her recollection of some of these incidents. Finally, Ms. Lawson testified to the Defendant’s referring to the victim as a “black angel,” who he would have to “[a]bolish” given that he had slept with her. The prosecutor² indicated that the State did not intend to call Mr. Potter, Mr. Bunch, or Mr. Morgan³ as witnesses at trial.

The prosecutor began by arguing that the victim’s letter was admissible under Tennessee Rule of Evidence 803(3), the hearsay exception to show the victim’s “then existing state of mind, emotion, sensation, or physical condition (such as intent, plan, motive, design, mental feeling, pain, and bodily health).” When asked if the trial court preferred to review the letter in its entirety before ruling, the trial court mentioned that it had already read the victim’s letter in its entirety “a few times” prior to the hearing. Defense counsel then asked if the State sought to introduce the recorded police statements of various witnesses, both those who had testified at the hearing and those who had not. The trial court opined that these police statements would be admissible if the witnesses testified at trial. The prosecutor indicated that he would try to limit the trial testimony to what was presented at the motion hearing because some of the contents of the witnesses’ police statements may be inadmissible as “hearsay or not fitting into perception [sic], or it may be possibly not clear and convincing evidence.”

When defense counsel asked if the trial court wished to hear further argument on admissibility of the various statements discussed, the trial court responded,

Some of this is just going to have to rule on [sic] during the trial itself. I mean the testimony may change. I mean, the State is asking that certain statements get in under 803(3). Under the existing mental, emotional or physical condition. And if some of these statements fall into that category, the Court will allow them in, if some of them don’t [. . .] I mean it’s kind of hard to rule on statements that were made today, because it could change

² We recognize that two different prosecutors participated at the motion hearing. Because specific differentiation is unnecessary, we will collectively refer to them as “the prosecutor.”

³ Despite this, the State did call Mr. Morgan at trial.

to tomorrow. But I mean if they fall within 803(3) the Court will allow them in. And I'd say some of these were, some of the [witnesses] testified to things they actually saw . . . , there's no question on the admissibility of that. You objected to everything, and they're trying to get everything in, so I mean, we need to narrow it down for the Court.

Defense counsel clarified that his objection was "to the out-of-court statements of [the victim,]" not to what the witnesses saw. Defense counsel continued, "And our motion is about the out-of-court statement[s] which we believe to be hearsay, I believe the State says that there is an exception under 803(3). The hearsay exception to that, and it was a lot of stuff said today. Kind o[f] a morass of statements there." The prosecutor replied that he had prepared a memorandum for the trial court outlining the various theories of admissibility: statements made by the victim expressing her state of mind, statements made by the Defendant as admissions against interest, and personal observations of the witnesses.

The prosecutor specifically requested "an indication" about the admissibility of the victim's letter because the State anticipated discussing the contents of the letter during its opening statement, and the trial was to begin the following day. The prosecutor presented the following rationale for admissibility:

And that looks to me to be a clear 803(3) exception type of situation, and we call it an expression[,] state of mind, but we also point out that her fear of the Defendant is expressed through her letter, and she expresses specifically the intention of drawing to a conclusion her rental agreement with the veteran's administration and making [the Defendant] leave the house.

This specified portion of the victim's letter reads as follows:

[The Defendant] is a dangerous person. I want him to leave my home but I am afraid of what he will do to retaliate. I haven't went home yet because I am afraid of what he has done to my house. He has tried to set my house on fire and tried to booby trap it before.

I am contacting his Fiduciary to advise her his rental agreement has been terminated. This will stop the rental payments.

If anything happens to me please look hard at [the Defendant].

The trial court said that "every bit" of this portion of the victim's letter would be admissible under Rule 803(3) as a state of mind exception if that was "something [the victim] plan[ed]

to do.” The trial court also noted that this portion indicated that the victim was afraid of the Defendant, qualifying as “an emotion.” The trial court reasoned that the victim was discussing what she planned to do, in that the Defendant was “a dangerous person,” she wanted him “to leave her home,” and that she planned on “getting him out” by contacting “his [f]iduciary” and Veterans Affairs.

As for the other portions of the letter, the prosecutor acknowledged that, at one point, the victim related “the crazy things that she’s heard [the Defendant] say,” which was “a little bit different,” those references being “more about his state of mind than hers.” The trial court also noted the “rambling” nature of the entire letter and that “some of it[was] where she seem[ed] to be diagnosing” the Defendant. At this juncture, the trial court noted that such distinctions made “it hard for the Court to decide which parts c[a]me in and which d[id not].” The trial court stated that it would “take a little more time than” what was available that day to go through the rest of the letter, and the State mentioned that they could discuss it more the following morning before trial. After discussion of a few ancillary matters, the hearing concluded.

B. Trial

There is nothing in the record reflecting the trial court’s consideration of the remaining contents of the victim’s letter prior to the commencement of trial the following day. Trial began with the parties delivering their opening statements. The State theorized that the Defendant killed the victim and stole her car. In presenting this theory to the jury, the prosecutor mentioned the victim’s letter that she had given to Mr. Hamby to open in the event of her death, in which she “explain[ed] what was probably going to happen to her if she stayed with [the Defendant].” The prosecutor also referenced the victim’s statement to Mr. Morgan not to help her with the flat tire because it would “just be worse” for her, given the Defendant’s jealous nature, and to “[l]eave her to do [it her]self.” The Defendant countered by suggesting that the State lacked evidence to tie the Defendant to the crime. The Defendant then posited an alternate perpetrator theory by asserting that “a couple of guys” had come to the victim’s house to pick up a motorcycle during the time frame in which the victim was estimated to have been killed. The Defendant also noted the presence of unknown female DNA found underneath the victim’s fingernails.

Shawn Scott, a Special Agent with the Tennessee Bureau of Investigation (“TBI”), testified that he was called to the victim’s home on July 7, 2022. He observed a body, which was subsequently identified as the victim from a tattoo, lying face down in the utility room. The victim had a shirt and undershirt pulled up and wrapped around her head, basketball shorts pulled down almost to her knees, and a bra on but no underwear. The victim’s body appeared to be “significantly decomposed” and parts of her body, including

the right foot and the left arm below the elbow, were missing. Special Agent Scott noted that the house was “in disarray,” as the couches and cushions appeared to have been moved, items were broken, and pots and pans were located throughout the house. There was a board across the side door of the house, preventing access through that entrance. Plastic grocery store bags affixed with duct tape lined the seals of the door, which was done, in Special Agent Scott’s opinion, to contain the smell of the decomposing body. Also, the victim’s pets, four large dogs and a cat, were all present in the house at the time her body was discovered.

Dr. Gayle Suzuki, a medical examiner at the Knox County Regional Forensic Center, testified that, while she did not perform the victim’s autopsy, she had reviewed the autopsy report and photographs prepared by former medical examiner, Dr. William Oliver, and the anthropological report prepared by Dr. Murray Marks. Dr. Suzuki testified that the severe decomposition of the victim’s body limited findings at the autopsy. She noted that, in this case, “it wasn’t possible to accurately see whether there were bruises present or not.” Dr. Suzuki testified that there were fractures to the victim’s jawbone, cervical vertebrae, and hyoid bone supporting the tongue. The fractures to the cervical vertebrae and jaw were consistent with heavy blows from something like a club, while the fracture to the hyoid bone was consistent with strangulation. While the injury to the jaw was not by itself lethal, the victim’s death could have been caused by either the injuries to the cervical spine or by strangulation. However, because the most severe injuries were to the neck area, the cause of death was more consistent with blunt trauma to the head and neck, and the condition of the victim’s body prevented any determination as to whether strangulation was the cause of death. The manner of death was deemed homicide. There was no way to conclusively determine the date of death. Dr. Suzuki acknowledged that methamphetamine was present in the victim’s muscle tissue.

Dr. Murray Marks, a forensic anthropologist at the Knox County Regional Forensic Center, observed gnawing marks on the victim’s body at the end of the upper arm bone of the left arm, on the finger bones of the right hand, and the feet bones. He testified that this was consistent with being scavenged by animals. Dr. Marks also testified that the fractures to the jaw were consistent with a “pretty extreme blow” and the fracture to the hyoid bone was consistent with strangulation. He noted that the fractures sustained to the C1 through C5 cervical vertebrae were consistent with “some compression and some twisting.” Dr. Marks agreed that the injuries to the hyoid bone and cervical vertebrae were consistent with an individual’s lying face down while another person twisted their neck from behind.

After the discovery of the victim’s body, neighbors gave law enforcement the Defendant’s name as a potential suspect. Law enforcement unsuccessfully attempted to locate the Defendant for two weeks before placing him on the TBI’s Most Wanted list.

Special Agent Scott also acknowledged that it was reported that two men came to the victim's house to pick up a motorcycle in the days before the body was discovered. However, these men were never located.

On July 21, 2022, the TBI was notified that the Defendant had been arrested in Galesburg, Illinois, following a call to a homeless shelter where the Defendant had been accused of causing a disturbance. At the time of his arrest, the Defendant was in possession of the victim's Subaru Forester and had the victim's electric bill in his pocket. The Defendant was extradited and the victim's vehicle was transported to Tennessee.

