NOTICE
This Order was filed under Supreme Court Rule 23 and is not precedent except in the limited circumstances allowed under Rule 23(e)(1).

2026 IL App (4th) 251121-U

NO. 4-25-1121

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED
November 24, 2026
Carla Bender
4th District Appellate
Court, IL

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
Plaintiff-Appellee,	)	Circuit Court of
v.	)	McLean County
LEON LAMELL FORD,	)	No. 24CF1055
Defendant-Appellant.	)	
	)	Honorable
	)	J. Jason Chambers,
	)	Judge Presiding.

JUSTICE HARRIS delivered the judgment of the court.
Justices Zenoff and DeArmond concurred in the judgment.

ORDER

¶ 1 *Held*: (1) The admission of other-crimes evidence was harmless error.

(2) The trial court did not abuse its discretion in imposing defendant's sentence.

¶ 2 Following a jury trial, defendant was convicted of being an armed habitual criminal (720 ILCS 5/24-1.7(a) (West 2024)) and sentenced to 28 years in prison. He appeals, arguing the trial court (1) improperly allowed the admission of other-crimes evidence at his trial and (2) imposed an excessive sentence. We affirm.

¶ 3 I. BACKGROUND

¶ 4 A. Charges and Pretrial Proceedings

¶ 5 In October 2024, defendant was indicted on one count of being an armed habitual criminal (*id.*) (count I), three counts of unlawful possession of a weapon or firearm by a felon (*id.* § 24-1.1(a)) (counts II, III, and IV), one count of unlawful use of a weapon (*id.* § 24-1(a)(7)(i))

(count V), and one count of aggravated unlawful use of a weapon (*id.* § 24-1.6(a)(1)) (count VI). The charges were based on allegations that defendant possessed a .40-caliber firearm after having previously been convicted of felony offenses, including aggravated unlawful use of a weapon in McLean County case No. 20-CF-60, and unlawful possession of a weapon by a felon in McLean County case No. 21-CF-194. The State also alleged that at the time of the charged offenses, defendant was on parole or mandatory supervised release and that the firearm he possessed was a .40-caliber machine gun, "which shoots automatically more than one shot without manually reloading by a single function of the trigger."

¶ 6 Prior to trial, the State filed a motion *in limine* to admit evidence of defendant's prior firearm convictions pursuant to Illinois Rule of Evidence 404(b) (eff. Jan. 1, 2011). It alleged the charged offenses stemmed from an incident in which defendant ran from police officers who were attempting to detain and speak with him. According to the State, officers observed defendant clutching his right hip as he ran "in an apparent effort to prevent himself from dropping an item in his waistband." Defendant ran into a heavily wooded area, and officers found him inside a large culvert. An officer searched the culvert and "located a loaded Glock 22 firearm with an extended magazine and a switch."

¶ 7 The State further alleged that defendant had been previously convicted of similar offenses in Mclean County case Nos. 20-CF-60 and 21-CF-194. With respect to case No. 20-CF-60, it asserted that in January 2020, the police initiated a traffic stop of a vehicle in which defendant was a passenger. Defendant exited the vehicle and ran from the police through a park. Police officers observed him stop briefly and deposit something on the ground. They ultimately detained defendant and, in the area where defendant had been observed depositing something, found a ".38 revolver handgun." The State alleged that in case No. 21-CF-194, the police observed a social

media post that showed defendant "in a mirror with a handgun tucked in his waistband" at a specific apartment. They obtained a search warrant for the apartment, and when the warrant was executed, they found defendant inside and "a 9mm pistol firearm hidden under a pillow."

¶ 8 The State argued defendant's prior convictions were relevant to establishing his intent, knowledge, and absence of coincidence or mistake in connection with his underlying firearm possession charges. It pointed out that his past offenses were "temporally close" to his current offense and similar because they involved "the hiding of a firearm to avoid prosecution." The State also maintained that the prejudicial effect of the evidence would be minimal, as the jury would already be receiving evidence of those offenses because they were elements of the charged offenses. It asked that the trial court allow it to present "the name of the offenses, the date of the offenses, and the date of convictions" from both prior cases at defendant's trial.

¶ 9 Following a hearing, the trial court granted the State's request to allow the admission of evidence related to defendant's prior conviction in case No. 20-CF-60 but not his prior conviction in case No. 21-CF-194. The court stated that it had considered the facts proffered by the State in its motion, the similarities and differences in defendant's past and current offenses, the cumulative effect of allowing evidence of multiple prior convictions, and the probative value of the evidence versus its prejudicial effect.

¶ 10 B. Defendant's Jury Trial

¶ 11 In March 2025, the trial court conducted defendant's jury trial. The record reflects the State nol-prossed count VI and elected to proceed on only on counts I through V. Its evidence showed that on the afternoon of September 13, 2024, officers with the Bloomington Police Department responded to a call for service about a "suspicious vehicle" or "suspicious activity" in the 1900 block of Tracy Drive in Bloomington, Illinois. Specifically, the caller reported that there

was "a white sedan sitting in the back parking lot of one of the apartment buildings on Tracy Drive." Police officers Brendan Bunch and Tre Jones arrived at the scene together in a marked squad car. Both officers testified that the area of the call could be described as "a high crime area."

