

2026 IL App (1st) 231023-U

No. 1-23-1023

Order filed October 22, 2026

Fourth Division

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).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 21 CR 9124
	)	
JASON THORNTON,	)	Honorable
	)	Patrick K. Coughlin,
Defendant-Appellant.	)	Judge presiding.

JUSTICE LYLE delivered the judgment of the court.
Justices Navarro and Ocasio concurred in the judgment.

ORDER

- ¶ 1 *Held:* We affirm defendant's conviction for murder over his arguments that the State failed to prove his guilt beyond a reasonable doubt, his sentence is excessive, and his counsel provided ineffective assistance during sentencing.
- ¶ 2 Following a bench trial, defendant-appellant, Jason Thornton, was convicted of first degree murder and sentenced to 48 years in prison. On appeal, he argues that the State's evidence identifying him as the shooter was insufficient to prove his guilt beyond a reasonable doubt; his

sentence is excessive; and his trial counsel provided ineffective assistance during sentencing. For the following reasons, we affirm the conviction and sentence.

¶ 3

I. BACKGROUND

¶ 4 Mr. Thornton was charged by indictment with, *inter alia*, first degree murder for shooting and killing Mohammed Hussein.

¶ 5 At trial, Mario Diaz testified that, on October 27, 2020, he worked at Tires R Us, where Mr. Hussein was the manager. The business was located at 171st Street and Halsted Street, in Harvey. An overhead photograph admitted as an exhibit and included in the record on appeal shows that Tires R Us is located near where 171st crosses Halsted and turns to run north-south, parallel to Halsted. Mr. Diaz further testified that Tires R Us was next to an abandoned storage building with a “wide open parking lot.” The overhead photograph shows a small grassy area between the south end of the Tires R Us parking lot and large parking lot for the other business, which is accessible from 171st as it runs south after crossing Halsted.

¶ 6 Around 5 p.m. that day, Mr. Diaz’s coworker, Ontrelle Johnson, asked him to assist with a red Chevy Malibu that had an issue with a wheel stud. Mr. Diaz identified Mr. Thornton as the vehicle’s driver. Mr. Thornton left in his vehicle after the work was completed, then returned as the shop began to close at 6 p.m. Mr. Diaz met with Mr. Thornton, who indicated he had heard a noise and asked why his brand-new vehicle had problems. Mr. Diaz explained the defective stud was the factory’s fault and that, if Mr. Thornton returned the next day, Mr. Diaz could fix the vehicle for free in about 30 minutes after obtaining the necessary part from a store. Mr. Thornton told Mr. Diaz to get away from him and that he wanted to speak with Mr. Hussein. Mr. Thornton was “upset,” and Mr. Diaz tried to “deescalate.” Mr. Diaz walked away and, from inside the shop,

heard Mr. Thornton “scream” at Mr. Hussein, asking “But why[?]” When interviewed by an assistant state’s attorney (ASA), Mr. Diaz never stated Mr. Thornton screamed.

¶ 7 Mr. Hussein walked away from Mr. Thornton, and Mr. Thornton left in his vehicle. The employees closed the shop and talked in the parking lot before leaving. No customers were around. As Mr. Diaz drove away, another employee named “Victoria” and her brother sat in a vehicle, and Mr. Hussein and Mr. Johnson stood outside. Mr. Diaz heard “bullets” but did not look back. He left the parking lot and called Ms. Victoria, learning that Mr. Hussein had been shot. Mr. Diaz returned to Tires R Us and saw Mr. Hussein on the ground “gushing blood.” He did not see the shooter.

¶ 8 Tires R Us had motion-activated surveillance cameras, and Mr. Diaz identified clips of footage that the cameras recorded on October 27, 2020. Mr. Diaz narrated the events depicted in the published clips, which depict the Tires R Us parking lot from multiple angles and the inside of the Tires R Us store.