Keith Hawkins, who was employed as an investigator with the Morgan County Sheriff's Office at the time of the victim's death, was one of the officers who transported the Defendant back to Tennessee. He testified that the Defendant "was very talkative" during the transport. The Defendant repeatedly asked the officers how much "time" they thought he would get or what type of "offer" they thought he might get, possibly as many as fifty times, specifically stating at one point that he would "take" a twenty-five-year sentence. While the Defendant admitted to "taking the car," he never expressly stated that he was "guilty of stealing the car." The Defendant further commented that he took the victim's purse "when he split town" and found a bottle of methamphetamine inside it, which he consumed before driving for three days straight until he reached Colorado.

Once the Defendant was returned to Tennessee, Special Agent Kim Lowe, a TBI forensic scientist, collected a buccal swab from him to obtain a DNA profile. She also attempted to obtain a DNA profile from the victim but was unable to do so because of the severe decomposition of the body and the lack of availability of a sufficient blood sample. Special Agent Lowe tested the victim's fingernail clippings, as well as the nail clippers used to obtain those clippings, and she found the presence of a DNA profile from "an unknown female." While it was possible that this DNA belonged to the victim, a comparison could not be made due to the lack of a DNA profile from the victim. Special Agent Lowe also collected and tested swabs of the victim's vagina, external genitalia, and anus, none of which indicated the presence of the Defendant's DNA.

Upon being returned to Tennessee, the victim's Subaru Forester was examined by Special Agent Lisa Forester, a TBI forensic scientist. Special Agent Forester tested the entire driver's area of the vehicle, "from the headliner all the way down to the floorboard." She also tested the center console, cupholder, radio, and air-conditioning areas. They all tested negative for the presence of blood. Special Agent Forester found a tan "bookbag" in the rear passenger area of the vehicle. A box, found inside the bookbag, contained the victim's driver's license, credit and debit cards, social security card, and voter registration

card. Special Agent Forester noted that the car did not look like it had been cleaned and “looked like a pretty typical vehicle.”

Rebecca Draper, one of the victim’s friends and the initial person to discover the victim’s body, explained that she went to the victim’s house on July 7, 2022, to check on the victim because she was concerned after not hearing from the victim for two weeks. After talking with another friend, who also had not seen or heard from the victim, Ms. Draper called the Morgan County Sheriff’s Office and proceeded to the victim’s house. Upon her arrival, she heard the victim’s dogs barking. She was unable to enter the residence through the front door because she could not remember the access code, so she went in through the back door. Ms. Draper noted that it was difficult to push open the back door because there was something up against it. When she opened the door, she noticed that the area was covered in flies and that there was a bad odor. She could not see because it was dark and the curtains were all pulled shut. After turning on the lights, Ms. Draper began walking through the house and then saw what she first thought was “a mannequin.” However, when she saw bones sticking out of one of the legs, she realized it was the victim’s body, at which point she left the house and called 911.

Ms. Draper stated that the Defendant and the victim dated for about a year before the victim’s death. The Defendant moved into the victim’s house, and Veterans Affairs paid rent monthly on his behalf to the victim. Ms. Draper noted that, while the relationship started out positive, things began to change when the couple started living together. She noted that the victim liked to keep a clean house, but the Defendant often left the house in “disarray,” explaining that he was “always taking things apart” and not putting them back together.

Ms. Draper discussed a previous incident in which the Defendant told Ms. Draper that the victim was a pedophile. According to Ms. Draper, the Defendant screamed this sentiment to the neighbors all night, which led the victim to sleep in her car. Following this event, the victim began expressing to Ms. Draper that she wanted the Defendant to move out. Ms. Draper then recalled another incident, about three months before the victim died, in which the victim called her at 2:00 a.m. and asked her to come over to the victim’s house. Ms. Draper brought her pistol because she thought she might need it due to the Defendant’s “getting more aggressive.” Upon her arrival at the house, Ms. Draper saw the victim sweeping up glass, and the victim began screaming that she wanted the Defendant out of her house.

Ms. Draper further recalled that the victim never let anyone drive her Subaru Forester, which had been given to the victim by her father. When the Defendant demanded to drive the vehicle in Ms. Draper’s presence, the victim told the Defendant no.

Ms. Draper testified that she never saw anyone but the victim driving the Subaru. Ms. Draper knew the victim to carry her driver's license in her wallet and never saw her keep her driver's license or other personal identification cards in a box. She knew the victim owned a motorcycle and believed that a person known as "A.J." had come by to pick it up, although Ms. Draper did not see him do so. She noted that the victim had already received the money in exchange for the motorcycle, so it would not surprise her if the motorcycle was retrieved from the victim's house after the victim's death. Additionally, Ms. Draper testified that she had never heard the victim express fear of anyone other than the Defendant.

Another of the victim's friends, Danielle Lawson, testified that the victim began expressing her fear of the Defendant about six months into their relationship, at which point she started reaching out to Ms. Lawson weekly to ask her to come over following arguments with the Defendant. When Ms. Lawson responded to the victim's calls for help, she observed the victim with a black eye once, a few times with scratches on her neck, and frequently with bruises on her arms and legs. Ms. Lawson noted that prior to the victim's relationship with the Defendant, the victim "was not scared of nothing or nobody," but during their relationship, the victim had expressed her fear of the Defendant. Ms. Lawson noted that the Defendant was always "breathing down [the victim's] neck," "wouldn't let [the victim] out of his sight," and was "constantly . . . on [the victim's] heels all the time." Ms. Lawson also testified that the Defendant repeatedly threatened the victim. The Defendant described the victim as "his black angel put into his life" and "that he blurred the lines by sleeping with her," so he "had to abolish anybody in the way." Ms. Lawson took this to mean that he was going to kill the victim. And "[e]very time" Ms. Lawson saw the Defendant, he made remarks about cutting and killing the victim and that the victim would "wind up missing." Ms. Lawson also recalled an incident that occurred when she was living at the victim's house, in which she woke up to arguing and the smell of gasoline. She testified that the Defendant "poured gas from the porch . . . to [the victim's] room" and said he was going to kill the victim.

Additionally, Ms. Lawson testified that the victim never let the Defendant drive her car despite him asking multiple times. She recognized the tan bookbag that was found in the victim's car as something the Defendant often carried. She knew the victim to keep her driver's license and credit cards in her wallet, and when shown the box that was found in the Defendant's bookbag, containing the victim's driver's license and other identification cards, Ms. Lawson stated that she had never seen it and did not know the victim to keep anything in a box like that. On cross-examination, Ms. Lawson acknowledged that the victim consistently used methamphetamine, which she knew could cause paranoia in users.

Charles Hamby was a long-time friend of the victim. He testified that he first met the Defendant when he accompanied the victim to pick up the Defendant, a man called “A.J.,” and A.J.’s brother, because the men’s car had broken down.⁴ At the time, Mr. Hamby, the Defendant, and the victim did not have any issues getting along, but the Defendant later became jealous of the victim’s friendship with Mr. Hamby. Despite the two never having engaged in a romantic relationship and advising the Defendant of such, the Defendant repeatedly accused Mr. Hamby of being romantically involved with the victim. Mr. Hamby testified that the Defendant would also get upset when he and the victim used methamphetamine together because the Defendant was not invited to join them.

On February 22, 2022, the victim told Mr. Hamby that the Defendant was going to kill her and gave him a letter that she wanted him to put in his safe. The envelope had a handwritten notation that provided, “Please give this to the police in the event of my death or injury of any kind. J. Manning Feb[.] 21, 2022[.]” As such, four days after Mr. Hamby learned of the victim’s death, he gave the letter to law enforcement. This prompted an objection to the admission of “the contents of the letter” from defense counsel. The prosecutor offered a redacted version of the letter and the letter’s accompanying envelope as an exhibit: “I’m going to offer this letter as an Exhibit, Your Honor, in the condition that the Court is (indiscernible) into.” Defense counsel replied, “Same objection as before.” The trial court held a brief bench conference outside the hearing of the jury to address the objection.

The trial court first noted that the original letter would be admitted for identification purposes only.⁵ The trial court then inquired as to whether defense counsel “still ha[d] an objection” to the admission of the redacted version of the letter, to which defense counsel said that he did. The trial court responded this matter had been “addressed . . . during our motion *in limine*” and overruled the objection, explaining that it “would allow in portions of the letter that were exceptions to the hearsay rule of [803(3)], but . . . the rest of it was redacted.” A four-page redacted version of the letter was admitted into evidence. This version contained multiple passages from the first three pages in addition to the last page in its entirety.

During his testimony, Mr. Hamby read the redacted letter to the jury. The redacted letter provided as follows:

⁴ The record is unclear as to whether this is the same A.J. who was believed to have taken the motorcycle from the victim’s property around the time of the murder.

⁵ The original version of this letter is not included in the record on appeal.

[The Defendant] has made threats to me, including the following:

- Beat me to death.
- Kill everyone I love.
- “Microwave oven” my house[,] which means burn down.
- Choke me.
- Bury me in the ground[.]

....

- I’m having affairs with my male friends. I am his guardian angel. Any man that talks to me is “pulling his b---- card.”

....

- Told me I was an asset and now I’m a liability.

....