¶ 12 Upon arriving at the scene, Bunch observed a vehicle that matched the description of the suspicious vehicle and "pulled up towards" it with his emergency lights on. He noticed people inside the vehicle and "one male walking around outside." As the officers got closer to the vehicle, the male who was walking around outside started to walk away and then "took off running on foot around the side of the apartment complex." The officers pursued the male, and Jones noticed that the male was "clutching *** the right side of his hip like he was holding something." The officers lost sight of the male; however, Jones testified that he continued in the direction that the male had been running. He stated that a citizen waved him down and directed him to a wooded area where the citizen believed the male had gone.

¶ 13 Ultimately the officers located a male, whom they identified as defendant, in the wooded area and inside a large cement drainage culvert that had "a small creek" running through it. Bunch testified his attention had been drawn to the culvert by the movement of the water, which indicated to him that something was inside the culvert. After locating defendant, the police searched both his person and the path he traveled while running but found no items of contraband.

¶ 14 Recordings from a dash camera on the officers' squad car and Bunch's body-worn camera were admitted into evidence and published at trial. Although Jones had also been equipped with a body-worn camera, his camera was not activated and did not capture his pursuit of the suspect. Jones asserted that his body-worn camera should have turned on when the emergency lights of the squad car were activated. He believed that did not occur "due to the fact that [he] *** hadn't logged into the car camera." Jones stated he also did not activate his body-worn camera

manually, explaining as follows: "And then since being such a fast-paced moving situation, first call of the day, you get out, you stop, and I'm in a foot chase, I didn't get to turn it on."

¶ 15 The State's evidence further showed that Bloomington police officer Calvin Rueb searched the drainage culvert where defendant was found and, in the water, located "a Glock handgun" with an extended magazine. Rueb described the water as "murky" and testified he found the firearm by making a sweeping motion with his foot under the water. He observed a "switch" on the back of the handgun, which he described as something that "go[es] onto handguns" and turns a semiautomatic handgun into a fully automatic handgun. Rueb testified that the handgun appeared to have been recently placed in the culvert, noting that it was not rusted or covered in sediment. However, he acknowledged that he did not know how long it would take for rust to develop on the handgun he found and that it was possible any sediment on the handgun could have "been removed by the sweeping action of [his] feet in the water."

¶ 16 David Ashbeck, a crime scene detective for the Bloomington Police Department, testified he inspected and test-fired the handgun. He described the handgun as being functional and "in generally good condition." Ashbeck also testified that the handgun had a "switch" affixed to it, which he described as an "aftermarket device" that allowed it "to be fired fully automatic."

¶ 17 Detective Logan Fosdick testified he also responded to the incident at issue and helped get defendant "out of the creek." He escorted defendant to his squad car and stated that defendant reported that he ran from the police for "no reason." Fosdick stated he also processed the firearm found in the culvert. He described it as a .40-caliber Glock 22 and testified that it was loaded, with "a round chambered inside." No discernable fingerprints were found on the weapon.

¶ 18 The record shows that the parties stipulated that defendant had previously been convicted of two qualifying offenses for his armed habitual criminal charge, including a conviction

for "a felony offense on April 7th, 2020," and a conviction for "a felony offense on October 7th, 2021." They also stipulated that on September 13, 2024, the date of the alleged offenses at issue, defendant was on parole or mandatory supervised release from the Illinois Department of Corrections.

¶ 19 Finally, as part of the State's case, the trial court took judicial notice of defendant's prior conviction in McLean County case No. 20-CF-60. As to that matter, the court informed the jury as follows:

> "Evidence is about to be received by you of a prior conviction. This evidence has been received on the issues of the defendant's knowledge, intent[,] and absence of mistake and may be considered by you only for that limited purpose. It is for you to determine what weight should be given to this evidence on the issues of knowledge, intent[,] and absence of mistake.
>
> The Court is taking judicial notice of McLean County case [No. 20-CF-60], specifically that the defendant *** has been convicted of the offense of aggravated unlawful use of a weapon based on an incident that occurred on January 15th of 2020."

¶ 20 The State then rested, and defendant presented no evidence. During closing arguments, defendant's counsel acknowledged that defendant ran from the police during the underlying incident but denied that he knowingly possessed the firearm found in the culvert. The jury found defendant guilty of each of the remaining charged offenses, counts I through V.

¶ 21 C. Posttrial Proceedings and Sentencing

¶ 22 In April 2025, defendant filed a motion for a judgment notwithstanding the verdict or for a new trial. In June 2025, after obtaining new counsel, he filed an amended posttrial motion.

Relevant to this appeal, both motions raised the claim that the trial court erred by granting the State's motion to admit evidence of defendant's prior conviction for aggravated unlawful use of a weapon in McLean County case No. 20-CF-60 under Rule 404(b).