¶ 9 The State indicated the video footage was contained in three separate jump drives, admitted as People’s Exhibit Nos. 3, 4, and 5. However, the record on appeal contains only one jump drive, which the impound order indicates is People’s Exhibit No. 3 and contains surveillance videos “which were used as” People’s Exhibit Nos. 3, 4, and 5. The record also includes a DVD containing People’s Exhibit Nos. 11 through 15, which Mr. Diaz identified as including footage from various Tires R Us cameras. The DVD includes videos with camera numbers and timestamps that match the State’s descriptions of the clips published as People’s Exhibit Nos. 4 and 5. The following descriptions are taken from Mr. Diaz’s testimony and footage included on the jump drive and DVD

that align with the camera numbers and timestamps of the clips published at trial. None of the clips include audio.

¶ 10 A person whom Mr. Diaz identified as Mr. Thornton arrives in the parking lot in a red sedan at 5:09 p.m. and exits the vehicle. Mr. Thornton wears a black medical mask, a black coat with a hood, and black sweatpants with a thick white stripe on the side of each leg that extends to the bottom of his side pockets, a few inches below his waist. A person whom Mr. Diaz identified as Mr. Johnson spoke with Mr. Thornton and worked on his vehicle as Mr. Thornton appeared to smoke a cigarette, while standing in front of the shop. Mr. Thornton ultimately reentered his vehicle and drove away around 5:44 p.m.

¶ 11 Around 5:51 p.m., the red sedan returned. Mr. Thornton, wearing the same clothing, exited the vehicle and entered the shop. A moment later, he exited the store and approached his vehicle. Mr. Johnson and a person whom Mr. Diaz identified as Ms. Victoria also approached and appeared to examine the front wheels. Mr. Johnson then approached the shop and, as Mr. Diaz testified, spoke with Mr. Diaz about an issue with Mr. Thornton's vehicle. Mr. Diaz spoke with Mr. Thornton inside the store. According to Mr. Diaz's testimony, another clip from inside the shop then showed he and Mr. Johnson walked away from Mr. Thornton. Mr. Hussein approached and spoke with Mr. Thornton, and Mr. Thornton and Mr. Hussein exited the shop. No footage included on the jump drive or DVD matched that description.

¶ 12 The next clip published was from outside the shop and depicted Mr. Hussein, as identified by Mr. Diaz, exiting the shop and approaching Mr. Thornton's vehicle. They appeared to speak for a few minutes, until, at 6:07 p.m., Mr. Hussein walked away. Mr. Thornton entered his vehicle and drove out of the parking lot, turning onto Halsted and then onto 171st Street before 171st Street

turns and runs south. Around 6:09 p.m., Mr. Diaz was in his vehicle, and Ms. Victoria and her brother were in another vehicle. Mr. Hussein and Mr. Johnson exited the store and briefly approached a stack of tires. Mr. Diaz then drove towards them, and they approached his vehicle and appeared to talk with Mr. Diaz. Mr. Diaz began to drive out of the parking lot and Mr. Hussein and Mr. Johnson walked towards Ms. Victoria's vehicle, with Mr. Johnson about a step behind Mr. Hussein. At 6:10 p.m., Mr. Hussein fell to the ground. Mr. Johnson ran to Ms. Victoria's vehicle and entered, and they drove away. At 6:13 p.m., Mr. Diaz returned and approached Mr. Hussein on the ground.

¶ 13 According to Mr. Diaz, another camera captured the side parking lot of Tires R Us, where a white sedan that Mr. Diaz identified as Mr. Hussein's was parked in front of a guardrail. Mr. Diaz testified that beyond the guardrail was the parking lot for the abandoned storage building next door. The footage from this camera is black-and-white. On the other side of the guardrail, near a white sedan, stood a person appearing to wear a hooded light-colored top with the hood raised and darker pants. At 6:10 p.m., the person raised their right arm and appeared to discharge a firearm several times, as there are several muzzle flashes. The muzzle flashes illuminate a thick light-colored stripe on the side of the shooter's pant leg that faced the camera. The stripe stops a few inches below the person's waist. The shooter then ran away from the camera through what appears to be an open field or parking lot. The State also published a "zoomed in" clip of footage, and the DVD contained a zoomed-in clip of the shooter firing his weapon.