After severe verbal and mental abuse is directed towards me from [the Defendant], to the point that I beg him to stop, he becomes angry because I am crying. When I refuse to agree with his delusions, or admit to any wrong-doing he accuses me of, he makes indirect threats towards me. When I have verbally retaliated, he says I am “handling” him. In reality I am holding him accountable for what he has said by telling him verbatim what he has said previously and pointing out that he had just said the opposite. He also acts as if nothing had happened, as if he never said a single terrible thing and asks for a ride or wants to have sex. Saying no to sex enrages him.

Today, after two days of listening to him call me a nasty wh---, a liar, a b----[,] and constantly commenting that “it’s going to get bad,” “I should have burned this place[,]” “I should have put you in the ground a long time ago.”

....

[The Defendant] is a dangerous person. I want him to leave my home but I am afraid of what he will do to retaliate. I haven't went home yet because I am afraid of what he has done to my house. He has tried to set my house on fire and tried to booby trap it before.

I am contacting his Fiduciary to advise her his rental agreement has been terminated. This will stop the rental payments.

If anything happens to me please look hard at [the Defendant].

Julia Manning, Monday, February 21, 2022.

Additionally, Mr. Hamby testified that the victim had expressed her fear of the Defendant to him and said that she wanted to end her relationship with the Defendant, but he would not leave. The victim asked Mr. Hamby to come with her to her house to tell the Defendant to leave. When they arrived, the Defendant had already left and was staying at a neighbor's house. It was common for the Defendant to temporarily stay with this neighbor after fighting with the victim, although the Defendant always returned to the house eventually. After speaking with said neighbor, Mr. Hamby decided to stay with the victim for a few days in case the Defendant came back.

Like the victim's other friends, Mr. Hamby testified that the victim never let anyone else drive her car, including the Defendant. About a month before the victim's body was found, the Defendant and the victim got into an argument at Mr. Hamby's house because the Defendant wanted to leave and the victim did not. The argument moved outside, and when Mr. Hamby came out of the house, he saw the victim sobbing, and there was a puncture hole in the tire of her car. Mr. Hamby stated that this was one of many fights that the couple had, as they would argue "quite frequently." Neither the victim nor Mr. Hamby ever called the police, although Mr. Hamby advised the victim that they should do so after the tire incident. However, the victim did not want to call law enforcement because she was in violation of the terms of her probation.

Jessica Phillips, the victim's neighbor, described the relationship between the victim and the Defendant as "[v]ery, very dangerous," and said, "There was a lot of hate there . . . [from the Defendant]." Ms. Phillips testified that the couple would often yell at each other and that the Defendant would "always call [the victim] a b----, he's called her a wh--- many of times, numerous times he's called her that, a meth wh---." Ms. Phillips also recalled hearing the Defendant tell the victim that "if he couldn't have her nobody would have her." As Ms. Phillips began to share a conversation that she had with the victim prior to her death, the Defendant objected to the hearsay that he expected to be "coming along."

He specified, "I don't know what it is she's getting ready to say, and I object to it." The State responded that Ms. Phillips' testimony would be admissible under Rule 803(3), as it went to the victim's planning and present state of mind. The trial court instructed the State to "get to the plan itself," and nothing else that might qualify as hearsay, at which point, Ms. Phillips testified that the victim told her to call the police if she saw the Defendant at the victim's house when the victim was not home. There was no further objection.

Prior to calling Marcus Morgan, Ms. Phillips' brother, to testify, the State requested a bench conference to discuss the admissibility of Mr. Morgan's expected testimony. The State explained that, during Ms. Phillips' testimony, Ms. Phillips began to testify about an interaction between Mr. Morgan and the victim where Mr. Morgan offered to help the victim change a flat tire, but such testimony had been ruled inadmissible. The State argued that Mr. Morgan's testimony regarding this interaction with the victim was admissible under Rule 803 (3) "because of the fear that [the victim] relayed" in that she was "afraid" for Mr. Morgan to help her because of the Defendant's "jealousy." The trial court ruled it would "allow that under 803[(3)]," and defense counsel responded, "All right, same objection, but I understand."

Similar to the other witnesses, Mr. Morgan testified to the combative nature of the Defendant and the victim's relationship. He noted that he lived with Ms. Phillips, his sister, and had also heard a lot of arguing between the couple. On one occasion, he saw the victim trying to change a tire on her car and asked if he could help, at which point the victim began to cry and told him that if he helped her, the Defendant, who was at home, would "make it worse on her" and "would beat on her." Despite telling her that he would make the Defendant leave, if necessary, the victim would not let Mr. Morgan "come over" to help her.

Ms. Phillips and Mr. Morgan both testified that two weeks before the victim's body was found, they heard the Defendant and the victim arguing "pretty loud[ly]" before getting quiet at "the drop of a hat." It remained quiet for an hour or two. Then, at approximately 1:00 a.m., Ms. Phillips and Mr. Morgan observed the Defendant come out of the house, get in the victim's car, and drive away alone. The Defendant was often seen with a wooden walking stick, and he appeared to have it with him when he got into the victim's vehicle. Ms. Phillips and Mr. Morgan did not hear or see the victim at this time or ever again. They both found it odd that the Defendant would be driving the victim's car, especially without her in it, given that the victim habitually refused to let anyone else, including the Defendant, drive it.

According to Ms. Phillips, the victim frequently lent her previous vehicle to others, and "people tore it up." Ms. Phillips testified that the Defendant had demanded to drive

the victim's Subaru "many a times," which often led to arguments between the victim and the Defendant. While the victim frequently denied the Defendant such permission, Ms. Phillips recalled seeing the Defendant drive the vehicle on one prior occasion.

In addition, Mr. Morgan testified that he remembered "somebody coming to pick up a motorcycle" from the victim's house because he had helped the man load it onto the man's truck. Mr. Morgan was not worried the man was stealing it and had no concern the people in the truck were there to do harm to the victim. He said this occurred during the daytime and the man did not go inside the house.

The Defendant elected not to testify and did not call any witnesses. Prior to closing arguments, the parties entered an agreed stipulation that the Defendant was in Utah from June 23 until June 30, 2022. During the Defendant's ensuing closing argument, the Defendant again noted that there was a lack of forensic evidence tying the Defendant to the victim's murder, that there was unknown female DNA underneath the victim's fingernails, and that two men came to pick up a motorcycle from the victim's house around the time she was murdered or already deceased. With regard to the two men, the Defendant suggested, "Did anybody consider that maybe it's somebody returning to the scene of the crime? They think about that. So man, we forgot that motorcycle up there. Gotta go get that motorcycle." The Defendant also observed that the relevant intent was associated with the alleged theft of the victim's car and that there was "an hour difference between the alleged homicide and the alleged theft," so there was no "continuity of time." The Defendant referenced that many of the players involved were frequent methamphetamine users, and he posited that the victim's murder could have been committed during a drug deal gone wrong. He also asserted that there was "no evidence that [he] even knew what was going on" while speaking with Officer Hawkins inside of the car as he was being transported back to Tennessee.

Both parties made references to the victim's letter during their closing arguments, and during its second closing, the State noted,

[The victim] didn't write a letter about that drug dealer. [The victim] didn't write that letter about whose ever fingerprints may be on that duct tape that put those things up there. [The victim] didn't write a letter about anybody else. [The victim] hadn't confided in her best friends about who would have done these things outside of that guy, [the D]efendant. That's the only person that everybody testified about that she was afraid of, she lived her life afraid of.

When delivering its instructions to the jury, the trial court did not include any limiting instructions as to how the jury could interpret the statements that were admitted over the Defendant's hearsay objections. Although the trial court did instruct the jury as to the victim's letter, this was merely to instruct the jury that it was not to speculate as to any of the redacted portions of the letter or draw any conclusions from the fact that redactions had been made.

The State voluntarily dismissed the second degree murder charge, as it was a lesser included offense of first degree felony murder, before submitting the case to the jury. After deliberation, the jury found the Defendant guilty of first degree felony murder and theft of property valued at \$10,000 or more but less than \$60,000. The Defendant was sentenced to life imprisonment for the first degree felony murder conviction, and after a sentencing hearing for the theft conviction, he was sentenced to five years' incarceration to be served concurrently with his life sentence.

The Defendant filed a timely motion for new trial, claiming that the trial court erred by denying his motion *in limine* to exclude the victim's letter and out-of-court statements as inadmissible hearsay. After the trial court heard⁶ and denied the motion for new trial, this timely appeal followed.

II. ANALYSIS

A. Sufficiency of the Evidence

The Defendant generally argues that the evidence was insufficient to sustain his convictions for first degree felony murder and theft. As to the killing of the victim, the Defendant contends that: (1) "[t]here was no forensic link between [the Defendant] and the scene" of the victim's murder; (2) there was no forensic evidence found in the victim's car; (3) the couple's relationship was mutually abusive; (4) the victim engaged in "regular and consistent" methamphetamine use, impacting her credibility; and (5) there were unidentified men who came to the victim's house around the time of the victim's death and took a motorcycle. The Defendant additionally asserts that "everyone agreed that not only did [the victim] refuse permission, but [the Defendant] was never seen driving the car around, thus proving that [he] respected [the victim's] wishes." The State responds that there was sufficient evidence to prove that the Defendant committed both the murder and the theft based upon the witnesses' testimony presented at trial regarding the nature of the Defendant and the victim's relationship, the circumstances surrounding the Defendant's

⁶ There is no transcript of the motion for new trial hearing included in the appellate record.

taking of the victim's car, the items recovered from the Defendant's possession at the time of his arrest, and the Defendant's post-arrest statements to law enforcement.