¶ 23 In July 2025, the trial court conducted a hearing and denied both defendant's original and amended posttrial motions. With respect to the admission of other-crimes evidence under Rule 404(b), the court stated that it had weighed the probative value of the evidence versus its prejudicial effect and noted there had not been a "blanket allowance" of other-crimes evidence. The court "re-affirmed" its prior ruling.

¶ 24 The trial court then conducted defendant's sentencing hearing. Defendant's presentence investigation report (PSI) showed that he was 26 years old. His criminal history included juvenile adjudications for retail theft (2014), mob action (2014), criminal trespass to vehicles (2014), unlawful possession of a stolen vehicle (2014), burglary (2015), and unlawful possession of a firearm (2016). As an adult, he had felony convictions for aggravated unlawful use of a weapon (2020), for which he was sentenced to one year in prison; possession of a controlled substance (2020); and unlawful possession of a weapon by a felon (2021), for which he was sentenced to nine years in prison. Defendant also had a misdemeanor conviction for battery (2020) and pending felony charges for aggravated battery and mob action in two separate McLean County cases.

¶ 25 According to the PSI, defendant was raised by his mother and reported getting along well with both her and his half-siblings. Defendant "dropped out" of high school in the eleventh grade, and the PSI described various "disciplinary contacts" he had while in school. Defendant reported that he had been unemployed since 2019, although the PSI stated there were records indicating that he worked at Jimmy John's in October 2021. Defendant stated he had no

income and no bills and relied on family and friends to support him. He had two sons, who resided with their mother. Defendant stated that he spoke to his children " 'all the time' " and that he had a good relationship with them.

¶ 26 Defendant further reported being in good physical health. With respect to his mental health, he stated that he had been diagnosed with " 'extreme anxiety' " and post-traumatic stress disorder. While he was in custody, he took medication to address his mental health issues. Defendant asserted that he felt a need for counseling, noting he did not have anyone to talk to and had " 'a lot' going on." Defendant also reported a history of drug abuse, including daily use of cannabis beginning at age 19 and daily use of Percocet beginning in 2024. He expressed a belief that he could benefit from substance abuse treatment.

¶ 27 The PSI also showed that in January 2025, defendant was arrested in connection with the underlying charges and denied pretrial release. While in custody, he committed various rule violations and was charged with additional offenses. Specifically, based on behavior that occurred on the day he was taken into custody, including stating to jail staff that he did not "give a f*** about no rules," defendant was found guilty of unnecessary talking during a headcount procedure, disobeying orders, creating excessive or unnecessary noise, attempting to control or supervise other inmates, causing or being involved in a disturbance, interference with jail personnel, and making false statements or allegations about jail employees.

¶ 28 In March 2025, two days after his jury trial and while he was awaiting his sentencing, defendant and four others were alleged to have attacked another inmate "by 'kicking and hitting him repeatedly.' " Defendant was reportedly observed with bloody knuckles after the attack. As a result of the incident, defendant was found guilty of rule violations, including assault or battery, interference with jail personnel, being in an unauthorized area, and disobeying a

reasonable order. He was also charged in McLean County case No. 25-CF-291 with aggravated battery and mob action. In April 2025, defendant was suspected of violating jail rules by throwing an " 'unknown liquid' " at other inmates. When questioned, he admitted guilt and apologized. Finally, in May 2025, defendant was charged in McLean County case No. 25-CF-513 with aggravated battery and mob action based on allegations that he was involved in "a fight in the jail." Defendant denied that he had been fighting and explained the incident as " 'horseplay.' "

¶ 29 At the sentencing hearing, the State offered no additional evidence. Defendant submitted proof of three courses he had completed while in jail, including "Parenting While Incarcerated," "Job Seeking with a Criminal Record," and "Grow with Google: Track Graduation Requirements."

¶ 30 The trial court and the parties agreed that all counts merged into the armed habitual criminal count and that defendant faced a Class X sentencing range of 6 to 30 years in prison. The State asked the court to impose a maximum 30-year sentence. It argued that defendant started committing crimes at the age of 16 and described him as a "career criminal." It described defendant's criminal activity as "consistent" and "escalating." The State pointed out that the current case represented defendant's fourth firearm offense and was committed while he was "on parole for a prior firearm offense." The State also noted the disciplinary issues defendant had, both in school and while in custody. Further, it argued that "the firearm in this case wasn't just a gun," noting that it had been equipped with an aftermarket attachment that made it an automatic weapon, "an extremely dangerous weapon."

¶ 31 Defendant's counsel asked the trial court to impose a minimum six-year prison sentence. Counsel acknowledged that defendant was being sentenced for a serious offense but argued that he had "a lot going for him." He asked the court to consider defendant's age, that he

was capable of reform, and that he was an active father. Counsel pointed out that defendant was young, had "a lot of growing to do as an individual," and that much of his criminal history occurred while he was a minor. He asserted that defendant had family support, including a very good relationship with his mother, and that he had "an active role" in the lives of his two young children. Counsel noted that defendant had some mental health concerns that he wanted to address as well as defendant's completion of courses while in custody. Finally, counsel asked the court to consider defendant's character and attitude in mitigation, arguing he was "trying to better himself in the jail," despite "some run-ins and some bumps" while in custody.