¶ 14 Mr. Johnson testified that, as he worked on Mr. Thornton's vehicle earlier, Mr. Thornton, whom he identified in court, smoked a cigarette. He spoke with Mr. Thornton for "[q]uite a while" while they were "face-to-face." Mr. Thornton wore all black and had a covering over his face for

most of the time that they spoke, but Mr. Johnson saw his uncovered face while Mr. Thornton smoked. After Mr. Johnson finished working on the vehicle, Mr. Thornton drove away.

¶ 15 Mr. Thornton returned 5 to 10 minutes later, at around 5:50 p.m. Mr. Johnson greeted Mr. Thornton, who said he heard a noise, the source of which Mr. Johnson could not discover. Mr. Thornton was “[v]ery, very upset” and had a “fighting demeanor.” Mr. Johnson asked Mr. Diaz for help with Mr. Thornton’s vehicle. As Mr. Diaz and Mr. Thornton spoke, Mr. Johnson brought equipment inside as the shop closed. He could not hear their whole conversation, but heard Mr. Thornton say, “[Y]’all not gonna do me like this, y’all can’t do me like this, I’m not going.”

¶ 16 Mr. Hussein then spoke with Mr. Thornton and examined his vehicle outside. From inside the garage with the door open, Mr. Johnson heard Mr. Thornton become more “elevated in tone.” Mr. Thornton screamed, “I’m not going, y’all not gonna do me like this, y’all can’t do me like this, how I’m gonna bring my s*** up in here and it was working fine and now it’s not working, y’all got to do something about this.” Mr. Hussein told defendant he could return the vehicle the following day and they would fix it, or he could return it to the dealer. Mr. Hussein walked away from Mr. Thornton and pointed at a sign stating that the shop was not responsible for preexisting vehicle issues. Mr. Thornton entered his vehicle and drove away.

¶ 17 After the shop closed, Mr. Johnson stood in the parking lot with Mr. Hussein talking about tires he forgot to put away. They spoke with Mr. Diaz, who was in his vehicle, then approached “Vicky,” who was in her vehicle, to ask what they should do. Mr. Hussein was about one foot ahead of Mr. Johnson. Mr. Johnson heard gunshots, looked in their direction, and saw a muzzle flash from behind Mr. Hussein’s white vehicle, which “was very easy to contrast with the muzzle flash and the shadows.” He saw a silhouette wearing black clothing with a white stripe that was

illuminated when the muzzle flashed. Mr. Johnson ran for cover and entered Ms. Vicky's vehicle, which left the parking lot. Mr. Hussein was lying on the ground.

¶ 18 On November 2, 2020, Mr. Johnson viewed a photograph array. He identified the person who killed Mr. Hussein. Although he had only seen the shooter's silhouette, he had spent "multiple hours talking to him face-to-face" while repairing his vehicle that day. Mr. Johnson noted that when Mr. Thornton returned to the Tires R Us, he observed that Mr. Thornton's pocket looked "a little bit more heavy" than it had before. Mr. Johnson confirmed he wrote the following on the photograph array:

"He killed [Hussein], red Malibu, LT2019. Customer came in store, was not happy about work done to car, left, came back at close, demanding more work. We assured him we were not responsible, but will remedy the situation. That was not good enough. He sped off to rear parking lot, waited for us to get off, and shot [Hussein] in the head."

¶ 19 Mr. Johnson further testified that no other customers that day had left or returned unhappy.

¶ 20 On cross-examination, Mr. Johnson testified he was not sure whether he heard Mr. Thornton threaten to return to Tires R Us and "do anything." He did not recall whether, during an interview on October 30, 2020, he told a detective that defendant had not threatened to return to Tires R Us and "do anything." Defense counsel published a portion of the October 30, 2020, interview, which was contained on a thumb drive marked as Mr. Thornton's Exhibit # 1. No such thumb drive is included in the record on appeal, but the drive containing People's Exhibit No. 3 includes a video-recorded interview with Mr. Johnson on October 30, 2020. In that interview, he shook his head when asked if the person with whom Mr. Hussein was speaking ever threatened to return and "do anything." As defense counsel continued to ask how he answered that question to

the detective, Mr. Johnson asked counsel not to “yell” at him and invoked his Fifth Amendment right to remain silent.