The United States Constitution prohibits the states from depriving "any person of life, liberty, or property, without due process of law[.]" U.S. Const. amend. XIV, § 1. A state shall not deprive a criminal defendant of his liberty "except upon proof beyond a reasonable doubt of every fact necessary to constitute the crime with which he is charged." *In re Winship*, 397 U.S. 358, 364 (1970). In determining whether a state has met this burden following a finding of guilt, "the relevant question 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). Because a guilty verdict removes the presumption of innocence and replaces it with a presumption of guilt, the defendant has the burden on appeal of illustrating why the evidence is insufficient to support the jury's verdict. *State v. Tuggle*, 639 S.W.2d 913, 914 (Tenn. 1982). If a convicted defendant makes this showing, the finding of guilt shall be set aside. Tenn. R. App. P. 13(e).

"Questions concerning the credibility of witnesses, the weight and value to be given the evidence, as well as all factual issues raised by the evidence are resolved by the trier of fact." *State v. Bland*, 958 S.W.2d 651, 659 (Tenn. 1997). Appellate courts do not "reweigh or reevaluate the evidence." *Id.* (citing *State v. Cabbage*, 571 S.W.2d 832, 835 (Tenn. 1978)). "A guilty verdict by the jury, approved by the trial judge, accredits the testimony of the witnesses for the State and resolves all conflicts in favor of the theory of the State." *State v. Grace*, 493 S.W.2d 474, 476 (Tenn. 1973). Therefore, on appellate review, "the State is entitled to the strongest legitimate view of the trial evidence and all reasonable or legitimate inferences which may be drawn therefrom." *Cabbage*, 571 S.W.2d at 835.

The identity of the perpetrator is an essential element of any crime. *State v. Miller*, 638 S.W.3d 136, 158 (Tenn. 2021). The State has the burden of proving the identity of the defendant as the perpetrator beyond a reasonable doubt. *State v. Sneed*, 908 S.W.2d 408, 410 (Tenn. Crim. App. 1995) (citing *White v. State*, 533 S.W.2d 735, 744 (Tenn. Crim. App. 1975)). Identity is a question of fact for the jury's determination upon consideration of all competent proof. *State v. Thomas*, 158 S.W.3d 361, 388 (Tenn. 2005). As with any sufficiency analysis, the State is entitled to the strongest legitimate view of the evidence concerning identity contained in the record, as well as all reasonable inferences which may be drawn from the evidence. *See id.* (citing *State v. Evans*, 838 S.W.2d 185, 191 (Tenn. 1992)); *see also Miller*, 638 S.W.3d at 158-59.

Initially, we note that the Defendant, in making his sufficiency argument, submits that "much of the [S]tate's proof was inadmissible hearsay." We address the Defendant's

hearsay challenges below. However, even if certain evidence was inadmissible, the sufficiency of the evidence “must be examined in light of *all* the evidence presented to the jury, including that which is improperly admitted.” *State v. Long*, 45 S.W.3d 611, 619 (Tenn. Crim. App. 2000) (emphasis added) (first citing *Lockhart v. Nelson*, 488 U.S. 33, 41-42 (1988); and then citing *State v. Longstreet*, 619 S.W.2d 97, 100-01 (Tenn. 1981)). Accordingly, the challenged hearsay statements, even if improperly admitted at trial, can be properly considered by this court in performing its sufficiency analysis.

As relevant here, first degree felony murder is defined as “[a] killing of another committed in the perpetration of or attempt to perpetrate any . . . theft[.]” Tenn. Code Ann. § 39-13-202(a)(2). No culpable mental state is required for conviction of felony murder except the intent to commit the underlying felony. *Id.* at § -202(b). “The felony murder rule applies when the killing is ‘done in pursuance of the unlawful act, and not collateral to it.’” *State v. Thacker*, 164 S.W.3d 208, 223 (Tenn. 2005) (quoting *Farmer v. State*, 296 S.W.2d 879, 883 (Tenn. 1956)). Nonetheless, “[t]he killing may precede, coincide with, or follow the felony and still be considered as occurring ‘in the perpetration of’ the felony offense, so long as there is a connection in time, place, and continuity of action.” *Id.* (citation modified) (quoting *State v. Buggs*, 995 S.W.2d 102, 106 (Tenn. 1999)).

We therefore begin with analyzing the proof supporting the Defendant’s theft conviction, as it forms the predicate felony for the murder charge. “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). Thus, “three elements must be proven to establish theft under our statute: ‘(1) the defendant knowingly obtained or exercised control over property; (2) the defendant did not have the owner’s effective consent; and (3) the defendant intended to deprive the owner of the property.’” *State v. Gentry*, 538 S.W.3d 413, 422 (Tenn. 2017) (quoting *State v. Amanns*, 2 S.W.3d 241, 244-45 (Tenn. Crim. App. 1999)). As relevant to this case, deprive means to “[w]ithhold property from the owner permanently or for such a period of time as to substantially diminish the value or enjoyment of the property to the owner[.]” Tenn. Code Ann. § 39-11-106(a)(9)(A). “Possession of recently stolen goods gives rise to an inference that the possessor has stolen them.” *State v. Tuttle*, 914 S.W.2d 926, 932 (Tenn. Crim. App. 1995) (citing *Bush v. State*, 541 S.W.2d 391, 394 (Tenn. 1976)).

At trial, Ms. Phillips and Mr. Morgan testified that two weeks before the victim’s body was found, they heard the Defendant and the victim arguing “pretty loud[ly]” before getting quiet at “the drop of a hat.” They both recalled that it remained quiet for an hour or two before the Defendant exited the residence and drove away in the victim’s car at approximately 1:00 a.m. No one saw the victim alive again. When law enforcement

located the Defendant in Illinois, he was in possession of the victim's vehicle, along with the victim's keys and a utility bill addressed to her. Within the vehicle, law enforcement found the Defendant's bookbag, which contained a box holding the victim's social security card, driver's license, credit and debit cards, and voter registration card. Ms. Draper and Ms. Lawson testified that the victim typically kept these items in her wallet and that they had never known her to keep them inside a box like this. The evidence was sufficient to establish the Defendant's identity as the perpetrator of the theft. *See, e.g., State v. Forbes*, No. W2014-02073-CCA-R3-CD, 2015 WL 5813434, at *6 (Tenn. Crim. App. Oct. 5, 2015) (concluding that there was sufficient evidence identifying the defendant as the perpetrator of the theft where he matched the description of the person who was seen at the victim's house and several of the stolen items were found in his residence); *State v. Cline*, No. W2008-01686-CCA-R3-CD, 2009 WL 3103794, at *5 (Tenn. Crim. App. Sep. 29, 2009) (concluding that there was sufficient circumstantial evidence to establish the defendant as the perpetrator of the theft of a dirt bike where he was seen on the victim's property before the dirt bike was stolen, was also seen driving the dirt bike around the time the theft occurred, and was later found in possession of the dirt bike).

The Defendant also made comments to law enforcement while they were transporting him back to Tennessee regarding his having taken the victim's purse and car before "split[ting] town" and inquiring how much time and what type of offer he would get. Ms. Draper, Ms. Lawson, Ms. Phillips, and Mr. Morgan testified specifically to the fact that the victim routinely refused to let the Defendant, or anyone else, drive her car. Moreover, evidence at trial, both in the form of witness testimony and the victim's letter, indicated that the victim had desired to terminate her relationship with the Defendant prior to this altercation, taking place around June 20, 2022, and that she had intended to call his fiduciary and Veterans Affairs to effectuate dissolution of their rental agreement. Thus, making it unlikely the victim would have given her consent to the Defendant to drive her vehicle at all, much less for multiple weeks across country. A reasonable juror could conclude that the Defendant knowingly exercised control over the victim's vehicle without her effective consent and that he had the intent to deprive the victim of her property. *See, e.g., State v. Farmer*, No. M2023-00522-CCA-R3-CD, 2024 WL 982559, at *6 (Tenn. Crim. App. Mar. 7, 2024) (rejecting the defendant's contention that he had consent to vandalize a Wendy's restaurant when multiple witnesses testified to the contrary).

Accordingly, the evidence was sufficient to establish the Defendant's theft of the victim's Subaru Forester. Thus, all that is left for our determination is whether the killing of the victim was committed in the perpetration of this theft, *i.e.*, was it connected in time, place, and continuity of action. *See* Tenn. Code Ann. § 39-13-202(a)(2); *Thacker*, 164 S.W.3d at 223 (citing *Buggs*, 995 S.W.2d at 106).