¶ 32 Defendant gave a statement in allocution. He asserted that he was "trying to change [his] future for the better." Defendant believed that his PSI gave the impression that he did not care about things in life, but he asserted that was "the furthest from the truth." He noted that he had completed his prior nine-year sentence "in three years and four days due to good behavior." While serving his sentence, he had a job performing custodial maintenance and obtained his GED. Defendant noted the courses he completed while in custody and maintained that he wanted to be a better person for his two sons, ages eight and five. He stated that he understood that he would be going back to prison but wanted the trial court to know that he was a good person with a good heart and that he hated having to be away from his children. Defendant asserted that he would do whatever it took not to end up in the same situation again.

¶ 33 The trial court sentenced defendant to 28 years in prison. In setting forth its decision, the court stated that it had considered defendant's PSI, history, character, attitude, and statement in allocution, as well as the evidence and arguments of the parties and statutory and nonstatutory factors in aggravation and mitigation. The court found defendant was sincere "about wanting to be in a better place," which it considered "in a mitigating context." It also considered

his age to be a mitigating factor as it related to some of his previous offenses but not as to the underlying offenses, noting that they occurred when he was 26 years old. The court further stated that it had considered the hardship defendant's imprisonment would cause to his dependents.

¶ 34 With respect to factors in aggravation, the trial court noted that the charged offenses were committed while defendant was on mandatory supervised release for another gun-related offense. It also found the totality of defendant's criminal history was aggravating, stating that for "the last decade," defendant had not "let up." The court noted defendant's rule violations while in jail and stated as follows: "Although not an overwhelming number of rule violations, it fits with some of the other behavior I'm seeing here. And as much as I want to believe that you have some rehabilitative potential, your actions haven't started to demonstrate that yet." The court concluded that defendant "had ample opportunities" to change his behavior but had not done so and was "still going at the same full-throttle speed on it."

¶ 35 In August 2025, defendant filed a motion to reconsider his sentence, arguing it was excessive. Following a hearing in October 2025, the trial court denied defendant's motion. In setting forth its decision, the court stated its concern in defendant's case had been his adult criminal behavior, which was a continuation of his juvenile behavior. It pointed out that defendant had multiple felonies "in fairly short order" and that he committed additional offenses not long after being released from prison. Finally, the court found that although defendant had represented that he wanted to change, he had not shown that to be true through his behavior, despite having "ample opportunity."

¶ 36 This appeal followed.

¶ 37 II. ANALYSIS

¶ 38 A. Other-Crimes Evidence

¶ 39 On appeal, defendant first argues he was denied his right to a fair trial due to the erroneous admission of other-crimes evidence, *i.e.*, evidence of his prior conviction for aggravated unlawful use of a weapon in case No. 20-CF-60. He contends the evidence had no relevance to the charged offenses and that even if it did, any probative value of the evidence was significantly outweighed by its prejudicial effect. Further, defendant complains that no evidence was presented that linked the facts of his prior conviction to the facts of the charged offenses. He maintains that under such circumstances, the jury could only have improperly considered his prior conviction as propensity evidence.

¶ 40 Generally, other-crimes evidence is not admissible to show a defendant's propensity to commit the charged offense. See Ill. R. Evid. 404(b) (eff. Jan. 1, 2011) (stating that except in certain specific circumstances, "[e]vidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show action in conformity therewith"). "Such evidence is not considered irrelevant; instead, it is objectionable because such evidence has too much probative value." (Internal quotation marks omitted.) *People v. Donoho*, 204 Ill. 2d 159, 170 (2003).

¶ 41 Nevertheless, despite being inadmissible to show propensity, other-crimes evidence may "be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident." Ill. R. Evid. 404(b) (eff. Jan. 1, 2011). When admitted for these permissible purposes, the other-crimes "evidence must be relevant without relying on a propensity inference." (Internal quotation marks omitted.) *People v. Smart*, 2025 IL 130127, ¶ 72. "If the State shows the evidence relevant without relying on a propensity inference, the court *** must determine whether the prejudicial effect of the evidence substantially outweighs its probative value." *Id.*

¶ 42 The admissibility of other-crimes evidence is within the trial court's discretion, "and its decision will not be disturbed absent an abuse of that discretion." *People v. Pikes*, 2013 IL 115171, ¶ 12. An abuse of discretion occurs where "the trial court's decision is arbitrary, fanciful, or unreasonable to the degree that no reasonable person would agree with it." (Internal quotation marks omitted.) *People v. Peterson*, 2017 IL 120331, ¶ 125.