¶ 21 Mr. Johnson also did not remember whether he told the detective the shooter had striped pants. He did not recall stating during an interview with a detective and an ASA on May 11, 2021, that he “assumed” the person he identified in the photograph array had killed Mr. Hussein. Mr. Johnson was unsure if he stated during this interview that the shooter had white-striped pants, as he “may have missed a detail that small.”

¶ 22 Former Harvey police detective, Jeffrey Crocker, testified that he was assigned to investigate Mr. Hussein’s murder. From Tires R Us, he recovered security videos, spent shell casings from a grassy area, and a cigarette butt from in front of the shop which was sent for testing. He observed the license plate of a red Chevy Malibu in the surveillance video. On November 2, 2020, Mr. Thornton was identified as a suspect through his license plate. Mr. Diaz viewed a photograph array and identified Mr. Thornton as the person who had argued with Mr. Hussein. Mr. Johnson viewed a photograph array and identified Mr. Thornton, writing that he killed Mr. Hussein.

¶ 23 The State entered stipulations that Mr. Thornton was a possible donor of DNA on the cigarette butt Detective Crocker recovered. A medical examiner would testify that Mr. Hussein died by homicide from a gunshot wound to the head.

¶ 24 The State rested. The defense entered stipulations that, if Detective Crocker was recalled, he would testify that Mr. Johnson did not tell him the shooter had white stripes on his pants and denied that Mr. Thornton threatened to return when arguing with Mr. Hussein. An ASA would

also testify that Mr. Johnson did not state during an interview on May 11, 2021, that he saw white stripes on the shooter's pants.

¶ 25 The trial court found Mr. Thornton guilty. It explained that the factors under *Neil v. Biggers*, 409 U.S. 188, 199-200 (1972), regarding the reliability of identification testimony, were inapplicable as there was no direct identification testimony and the case rested on circumstantial evidence that Mr. Thornton was the shooter. The court noted that Mr. Thornton had motive to shoot Mr. Hussein due to their argument, the shooting came from the same direction Mr. Thornton had left a few minutes prior to the shooting, and the shooter appeared to have “targeted” Mr. Hussein as he waited to shoot until Mr. Hussein exited Tires R Us. The court stated that Mr. Thornton also wore “very distinct clothing” with a white stripe on each leg of his pants, and that the firearm’s muzzle flash illuminated those “distinctive” stripes on the shooter’s pants. The court denied Mr. Thornton’s motion to reconsider or for a new trial.

¶ 26 Mr. Thornton’s presentence investigative report (PSI) indicated that he was born on February 9, 1996, and set forth his criminal, social, educational, employment, psychological, and substance use history. He had a 2016 conviction for aggravated battery and a pending charge of aggravated unlawful use of a weapon.

¶ 27 At the sentencing hearing, Mr. Hussein’s ex-wife read a victim impact statement, describing Mr. Hussein’s altruistic nature and the negative impact his loss had on his daughters and family. In aggravation, the State recited Mr. Thornton’s aggravated battery charge, which had been reduced to simple battery for which he received 30 months’ probation, and pending aggravated unlawful use of a weapon charge, which the State would use in aggravation in the instant case and then dismiss.

¶ 28 Mr. Thornton’s counsel presented no evidence in mitigation. His counsel argued that the legislature had “clipped [his] lawyer wings” as the minimum sentence was 45 years, which would imprison a 27-year-old client until he was 72 years old. Counsel argued Mr. Thornton’s life expectancy in prison only extended to age 68, so a 45-year minimum sentence would be a life sentence. Counsel asserted that “[t]he only purpose” of imprisoning defendant into his seventies, when he would pose no danger to the community, “would be retribution.” The minimum sentence was therefore “more than necessary,” and “[did] not really take into consideration [his] rehabilitative potential” even though some mitigating circumstances existed. Counsel requested the minimum sentence. When offered the opportunity to speak in allocution, Mr. Thornton said, “Nothing I can say, Judge,” and “You got to make your decision at the end of the day.”

¶ 29 The trial court stated it had considered all the statutory factors in aggravation and mitigation. It had reviewed the PSI, indicating that Mr. Thornton had a rough childhood until his family moved from Chicago to the suburbs, his home was stable, and he graduated high school and briefly attended college. He had work history and obtained a commercial driver’s license, had limited criminal history, had two children, was in a serious relationship, and had no gang affiliation or substance abuse issues. The court found the need to deter others was an aggravating factor. The court sentenced Mr. Thornton to 48 years in prison.