Dr. Suzuki testified that the cause of the victim's death was most consistent with blunt force trauma to the head and neck area, and the manner of death was ruled a homicide. Dr. Marks opined that the victim's injuries were consistent with her lying face down while another person twisted her neck from behind. The victim's body was "significantly decomposed" at the time it was found on July 7, 2022, making further examination impossible. While the Defendant is correct that no fingerprint or DNA evidence was recovered from the crime scene or the victim's vehicle to connect him to the victim's murder, the State can establish identity with other means of evidence and is not required to establish a "forensic link" between the Defendant and the killing. *See State v. Reed*, No. E2019-00771-CCA-R3-CD, 2020 WL 5588677, at *16 (Tenn. Crim. App. Sep. 18, 2020) ("The identity of the defendant as the perpetrator may be established by direct evidence, circumstantial evidence, or a combination of the two." (citing *State v. Thompson*, 519 S.W.2d 789, 793 (Tenn. 1975))); *see also State v. Pirtle*, No. W2014-02222-CCA-R3-CD, 2016 WL 4009712, at *7-8 (Tenn. Crim. App. July 22, 2016) (concluding that there was sufficient evidence to prove the identity of a defendant despite the DNA profile recovered from a weapon used during the perpetration of the crimes excluding him as a contributor).

Here, multiple witnesses testified about the unstable and abusive relationship between the Defendant and the victim, the victim's fear of the Defendant, and the victim's desire to end the couple's relationship and distance herself from the Defendant. The victim's letter expressed such, specifically requesting that if anything were to happen to the victim, to "look hard at [the Defendant]." Moreover, Ms. Lawson testified that she often observed the victim with injuries when responding to the victim's calls following arguments with the Defendant. She also recalled the Defendant's threatening to cut and kill the victim and the Defendant's comment that the victim would "wind up missing." Ms. Phillips described the Defendant's calling the victim offensive names and exclaiming that if he could not have the victim, then no one could. Additionally, Ms. Phillips and Mr. Morgan testified that approximately two weeks before the victim's body was found on July 7, 2022, they heard the Defendant and the victim arguing "pretty loud[ly]" during the late hours of the night before getting quiet at "the drop of a hat." This argument occurred around June 20, 2022, and after this, no one saw or heard from the victim again. Although Mr. Morgan acknowledged that a man retrieved a motorcycle from the victim's house during the days following the argument, Mr. Morgan was not concerned that this man was there to harm the victim and the man did not go inside the victim's house. When Special Agent Scott entered the victim's residence on July 7, 2022, the house was "in disarray," with couches and cushions moved and broken items, as well as pots and pans, scattered throughout.

From this evidence, the jury could reasonably infer that the same person who exited the residence and drove away in the victim's car during the early morning hours was also

responsible for the concealment measures discovered at the scene—the board across the door and the taped plastic bags—even though no witness testified to observing these acts being performed. This inference is further supported by the fact that the Defendant possessed, at the time of his arrest, the victim’s driver’s license, Social Security card, and credit and debit cards—items the victim would have needed in her daily life had she survived the June 20, 2022 argument by any meaningful length of time. Such measures, taken together with the timing of the Defendant’s departure and his possession of these items, support a reasonable inference of a single continuous course of conduct. *Thacker*, 164 S.W.3d at 223 (recognizing that a jury “may reasonably infer from a defendant’s actions immediately after a killing that the defendant had the intent to commit the felony prior to, or concurrent with, the killing.” (citation and internal quotation marks omitted)).

Additionally, the jury heard testimony bearing upon the witnesses’ credibility, including frequent methamphetamine use, and received evidence regarding the Defendant’s alternate perpetrator theory, but it was not persuaded by the Defendant’s arguments on these topics. What is more, while the Defendant was being transported by law enforcement back to Tennessee, he inquired about a deal and indicated that he would accept a twenty-five-year prison sentence, suggesting that he had some knowledge of the severity of his crimes. The jury resolved all factual issues in favor of the State and convicted the Defendant, as was its prerogative. *See Bland*, 958 S.W.2d at 659; *see also State v. Hardison*, 680 S.W.3d 282, 319-20 (Tenn. Crim. App. 2023) (concluding that there was sufficient evidence to establish the defendant’s identity as the perpetrator where the jury heard evidence regarding inconsistencies in the witnesses’ accounts, purported gaps in the investigation, and the possibility of other suspects but still resolved the factual issues in favor of the State).

When viewing the evidence at trial in the light most favorable to the State, the evidence was sufficient to establish the identity of the Defendant as the perpetrator of the victim’s murder and that the killing of the victim was done in pursuance of the Defendant’s theft of the victim’s Subaru Forester. A jury could reasonably infer from the evidence presented that the Defendant had the intent to commit the theft prior to, or at least concurrently with, the fatal assault. *See, e.g., State v. Bruff*, No. E2006-01070-CCA-R3-CD, 2007 WL 626954, at *14 (Tenn. Crim. App. Mar. 2, 2007) (determining that the evidence was sufficient to establish the defendant’s felony murder conviction where the defendant was a cocaine customer of the victim, the defendant went to the victim’s house the day the victim died of a gunshot wound to the head, the defendant was seen hurrying out of the victim’s house and driving away, and the defendant took money from the victim’s pockets during this time). Accordingly, the Defendant is not entitled to relief on this issue.

B. Hearsay Statements

The Defendant also contends that the trial court erred in permitting certain hearsay statements to be relayed to the jury as exceptions to the hearsay rule admissible under Tennessee Rule of Evidence 803(3). To this point, he argues that “large swaths of the State’s proof consisted of acquaintances of [the victim] relating her fear of [the Defendant] or things she had told them about [the Defendant]” that were “offered to prove the conduct of the [D]efendant” and that were not “probative of whether [the Defendant] committed murder.” He generally asserts that “[t]he same reasoning can be applied to each of the statements of fear by [the victim].” In his brief, the Defendant specifically identifies (1) the statement made by the victim to Ms. Phillips that she should call the authorities if she saw the Defendant around the victim’s house, (2) the statement the victim made to Mr. Morgan declining his help to change her flat tire because it would just make things worse with the Defendant and he would beat her, and (3) the letter written by the victim. The Defendant avers that admission of “all of this hearsay,” without further limitation, was not harmless error “both in terms of the volume of the proof and in terms of the lack of other evidence.”

In response, the State argues that the trial court did not err in admitting the specific challenged statements identified by the Defendant because they were not hearsay but rather were instructions. In the alternative, the State offers that, if the identified statements are hearsay, they were admissible under Tennessee Rule of Evidence 803(3) to show the victim’s state of mind around the time of her death and relevant to rebut the Defendant’s alternate perpetrator theory. Furthermore, the State contends that, even if the trial court erred in admitting the identified statements, the error was harmless given the overwhelming proof of the Defendant’s guilt.

At the outset, the State aptly observes that the “Defendant’s brief contains a casual assertion that ‘[t]he same reasoning can be applied to each of the statements of fear by [the victim].’” The State asserts that this court should limit its review to only those statements made by the victim that were specifically identified by the Defendant in his brief—those relayed by Ms. Phillips and Mr. Morgan during their testimony and in the victim’s letter. As to this point, we agree with the State and will limit our review to these three subjects accordingly. *See State v. Morgan*, 727 S.W.3d 182, 197 (Tenn. Crim. App. 2025) (noting that the defendant had waived his hearsay issue when he failed to identify the particular statements he contended were inadmissible hearsay but rather raised only a general complaint to questions asked during an interview).

Hearsay is “a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted.” Tenn. R.

Evid. 801(c). Hearsay is generally not admissible. Tenn. R. Evid. 802. However, Tennessee Rule of Evidence 803(3) provides for an exception where the hearsay is “[a] statement of the declarant’s then existing state of mind, emotion, sensation, or physical condition (such as intent, plan, motive, design, mental feeling, pain, and bodily health).” This exception does not include “a statement of memory or belief to prove the fact remembered or believed unless it relates to the execution, revocation, identification, or terms of declarant’s will.” Tenn. R. Evid. 803(3). Additionally, “only the declarant’s conduct, not some third party’s conduct, is provable by this hearsay exception.” Tenn. R. Evid. 803(3), Advisory Comm’n Cmt.

Trial courts must conduct layered inquiries when determining the admissibility of evidence objected to on the grounds of hearsay, and our standard of review varies accordingly. *State v. Jones*, 568 S.W.3d 101, 128 (Tenn. 2019). A trial court’s factual findings and credibility determinations regarding a ruling on hearsay are binding on the appellate court unless the evidence preponderates against them. *Kendrick v. State*, 454 S.W.3d 450, 479 (Tenn. 2015). “Once the trial court has made its factual findings, the next questions—whether the facts prove that the statement (1) was hearsay and (2) fits under one [of] the exceptions to the hearsay rule—are questions of law subject to de novo review.” *Id.* (first citing *State v. Schiefelbein*, 230 S.W.3d 88, 128 (Tenn. Crim. App. 2007); and then citing *Keisling v. Keisling*, 196 S.W.3d 703, 721 (Tenn. Ct. App. 2005)).

“[H]earsay exceptions must be viewed in conjunction with principles of relevancy[.]” *State v. Cartmell*, No. M2012-01925-CCA-R3-CD, 2014 WL 3056164, at *14 (Tenn. Crim. App. July 7, 2014); *see also* Tenn. R. Evid. 803(3), Advisory Comm’n Cmt. (“Combining the hearsay exception with relevancy principles, declarations of mental state will be admissible to prove mental state at issue or subsequent conduct consistent with that mental state.”). As such, Rule 803(3) statements will only be “admissible when the declarant’s state of mind would be relevant.” *State v. Bishop*, No. M2015-00314-CCA-R3-CD, 2016 WL 7324307, at *10 (Tenn. Crim. App. Dec. 16, 2016) (citing *State v. Burns*, 29 S.W.3d 40, 47 (Tenn. Crim. App. 1999)).