¶ 43 1. *Knowledge*

¶ 44 Here, the other-crimes evidence, *i.e.*, defendant's prior conviction for aggravated unlawful use of a weapon in case No. 20-CF60, was admitted to show defendant's knowledge, intent, or absence of mistake in committing the charged offenses. Defendant argues the challenged evidence was not relevant for any of those purposes. In response, the State contends that the other-crimes evidence was relevant to the issue of defendant's knowledge and, thus, was properly admitted.

¶ 45 In this case, an element of each charged offense was defendant's possession of a firearm. 720 ILCS 5/24-1.7(a), 24-1.1(a), 24-1(a)(7)(i) (West 2024)). "Possession may be actual or constructive." *People v. Jones*, 2023 IL 127810, ¶ 30. When a firearm is found in the proximity of a defendant following his flight from the police or along his flight path rather than on his person, the State must prove the defendant's constructive possession of the firearm. See *People v. Anderson*, 2018 IL App (4th) 160037, ¶¶ 31-33; *People v. Thomas*, 2026 IL App (2d) 250104, ¶ 43. "To establish constructive possession, the State must prove that the defendant knew contraband was present and that the defendant exercised immediate and exclusive control over the area where the contraband was found." *Jones*, 2023 IL 127810, ¶ 30.

¶ 46 "Because knowledge is the mental element of an offense, it is often proved by circumstantial evidence rather than direct proof." *Id.* "Knowledge may be shown by evidence of

defendant's acts, declarations, or conduct from which it can be inferred that he knew the handgun existed in the place where it was found." *Anderson*, 2018 IL App (4th) 160037, ¶ 32.

¶ 47 To support their respective positions, both parties rely on lower federal court decisions. Although not binding on this court, such decisions may be considered as persuasive authority. *State ex rel. Leibowitz v. Family Vision Care, LLC*, 2020 IL 124754, ¶ 74. Additionally, because the Illinois Rules of Evidence largely track the Federal Rules of Evidence, we may look to federal cases for guidance. *People v. McCullough*, 2015 IL App (2d) 121364, ¶ 108; see Fed. R. Evid. 404(b) (eff. Dec. 1, 2020).

¶ 48 In arguing that the evidence of his prior conviction in case No. 20-CF-60 was not relevant to establishing his knowledge in the present case, defendant relies on *United States v. Tate*, 715 F.2d 864 (4th Cir. 1983). There, the defendant was convicted of a firearm-related offense after the police searched the car he was driving, which belonged to his wife, and found two firearms in the trunk. *Id.* at 865. At trial, the defendant denied knowing the firearms were in the trunk and asserted that the guns belonged to other people. *Id.* The prosecution presented evidence that the defendant had been seen in possession of a different firearm earlier in the same year. *Id.*

¶ 49 On appeal, the defendant challenged the admission of the other-crimes evidence, arguing it was improperly admitted. *Id.* The Fourth Circuit Court of Appeals agreed, rejecting the government's argument that the evidence was relevant to show the defendant's "guilty knowledge." *Id.* at 866. The court stated as follows:

> "The possession by the defendant of a different gun on a previous occasion has no relevance to the issue of whether the defendant knew on the day he was stopped that the two pistols were in the trunk of his wife's car ***. But the commission of the same bad act on a previous occasion is bound to have had the effect of tending

to show that the defendant had the propensity to commit the crimes for which he was on trial." *Id.*

¶ 50 The State responds by citing *United States v. Trent*, 443 F. App'x 860 (4th Cir. 2011). In that case, the defendant fled from an attempted traffic stop and crashed his vehicle. *Id.* at 861. The police found a handgun inside the vehicle, and the defendant was charged with possession of a firearm by a felon. *Id.* At his trial, the government presented evidence of two prior instances when the defendant "threw away firearms while fleeing apprehension for speeding and other traffic violations." *Id.* at 862.

¶ 51 On review, the Fourth Circuit Court of Appeals found no error in the admission of the other-crimes evidence, agreeing that it was relevant to establishing the defendant's knowledge of the handgun in the vehicle and pointing out that the prior incidents closely resembled the facts of the charged offense. *Id.* In so holding, the court distinguished *Tate*, stating as follows: "In *Tate*, the challenged evidence concerned a prior incident unlike the one for which [the *Tate* defendant] was convicted. Here, by contrast, the prior incidents closely resemble the offense of conviction. Accordingly, they illuminate the critical issue of whether [the *Trent* defendant] knowingly possessed the firearm." *Id.* at 863.

¶ 52 The State cites several other federal cases, arguing that the weight of federal authority establishes that a prior history of firearm possession is relevant to show knowledge in the context of cases like the present one. See *United States v. Cassell*, 292 F.3d 788, 794-95 (D.C. Cir. 2002) (stating that a history of firearm possession was "certainly relevant" to a determination of whether a person in proximity to a firearm knew what he was possessing); *United States v. Williams*, 796 F.3d 951, 959 (8th Cir. 2015) (stating that as a general rule, evidence of previous firearm possession is relevant to show knowledge and intent); *United States v. Moran*, 503 F.3d

1135, 1144 (10th Cir. 2007) (finding the defendant's knowing possession of a firearm in the past supported the inference that he had the same knowledge in the context of the charged offense); *United States v. Cenephat*, 115 F.4th 1359, 1366 (11th Cir. 2024) (finding a "logical connection" between a felon's prior and subsequent knowing possession of a firearm (internal quotation marks omitted)).