A violation of an evidentiary rule, such as Rule 802, does not require reversal if the error “was more probably than not harmless.” *State v. Martin*, 964 S.W.2d 564, 568 (Tenn. 1998) (quoting *United States v. Barrett*, 703 F.2d 1076, 1081-82 (9th Cir. 1983)). Moreover, a judgment of conviction “shall not be set aside unless, considering the whole record, error involving a substantial right more probably than not affected the judgment or would result in prejudice to the judicial process.” Tenn. R. App. P. 36(b). Therefore, when considering the effect of such an error on the trial, this court “will evaluate that error in light of all of the other proof introduced at trial.” *State v. James*, 81 S.W.3d 751, 763 (Tenn. 2002) (citing *State v. Gilliland*, 22 S.W.3d 266, 274 (Tenn. 2000)).

1. Testimony of Jessica Phillips

The Defendant first challenges the testimony of Ms. Phillips in which she relayed that the victim told her to call the police if she saw the Defendant at the victim's house when the victim was not home. According to the Defendant, this was "not 'state-of-mind' evidence to explain the declarant's actions[.]" but rather was "purely offered to suggest that [the Defendant] was a bad person who likely committed a murder."

At trial, when the Defendant objected on hearsay grounds to Ms. Phillips' forthcoming testimony about a conversation she had with the victim, the State argued that Ms. Phillips' testimony was admissible under Rule 803(3) because it went to the victim's planning and present state of mind. The trial court instructed the prosecutor to "get to the plan itself" and avoid anything else that was hearsay. Ms. Phillips then testified that the victim told her to call the police if she saw the Defendant at the victim's house when the victim was not home. On appeal, the State first argues that the victim's statement to Ms. Phillips was not hearsay because it was an instruction. Alternatively, the State asserts that if this testimony was hearsay, it was properly admitted under the state of mind exception of Rule 803(3).

As a preliminary matter, we note that the Defendant has arguably failed to properly preserve his hearsay objection to this testimony due to his lack of specificity in lodging the objection. Although Ms. Phillips testified to this statement from the victim at the motion *in limine* hearing, no particular argument was made concerning its admission, and the trial court did not make any ruling concerning the testimony given by Ms. Phillips that day. The next day, at trial while Ms. Phillips was being questioned, the Defendant lodged only a general objection to Ms. Phillips' impending testimony, indicating that he did not know exactly what Ms. Phillips was "getting ready to say." When Ms. Phillips testified to what the victim had told her, the Defendant did not renew his hearsay objection.

An error may not be predicated on a ruling which admits evidence "unless a substantial right of the party is affected, and . . . a timely objection or motion to strike appears of record, stating the specific ground of objection if the specific ground was not apparent from the context[.]" Tenn. R. Evid. 103(a)(1). "Tennessee law requires a timely and specific objection in the trial court to preserve an evidentiary issue for appellate review." *State v. Reynolds*, 635 S.W.3d 893, 930 (Tenn. 2021). These principles, of course, apply to claims involving hearsay. *See State v. Gray*, No. E2022-01000-CCA-R3-CD, 2023 WL 3916272, at *6 (Tenn. Crim. App. June 9, 2023) (collecting cases); *e.g.*, *State v. Pearman*, No. M2015-02271-CCA-R3-CD, 2017 WL 1959120, at *15-16 (Tenn. Crim. App. May 11, 2017) ("Although the defense made numerous hearsay objections

throughout trial and engaged in extensive argument regarding the admission of a variety of the victim's hearsay statements, our review of the trial transcript showed that [the defendant] arguably waived any issues regarding the admission of [multiple statements] by failing to make a contemporaneous objection to this testimony at trial." (citations omitted)).

Adequacy of the Defendant's hearsay objection notwithstanding, we agree with the State that Ms. Phillips' testimony relayed the victim's instruction that was not offered to prove the truth of its content. The Defendant contends that the State has waived its instruction argument by failing to raise it at trial, arguing there solely that the statement was admissible under Rule 803(3). The Defendant is correct in that "a party may not take one position regarding an issue in the trial court" and then "advocate a different ground or reason in this [c]ourt." *State v. Dobbins*, 754 S.W.2d 637, 641 (Tenn. Crim. App. 1988). However, this court "is not limited to the particular legal theories advanced by the parties, but rather retains the independent power to identify and apply the proper construction of governing law." *United States v. McReynolds*, 964 F.3d 555, 568 (6th Cir. 2020) (quoting *Kamen v. Kemper Fin. Servs., Inc.*, 500 U.S. 90, 99 (1991)); see also *State v. Gevedon*, 671 S.W.3d 537, 546 n.2 (Tenn. 2023) (Campbell, J., concurring) ("[T]he party-presentation principle limits only the issues a court may consider. Once an issue is properly before the court, the court is not limited to the particular legal theories advanced by the parties, but rather retains the independent power to identify and apply the proper construction of governing law." (citation modified)).

The out-of-court declaration in this case was offered not to prove the truth of its content, *i.e.*, to show that Ms. Phillips intended to or would call the police if she saw the Defendant around the victim's residence. "Since a mere instruction or request or order by one person to another to do something obviously is not a statement of fact, testimony by a witness that he heard the instruction or request or order cannot without more be hearsay." *Bennett v. State*, 530 S.W.2d 788, 793 (Tenn. Crim. App. 1975). Consequently, the assertion was non-hearsay. See, *e.g.*, *State v. Perry*, No. M2020-01407-CCA-R3-CD, 2022 WL 1195311, at *5 (Tenn. Crim. App. Apr. 22, 2022) (noting that "[o]rders or instructions are often not hearsay because they are not offered to prove the truth of their content" (collecting cases)); *State v. Guinn*, No. W2013-01436-CCA-R3-CD, 2014 WL 3513000, at *7 (Tenn. Crim. App. July 15, 2014) (holding that a victim's telling of the witness to call the police was a command, "and therefore, not hearsay"); *State v. Emesibe*, No. M2003-02983-CCA-R3-CD, 2005 WL 711898, at *9-10 (Tenn. Crim. App. Mar. 28, 2005) (concluding that a victim's statement to her neighbor to call the police if she saw the defendant around the victim's house was not hearsay because it was an instruction). Thus, no evidentiary error occurred by admission of Ms. Phillips' testimony in this regard.

2. Testimony of Marcus Morgan

Next, the Defendant challenges Mr. Morgan's testimony regarding a conversation that he had with the victim, during which the victim would not allow Mr. Morgan to help her change her tire because, if he came over to her house and did so, things would get worse for the victim, and the Defendant would "beat" her. According to the Defendant, "[t]his testimony was offered to show that [the Defendant was] violent and jealous, plain and simple[,]” and “[t]here was no use for this testimony in explaining the declarant's actions[,]” rather its “only value” was to show that the Defendant was “likely a killer.”

Immediately preceding Mr. Morgan's testimony, the State requested a bench conference, during which it argued that Mr. Morgan's expected testimony regarding an interaction he had with the victim would be admissible under Rule 803(3), in that the victim had relayed her fear of the Defendant to Mr. Morgan. The trial court said it would allow such testimony under Rule 803(3), and at the conclusion of the bench conference, defense counsel noted his “same objection” but stated that he “underst[ood].” During his testimony, Mr. Morgan stated that, when he asked the victim if he could help her change a tire, she began to cry and told him that if he helped her, the Defendant would “make it worse on her” and “would beat on her.” Despite telling her that he would make the Defendant leave, the victim persisted that Mr. Morgan could not “come over” to help her.

Contrary to the State's initial argument on appeal, we do not view Mr. Morgan's testimony as an instruction by the victim to Mr. Morgan to leave her alone. The victim's telling Mr. Morgan not to help her or the Defendant would make it worse for her and “beat” her were statements of fact and, as such, not of the same character as orders, commands, and instructions. *See, e.g., Bennett*, 530 S.W.2d at 793 (noting that an instruction or request is not a statement of fact and “depends in no way on the veracity or credibility of the out-of-court declarant; it merely relates the fact that the other person made the statement, and makes no assertion with reference to its truth and is not offered for that purpose”). The State argues alternatively that the testimony was admissible under the state of mind exception to the hearsay rule because (1) it established the victim's “though[t] process around the time she was killed” and was “relevant as proof of her subsequent conduct consistent with her established mental state[,]” and (2) it rebutted the Defendant's alternate perpetrator defense.

At the outset, we turn to whether these statements made by the victim to Mr. Morgan constitute hearsay. This court has previously determined that declarations admitted pursuant to the Rule 803(3) exception “should *expressly* assert the declarant's mental state.” *State v. Wilson*, 164 S.W.3d 355, 365 (Tenn. Crim. App. 2003) (citation omitted). Examples of express assertions “include statements of love (‘I love Karen’), fear (‘I’m

afraid Adolph will kill me’), and hate (‘I hate him’).” *State v. Stewart*, No. M2019-01421-CCA-R3-CD, 2020 WL 6494838, at *12 (Tenn. Crim. App. Nov. 5, 2020) (quoting NEIL P. COHEN ET AL., TENNESSEE LAW OF EVIDENCE § 8.08[3][a] (6th ed. 2011)). At times, “‘a statement does not *literally* assert the declarant’s mental state when offered to prove that mental state,’ and as a result, ‘the statement should be admitted as non[-]hearsay because it is not admitted to prove its truth.’” *Id.* (emphasis added) (citation omitted). Such non-hearsay statements encompass “utterances offered for the underlying implied assertion that is circumstantially implicit in the literal spoken words.” *Id.* (citation modified) (quoting NEIL P. COHEN ET AL., § 8.01[8]). All the same, both a circumstantial declaration of a mental state and an express declaration are admissible over hearsay objections. *See State v. Roe*, No. 02C01-9702-CR-00054, 1998 WL 7107, at *11 (Tenn. Crim. App. Jan. 12, 1998) (citation omitted).

Here, the State did not offer Mr. Morgan’s testimony to prove that the Defendant would make things worse for the victim by beating her if Mr. Morgan helped her with her tire but, rather, to implicitly show the victim feared the Defendant. Prior to hearing Mr. Morgan’s testimony, the trial court determined that, based on the State’s argument, the expected testimony would reflect the victim’s fear of the Defendant and would be admissible under Rule 803(3). We conclude that the statements Mr. Morgan actually testified to were not express assertions of the victim’s mental state and, therefore, do not fall under the Rule 803(3) exception. However, the statements were circumstantial evidence of the victim’s mental state toward the Defendant, *i.e.*, that she feared him at the time the statements were made, and as such, were admissible as non-hearsay. *See* Tenn. R. Evid. 801(c); *e.g.*, *Stewart*, 2020 WL 6494838, at *12-13 (holding that the victim’s statement of fund-raising for a bus ticket to send the defendant back to Mississippi was admissible as non-hearsay because it provided circumstantial evidence of the victim’s feelings toward the Defendant at the time, not an express declaration of the victim’s mental state, and was relevant to refute the defendant’s claims that that he did not know why he killed the victim and that the situation “just got out of hand”); *State v. Rivera*, No. E2014-01832-CCA-R3-CD, 2016 WL 2642635, at *36 (Tenn. Crim. App. May 6, 2016) (holding that the victim statements to her neighbor that she was having problems with her former husband, her description of the defendant’s truck, and for her neighbor to “just keep a heads-up” were admissible as non-hearsay to show the victim feared the defendant, and the victim’s mental state was a key issue at the trial); *Roe*, 1998 WL 7107, at *10-12 (noting that the victim’s statements to her professor that the defendant had abused and threatened to kill her and for the professor to call her parents if she did not show up for class the following Friday were not express assertions of her mental state but rather circumstantially implications of such, and thus, would have been admissible as non-hearsay if offered to rebut the defendant’s assertion that he and the victim had a good marriage).

Moreover, the Defendant raised an alternate perpetrator defense beginning with his opening statement where the Defendant emphasized that there was no forensic evidence tying him to the murder of the victim. He also discussed that there was evidence that “a couple of guys” came to the victim’s house and picked up a motorcycle about a week before the victim’s body was found, and he referenced that an unidentified female’s DNA was found underneath the victim’s fingernails. The Defendant maintained this alternate perpetrator defense throughout the trial, as illustrated by the cross-examination of multiple witnesses on these matters and closing arguments. By raising such a defense before Mr. Morgan testified to the contested statement, the Defendant placed at issue the victim’s mental state at the time of her murder, which entitled the State to establish that the victim feared the Defendant—rather than any of the alleged alternate perpetrators—at the time of her murder. *See Stewart*, 2020 WL 6494838, at *12-13; *Rivera*, 2016 WL 2642635, at *36; *Roe*, 1998 WL 7107, at *10-12 (Tenn. Crim. App. Jan. 12, 1998); *see also State v. Hawkins*, 519 S.W.3d 1, 43 (Tenn. 2017) (holding in a Rule 803(3) context that when the defendant told law enforcement that it was his daughter, not him, who killed the victim and maintained this defense throughout his trial, he put at issue the victim’s mental state at the time of her murder, entitling the State to establish that the victim feared the defendant, not the daughter, at the time of the murder), *overruled on other grounds by State v. Enix*, 653 S.W.3d 692 (Tenn. 2022); *see also Martin v. Commonwealth*, 686 S.W.3d 77, 92 (Ky. 2023) (noting that raising an alternate perpetrator defense makes it “plainly relevant . . . for a prosecutor to point to the victim’s fear to counter the defendant’s contention that not he, but someone else, harmed the victim”).

As such, contrary to the Defendant’s argument, the victim’s statements to Mr. Morgan were not used to prove the Defendant’s conduct or mental state, but instead, were offered to establish that the victim feared the Defendant rather than a third party at the time of her death, an issue made relevant by the Defendant. Accordingly, these statements were properly admitted at the Defendant’s trial over his hearsay objection, albeit for different reasons than those relied upon by the trial court.

Pushing against these conclusions, the Defendant relies *State v. Leming*, 3 S.W.3d 7, 17 (Tenn. Crim. App. 1998), and *State v. Sherrod*, No. 01C01-9505-CR-00157, 1997 WL 34429, at *20-21 (Tenn. Crim. App. Jan. 30, 1997), for the proposition that a victim’s expression of fear is inadmissible to prove the defendant’s conduct or mental state. We do not disagree with this general principle. However, *Leming* and *Sherrod* addressed bare expressions of fear offered for no purpose beyond suggesting the defendant’s dangerousness. The statements at issue here differ in kind: Ms. Manning’s statement to Ms. Phillips was an instruction, not an assertion of fact, *see infra*; and her statement to Mr. Morgan, while not an instruction, was relevant to rebut the Defendant’s alternate

perpetrator defense, a purpose *Leming* and *Sherrod* did not address. For these reasons, the Defendant is not entitled to relief.

3. The Victim's Letter

Lastly, the Defendant asserts that the entire four-page redacted version of the letter the victim wrote about the Defendant was improperly admitted as it contained inadmissible hearsay. According to the Defendant, "Rule 803(3) would permit this to explain the acts of the declarant ([the victim]), but not to explain (or worse, prove) the acts of [the Defendant]." The Defendant contends that it "is plain from the context of the trial that this letter was offered to convince the jury that [the Defendant] killed [the victim] because she was going to go to his fiduciary and cancel the rent agreement." The Defendant notes that Rule 803(3) does "not permit the use of these statements as testimony establishing the guilt of the accused from beyond the grave."

Before proceeding with any plenary review of this issue on its merits, we are compelled to discuss well-settled principles of waiver. The Defendant's motion *in limine* was filed just ahead of trial, and the Defendant sought broadly to exclude as inadmissible hearsay certain out-of-court statements made by the victim to specified individuals, as well as the victim's letter. The hearing on the Defendant's motion took place on the eve of trial.

At the motion *in limine* hearing, the trial court ruled specifically on the last page of the victim's letter, but it did not address any of the remaining challenged evidence, noting that admissibility of much of the evidence would depend upon the presentation of proof at trial. The trial court also noted that the Defendant broadly "objected to everything" and that the Defendant would need "to narrow it down" a bit. The prosecutor requested guidance on admissibility of the victim's letter in an effort to help craft the State's opening statement since trial was to occur the following day. The trial court determined that "every bit" of the last page of the victim's letter would be admissible under Rule 803(3) as a state of mind exception in that it expressed the victim's plan. The trial court explained that the victim observed in that portion of the letter that the Defendant was "a dangerous person," whom she wanted "to leave her home," and that she planned on "getting him out" by contacting "his [f]iduciary" and Veterans Affairs. The trial court also noted that this portion indicated that the victim was afraid of the Defendant, qualifying as "an emotion." The rest of the letter was not discussed at the motion hearing due to the trial court's time constraints. It was mentioned that the parties could discuss the letter's admission more the following morning before trial was to begin, but no such discussion appears in the appellate record.

At trial, when the prosecutor proffered the four-page redacted letter during Mr. Hamby's testimony, he said, "I'm going to offer this letter as an Exhibit, Your Honor, in the condition that the Court is (indiscernible) into." Defense counsel raised the "[s]ame objection as before[.]" prompting a bench conference. After further discussion about the manner of admission of this evidence, the trial court asked defense counsel if he "still ha[d] an objection" to the redacted version, and he answered affirmatively. The trial court stated that it had addressed this matter during the motion *in limine*, and it ruled that "portions of the letter . . . were exceptions to the hearsay rule of [803(3)]," but noted that "the rest of" the letter had been redacted.

Motions *in limine* are characterized by their flexibility. See *Brandy Hills Ests., LLC v. Reeves*, 237 S.W.3d 307, 317 (Tenn. Ct. App. 2006) ("The nature of a motion *in limine* is a temporary, non-steadfast, interim ruling that is subject to modification before or during the trial."). Such a motion is, essentially, a pretrial substitute for an evidentiary objection at trial. *Duran v. Hyundai Motor Am., Inc.*, 271 S.W.3d 178, 192 (Tenn. Ct. App. 2008). The motion "enables the trial court, prior to trial, to exclude anticipated evidence that would clearly be inadmissible for any purpose at trial." *Id.* (first citing *Jonasson v. Lutheran Child & Fam. Servs.*, 115 F.3d 436, 440 (7th Cir. 1997); and then citing *Forsyth Cnty. v. Martin*, 610 S.E.2d 512, 518 (Ga. 2005)).