¶ 53 We note that the Seventh Circuit Court of Appeals also addressed similar issues in *United States v. Miller*, 673 F.3d 688, 695 (7th Cir. 2012), finding that evidence of a prior gun possession was properly admitted where the prior possession "concerned the same gun" and "was relatively recent." Significantly, however, the court further cautioned as follows:

> "Evidence of prior, uncharged gun possessions by felons has the potential to be used for impermissible propensity purposes. We have analyzed such evidence under [Federal] Rule 404(b) and have allowed it, at least where the prior possession was recent and involved the same gun. [Citations.] If the prior possession was of a different gun, then its value as direct or circumstantial evidence of the charged possession drops and the likelihood that it is being used to show propensity to possess guns rises considerably. Similarly, as the prior possession is further removed in time, it becomes less probative of possession on the date charged." *Id.*

¶ 54 Although not cited by either party, Illinois case law also addresses the issue of other-crimes evidence of a defendant's prior firearm possession. Specifically, in *People v. Sims*, 2019 IL App (3d) 170417, ¶¶ 3-6, the defendant was charged with unlawful possession of a weapon by a felon after the police found a handgun in the center console of his vehicle. At his trial, the State presented evidence that defendant had possessed a different gun shortly before the charged offense, which he claimed was stolen from his vehicle. *Id.* ¶¶ 9, 13. The Appellate Court,

Third District, found no error in the admission of the evidence, reasoning, in part, as follows:

> "In this case, [the] defendant denied knowing that the *** weapon was in his vehicle. Testimony that [the] defendant had a different weapon in his vehicle prior to the date in question and regularly kept a weapon in his vehicle was relevant to prove that [the] defendant knew that a weapon was in his vehicle on [the date of the charged offense]." *Id.* ¶ 32.

¶ 55 We find the present case more like *Tate*, defendant's cited authority, than *Trent*, *Miller*, or *Sims*. The State argued below that the evidence of defendant's firearm conviction in case No. 20-CF-60 was probative as to the issue of defendant's knowledge because it was "temporally close in time" to defendant's charged offenses and similar because it involved "the hiding of a firearm to avoid prosecution." Notably, however, defendant's prior conviction occurred four years before the charged offenses and did not involve the same firearm or the same location where the firearm was discovered. Moreover, as defendant points out, the jury in his case was presented with only the mere fact of his prior conviction for aggravated unlawful use of a weapon in case No. 20-CF-60 and not any of the underlying facts of that offense. Such circumstances indicate that the relevance of the other-crimes evidence to the issue of defendant's knowledge required a propensity inference, *i.e.*, that defendant knew of the weapon found in the culvert because he had committed the same type of offense before.

¶ 56 As noted, our supreme court has recently held that a trial court may admit other-crimes evidence to prove matters including knowledge, "but the evidence must be relevant without relying on a propensity inference." (Internal quotation marks omitted.) *Smart*, 2025 IL 130127, ¶ 72. In so holding, the court relied on the reasoning set forth by the Seventh Circuit Court of Appeals in *United States v. Gomez*, 763 F.3d 845 (7th Cir. 2014). Specifically, the *Gomez* court

held as follows:

> "[I]t's not enough for the proponent of the other-act evidence simply to point to a purpose in the 'permitted' list and assert that the other-act evidence is relevant to it. Rule 404(b) is not just concerned with the ultimate conclusion, but also with the chain of reasoning that supports the non-propensity purpose for admitting the evidence. [Citations.] In other words, the rule allows the use of other-act evidence only when its admission is supported by some propensity-free chain of reasoning. [Citations.] This is not to say that other-act evidence must be excluded whenever a propensity inference can be drawn; rather, Rule 404(b) excludes the evidence if its relevance to 'another purpose' is established *only* through the forbidden propensity inference." (Emphasis in original.) *Id.* at 856.

In determining whether evidence has a nonpropensity purpose, courts should consider "*how* the evidence tends to make a particular fact of consequence more or less probable." (Emphasis in original.) *Id.* Courts must "consider the chain of logic by which the jury is being asked to glean the defendant's knowledge, intent, etc., from proof of his prior misdeeds." (Internal quotation marks omitted.) *Id.*

¶ 57 Here, with respect to the other-crimes evidence, the jury was asked to infer that defendant possessed the gun found in the culvert because he was previously convicted of aggravated unlawful use of a weapon in case No. 20-CF-60. Such circumstances do not reflect a propensity-free chain of reasoning. Accordingly, we agree with defendant that the trial court abused its discretion in admitting the other-crimes evidence of the fact of his prior conviction in case No. 20-CF-60.