"A motion *in limine* is a request for guidance by the court regarding an evidentiary question" where "[t]he trial court may, within its discretion, provide such guidance by making a preliminary ruling with respect to admissibility." *Pullum v. Robinette*, 174 S.W.3d 124, 135-36 n.12 (Tenn. Ct. App. 2004) (quoting *United States v. Luce*, 713 F.2d 1236, 1239 (6th Cir. 1983)). It provides a tool to assist the parties with formulating their trial strategy. *Jackson v. Joyner*, 309 S.W.3d 910, 915 (Tenn. Ct. App. 2009) (citing *Duran*, 271 S.W.3d at 192). However, these "pre-introduction rulings on evidence . . . are conditional or provisional in nature, and, where such conditions do not occur at trial, may change an earlier ruling regarding the admissibility of the evidence." *Pullum*, 174 S.W.3d at 136-37 (citing as an example *State v. Bray*, 669 S.W.2d 684, 687 (Tenn. Crim. App. 1983)). A trial court can "change an *in limine* ruling for other reasons in the exercise of sound discretion." *Reeves*, 237 S.W.3d at 317 n.17 (quoting *Pullum*, 174 S.W.3d at 136-37).

A motion *in limine* preserves an issue only when it "clearly presents an evidentiary question and [when] the trial judge has clearly and definitively ruled." *Gray*, 2023 WL 3916272, at *6 (quoting *State v. McGhee*, 746 S.W.2d 460, 462 (Tenn. 1988)). When "issues are only tentatively suggested or the record [is] only partially and incompletely developed in connection with a motion *in limine*," the failure to lodge an objection during trial carries with it the risk that the issue has not been properly preserved." *Id.* (quoting

State v. Ipock, No. M2017-01374-CCA-R3-CD, 2018 WL 6077849, at *7 (Tenn. Crim. App. Nov. 20, 2018)); *see also McGhee*, 746 S.W.2d at 462. Consequently, when the objection is undeveloped, and no clear and definite ruling on the motion *in limine* is apparent from the record, a defendant must renew the motion contemporaneously with the introduction of the objectionable evidence. *See Gray*, at *6. Failure to do so precludes the defendant from taking issue on appeal with the admission of the evidence. *Id.*; *Grandstaff v. Hawks*, 36 S.W.3d 482, 488 (Tenn. Ct. App. 2000).

It is unclear from the record provided on appeal as to how this four-page redacted letter came to be prepared for entry at trial. The trial court stated at the motion *in limine* hearing that it did not have the necessary time to discuss the letter in total and ruled only on the last page of the victim's letter as an exception to the hearsay rule. But much more of the letter's contents than just the last page were included in the redacted version admitted at trial. The trial exhibit was four pages in length, and all pages contained redactions except the last page. It certainly appears from the exchange precipitating admission of the trial exhibit that the parties were aware of its condition in that certain portions had been redacted, but none of these discussions concerning redactions are a part of the appellate record.

Moreover, the Defendant's trial objection lacked any specificity relative to particular passages of the letter and failed to even provide a legal theory in support of exclusion, arguing only that he *still* had the *same* objection as before. The trial court replied to the Defendant's objection by restating its previous hearsay ruling at the motion *in limine* hearing, but this does not assist this court by supplying any well-defined context for the Defendant's objection to the entire redacted four-page letter at trial. At the motion *in limine* hearing, the trial court simply provided guidance to the parties so that they could prepare their opening statements set to take place the following day. At that time, the trial court addressed the Defendant's hearsay objection as it related to the last page of the victim's letter. However, the trial court also noted that the Defendant broadly "objected to everything" and that the Defendant would need "to narrow it down" a bit, as well as stating that admissibility of this challenged hearsay evidence might change as the proof was presented at trial.

Under the circumstances present here, we are constrained to conclude that there was no clear and definitive ruling from the trial court involving the legal grounds for admission of the entire four-page redacted letter authored by the victim. The Defendant was required to renew his objection, with specificity, to the redacted version of the victim's letter at the time it was proffered for entry at trial. *See* Tenn. R. Evid. 103(a)(1) (providing that an error may not be predicated on a ruling which admits evidence "unless a substantial right of the party is affected, and . . . a timely objection or motion to strike appears of record,

stating the specific ground of objection if the specific ground was not apparent from the context”). And given the flexible and evolving nature of a motion *in limine*, the trial court’s rationale for admissibility of the last page of the victim’s letter could have varied with the progression of proof at trial.

Additionally, in this regard, we observe that the original unredacted version of the victim’s letter is not included in the record on appeal. Without the unredacted version, we are unable to examine the portions that were determined to be unacceptable for entry or compare them with the portions that were deemed acceptable in the redacted version, perhaps, enlightening us with some legal context for the trial court’s complete evidentiary ruling. *Cf. State v. Durham*, 251 N.E.3d 788, 800 (Ohio Ct. App. 2024) (recognizing that maintaining both the original unredacted version and the redacted version in the court file serves the “purposes of appellate review,” even when only the redacted version goes to the jury); *Bland v. Virginia State Univ.*, 630 S.E.2d 525, 527 (Va. 2006) (holding that denial of a party’s motion to make unredacted copies of the reports part of the record was an abuse of discretion because the unredacted reports were needed for appellate review). We also note that the issue of inadmissible hearsay as it broadly pertained to admission of the victim’s letter was raised in the motion for new trial, but the transcript of the motion for new trial was not included in the appellate record. *See, e.g., State v. Littleton*, No. E2023-01329-CCA-R3-CD, 2025 WL 1013377, at *22 (Tenn. Crim. App. Apr. 4, 2025) (noting the inadequacy of the appellate record when reviewing an evidentiary issue raised via a motion *in limine* because, *inter alia*, there was no transcript of the motion for new trial hearing included), *perm. app. denied* (Tenn. Aug. 7, 2025).

Without this evidence, appellate review of the trial court’s decision and reasoning is not only frustrated, but precluded in this instance due to the inadequate record. It is the Defendant’s burden to prepare an adequate record for review. *See State v. Bunch*, 646 S.W.2d 158, 160 (Tenn. 1983). The appellant has a duty to prepare a record that conveys “a fair, accurate and complete account of what transpired with respect to those issues that are the bases of appeal.” Tenn. R. App. P. 24(b). When the record is incomplete and does not contain a transcript of the proceedings relevant to an issue presented for review, or portions of the record upon which a party relies, a reviewing court is precluded from considering the issue and must presume the trial court’s ruling was correct. *See State v. Oody*, 823 S.W.2d 554, 559 (Tenn. Crim. App. 1991); *State v. Roberts*, 755 S.W.2d 833, 836 (Tenn. Crim. App. 1988).

Importantly, we emphasize that the Defendant raised only a general hearsay objection to the victim’s letter at the motion *in limine* hearing and conceivably later at trial, but he, at all times, failed to make any specific hearsay argument regarding the multiple statements contained in the four-page letter. *See, e.g., Morgan*, 727 S.W.3d at 197

(observing that this court “cannot evaluate the merits of the defendant’s hearsay claims without knowing what particular questions or statements are challenged and understanding the context in which they were offered as evidence at trial”). The Defendant likewise makes no detailed argument in his appellate brief, even as it relates to the trial court’s *in limine* ruling regarding the last page of the victim’s letter. *See, e.g., State v. Bonds*, 502 S.W.3d 118, 144 (Tenn. Crim. App. 2016) (concluding that a challenge to evidence is waived where an appellate brief fails to “specifically identify which evidence [the defendant] deems improper” and makes “only a general complaint”). Accordingly, were the record adequate for our review, we would still decline to engage in an exhaustive review of hearsay law unsupported by the appellate briefs by examining the victim’s letter line-by-line. *See* Tenn. R. App. P. 27(a)(7)(A) (requiring appellate briefs to contain an argument “setting forth . . . the contentions of the appellant with respect to the issues presented, and the reasons therefor, including the reasons why the contentions require appellate relief, with citations to the authorities and appropriate references to the record”); Tenn. Ct. Crim. App. R. 10(b) (“Issues which are not supported by argument, citation to authorities, or appropriate references to the record will be treated as waived in this court.”). “In our adversarial system, the judicial role is not ‘to research or construct a litigant’s case or arguments for him or her[.]’” *State v. Bristol*, 654 S.W.3d 917, 924 (Tenn. 2022) (quoting *Sneed v. Bd. Pro. Resp. of Sup. Ct.*, 301 S.W.3d 603, 615 (Tenn. 2010)). An appellate court “may decline to consider issues that a party failed to raise properly.” *Id.* at 923 (quoting *State v. Harbison*, 539 S.W.3d 149, 165 (Tenn. 2018)).

For the reasons stated, the Defendant has waived appellate review of the admission of the victim’s letter. He is not entitled to relief on this issue.

III. CONCLUSION

Based on the foregoing authorities and reasoning, we affirm the judgments of the trial court.

s/Kyle A. Hixson
KYLE A. HIXSON, JUDGE