¶ 58 2. *Invited Error*

¶ 59 We note that the State argues that defendant cannot complain on appeal that the jury was not presented with the facts of his prior offense. He suggests that defendant invited any error by agreeing to a procedure in which the jury was informed only of the fact of his prior conviction, noting that defendant's counsel told the trial court that he " 'strongly opposed' " informing the jury of the details of defendant's prior conviction. See *People v. Reed*, 2020 IL 124940, ¶ 39 (stating that under the invited error doctrine "a party may not request to proceed in one manner and then later contend *** that the course of action was in error" (internal quotation marks omitted)).

¶ 60 In this instance, the State points to arguments that defendant's counsel made in opposing the State's motion to admit other-crimes evidence. Specifically, at a hearing on that motion, defendant's counsel argued that the other-crimes evidence "amount[ed] to principally propensity evidence," that counsel "would strongly oppose the jury being informed of the nature of the details of [defendant's] prior offenses," and that any probative value of the evidence was outweighed by the danger of unfair prejudice. Clearly, defendant was objecting to *any* admission or presentation of the other-crimes evidence and not seeking to proceed in a manner through which only the mere fact of his prior conviction was presented to the jury. The State's claim is without merit.

¶ 61 3. *Harmless Error*

¶ 62 Although we find error in the admission of the other-crimes evidence in this case, we agree with the State's contention that the error was harmless and does not require reversal.

¶ 63 "An error in the admission of evidence of other misconduct warrants reversal only if the evidence was a material factor in the defendant's conviction such that, without the evidence, the verdict likely would have been different." (Internal quotation marks omitted.) *Smart*, 2025 IL

130127, ¶ 87. Stated another way, such an evidentiary error is harmless "where there is no reasonable probability that the [trier of fact] would have acquitted the defendant absent the error." (Internal quotation marks omitted.) *Id.* ¶ 90. "If the error is unlikely to have influenced the jury, admission will not warrant reversal." *People v. Cortes*, 181 Ill. 2d 249, 285 (1998).

¶ 64 In this case, defendant did not dispute that he was the person who ran from the police as they attempted to detain him. Officer Jones testified he pursued defendant as he fled and noticed that he was "clutching *** the right side of his hip like he was holding something." The police ultimately found defendant hiding in a culvert. They found the firearm at issue in the same location. Additionally, defendant maintained that he ran from the police for "no reason," and no other contraband was found on his person or on his path of travel. Both defendant's flight from the police and his proximity to the firearm found in the culvert where he was hiding suggest his knowledge of the weapon. Additionally, the reference to the challenged other-crimes evidence was isolated and brief, and the State did not refer to it during closing arguments. See *People v. Nieves*, 193 Ill. 2d 513, 530 (2000) (finding isolated reference to the defendant's prior criminal activity was overshadowed by the substantial evidence of his guilt.). Under such circumstances, we find that the evidence of defendant's prior conviction in case No. 20-CF-60 was not a material factor in his conviction, and the jury's verdict would have been no different without the evidence. Accordingly, the improper admission of the other-crimes evidence amounted to harmless error.

¶ 65 B. Sentencing

¶ 66 On appeal, defendant also argues that the trial court abused its discretion by sentencing him to 28 years in prison. He contends his sentence was excessive given the nature of his offense, his nonviolent criminal background, and the mitigating evidence supporting his potential for rehabilitation.

¶ 67 At sentencing, "[a]ll penalties shall be determined both according to the seriousness of the offense and with the objective of restoring the offender to useful citizenship." Ill. Const. 1970, art. I, § 11. "The trial court has broad discretionary powers in imposing a sentence, and its sentencing decisions are entitled to great deference." *People v. Alexander*, 239 Ill. 2d 205, 212 (2010). The court's sentencing decision may not be altered on review absent an abuse of discretion. *Id.*; see *People v. Schnoor*, 2019 IL App (4th) 170571, ¶ 99 (stating excessive sentence claims are reviewed for an abuse of discretion). "A sentence will be deemed an abuse of discretion where the sentence is greatly at variance with the spirit and purpose of the law, or manifestly disproportionate to the nature of the offense." (Internal quotation marks omitted.) *Alexander*, 239 Ill. 2d at 212; see *People v. Fern*, 189 Ill. 2d 48, 54 (1999) ("A sentence within statutory limits will not be deemed excessive unless it is greatly at variance with the spirit and purpose of the law or manifestly disproportionate to the nature of the offense.").

¶ 68 Additionally, trial courts must base their sentencing decisions "on the particular circumstances of each case, considering such factors as the defendant's credibility, demeanor, general moral character, mentality, social environment, habits, and age." *Fern*, 189 Ill. 2d at 53. "We will not substitute our judgment for the trial court's merely because we might have weighed these factors differently." *People v. Turner*, 2024 IL App (4th) 230641, ¶ 57.

¶ 69 Here, the trial court sentenced defendant for being an armed habitual criminal, a Class X felony. 720 ILCS 5/24-1.7(b) (West 2024). He faced a sentencing range of 6 to 30 years in prison. 730 ILCS 5/5-4.5-25(a) (West 2024). The court imposed a 28-year sentence, and the record reflects no abuse of its discretion.

¶ 70 In connection with the underlying offense, the record shows the police responded to a call about a suspicious vehicle in a high-crime area. Upon their arrival, they observed

defendant, who fled from the officers. The evidence showed defendant possessed a loaded firearm. The weapon had an extended magazine and was modified with a "switch," an "aftermarket device" that allowed the firearm "to be fired fully automatic." Defendant attempted to hide both himself and the weapon in a wooded area that was accessible to the public. Notably, both the predicate felonies for his armed habitual criminal offense involved similar firearm-related convictions.

¶ 71 Defendant argues that neither the charged offenses nor his predicate felonies involved harm to another and, thus, the record does not support a 28-year prison sentence. However, given the nature of the weapon, defendant's actions in fleeing and hiding from the police, and his repeated commission of the same type of criminal conduct, the trial court would have been warranted in finding defendant's conduct was serious, posed a serious risk of danger, and necessitated a lengthier sentence. See *People v. Brown*, 2023 IL App (4th) 220476, ¶ 52 (noting that factors inherent in an offense can be considered as part of the nature and circumstances of the case and that predicate offenses may be considered "in the context of [a] defendant's criminal history").

¶ 72 Additionally, a sentencing court does not view the seriousness of an offense in isolation. See *People v. Garcia*, 2018 IL App (4th) 170339, ¶ 37 ("An appropriate sentence must be based upon the particular circumstances of an individual case, including (1) the defendant's history, character, and rehabilitative potential; (2) the seriousness of the offense; (3) the need to protect society; and (4) the need for deterrence and punishment."). The record reflects that in this case, the trial court gave significant weight to defendant's criminal history and lack of demonstrated rehabilitative potential.

¶ 73 As the trial court found, defendant had a lengthy history of continuous criminal behavior, extending from 2014, when he was 16 years old, through the date of the charged offenses,

when he was 26. Significantly, the offense for which he was being sentenced was his fourth firearm-related conviction, and it was committed while he was on mandatory supervised release after completing a term of imprisonment for his third firearm-related offense.

¶ 74 Defendant argues that he had a four-year period of good behavior extending from February 2016 until January 2020, which the trial court failed to consider. However, the record shows that he was on probation during that time and failed to conform his conduct to what was required. He was subject to probation revocation proceedings and, ultimately, his probation was terminated unsuccessfully. The record shows that defendant also continued to violate rules and engage in criminal conduct even after his arrest for the underlying charges. While in custody, defendant made comments indicating he did not care about the jail's rules, was disciplined for several rule violations, and was charged with aggravated battery and mob action in two separate criminal cases.

¶ 75 The trial court's comments reflect that it found a lack of rehabilitative potential based on defendant's continuous pattern of rule violations and criminal conduct. Its findings were supported by the record and not an abuse of discretion.

¶ 76 Defendant further argues that the trial court gave insufficient weight to mitigating factors, including his mental health and substance abuse issues, his statement in allocution, his family ties, and his age. However, the record shows that the court considered all the relevant evidence. It was not required to attribute greater weight to the evidence defendant characterizes as mitigating. See *Turner*, 2024 IL App (4th) 230641, ¶ 63 (stating the trial court is entitled to assign the evidence it considers "little or no mitigating weight").

¶ 77 In this case, the trial court explicitly remarked on defendant's statement in allocution and found that although he had sincerely expressed a desire to change, his actions did

not support his remarks. The court also commented on defendant's age, finding his youth mitigating as to some of his criminal history but not the charged offense, which was committed when defendant was 26 years old and well into his adulthood. With respect to defendant's family ties, the evidence at sentencing showed little more than that defendant reported that he got along well with family members and had a good relationship with his two young sons. Finally, although defendant's PSI indicated he had some mental health and substance abuse issues, for which he expressed a desire for treatment, neither circumstance is inherently mitigating. See *People v. Wheeler*, 2019 IL App (4th) 160937, ¶ 44 (stating that "a defendant's mental or psychological impairments are not inherently mitigating"); *Turner*, 2024 IL App (4th) 230641, ¶ 64 (stating that "a history of substance abuse is a double-edged sword that the trial court may view as a mitigating or aggravating factor" (Internal quotation marks omitted.)).

¶ 78 Ultimately, we find nothing in the record or defendant's arguments on appeal that leads us to believe the trial court erred in its findings or its sentencing decision. As stated, it is not the function of this court to reweigh the evidence on review. See *Turner*, 2024 IL App (4th) 23064, ¶ 57 ("We will not substitute our judgment for the trial court's merely because we might have weighed these factors differently."). Under the circumstances presented, we find no abuse of discretion by the court and that the sentence it imposed was not excessive.

¶ 79 III. CONCLUSION

¶ 80 For the reasons stated, we affirm the trial court's judgment.

¶ 81 Affirmed.