¶ 30 Counsel filed a motion to reconsider the sentence, arguing that the court should have weighed Mr. Thornton’s age and rehabilitative potential more heavily. The court denied the motion, noting it had considered Mr. Thornton’s lack of criminal history, age, and all factors in mitigation and aggravation.

¶ 31

II. ANALYSIS

¶ 32 On appeal, Mr. Thornton argues that the State failed to prove his guilt of first degree murder beyond a reasonable doubt.

¶ 33 “When reviewing a challenge to the sufficiency of the evidence, we must determine whether any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.” *People v. Harvey*, 2024 IL 129357, ¶ 19. We review the evidence in the light most favorable to the State and draw all reasonable inferences in the State’s favor. *Id.* It is the factfinder’s responsibility to resolve conflicts in testimony, weigh the evidence, and draw reasonable inferences. *People v. Sauls*, 2022 IL 127732, ¶ 52. We will not substitute our judgment for the factfinder’s involving the weight of the evidence or credibility of witnesses. *Id.* We will only reverse a conviction where “the evidence is so unreasonable, improbable, or unsatisfactory that it justifies a reasonable doubt of the defendant’s guilt.” *Id.*

¶ 34 A conviction may be based solely on circumstantial evidence, so long as the circumstantial evidence proves the defendant’s guilt beyond a reasonable doubt. *People v. Galarza*, 2023 IL 127678, ¶ 27. Circumstantial evidence is proof of facts or circumstances from which the factfinder may infer other connected facts that reasonably and usually follow (*People v. McAndrew*, 2024 IL App (1st) 230881, ¶ 45), or that create reasonable inferences of other facts tending to establish the defendant’s guilt or innocence (*People v. Johnson*, 2018 IL App (1st) 150209, ¶ 19). The factfinder need not be satisfied beyond a reasonable doubt “as to each link in the chain of circumstances,” if all the evidence, taken together, proves the defendant’s guilt. (Internal quotation marks omitted.) *Galarza*, 2023 IL 127678, ¶ 27. Nor must the trier of fact “search out all possible explanations consistent with innocence and raise them to a level of reasonable doubt.” (Internal quotation marks omitted.) *People v. Spears*, 2024 IL App (1st) 181491, ¶ 194.

¶ 35 Mr. Thornton was convicted of first degree murder (720 ILCS 5/9-1(a)(1) (West Supp. 2019)). His only argument is that the State failed to prove his identity as Mr. Hussein's shooter.

¶ 36 Here, it is undisputed that Mr. Thornton was at Tires R Us in the late afternoon of October 27, 2020, wearing black pants with a white stripe on each side, and was an unsatisfied customer. The surveillance videos capturing Mr. Thornton showed him wearing black pants with thick white stripes on each pant leg stopping at his side pocket, leaving an unstriped portion between the bottom of his pocket and waist. It is also undisputed that after Tires R Us worked on Mr. Thornton's vehicle, Mr. Thornton left in his vehicle and returned several minutes later. The testimony established that Mr. Thornton grew upset in conversations with Mr. Johnson, Mr. Diaz, and Mr. Hussein about a problem with his wheel stud, which Mr. Diaz and Mr. Hussein offered to fix the following day. Mr. Diaz and Mr. Johnson heard Mr. Thornton scream at Mr. Hussein. Mr. Hussein ultimately pointed at a sign disclaiming responsibility for preexisting conditions, walked away from Mr. Thornton, and went inside. At 6:07 p.m., Mr. Thornton left and drove onto 171st Street where it branched from Halsted before turning south.

¶ 37 The Tires R Us employees then closed the store and prepared to leave. Surveillance videos showed that, as Mr. Hussein approached Ms. Victoria's truck at 6:10 p.m., he fell to the ground. Mr. Diaz and Mr. Johnson heard gunshots. Another surveillance camera recorded the shooter standing near Mr. Hussein's vehicle on the other side of a guardrail in a parking lot that belonged to the abandoned business next door. At 6:10 p.m., the firearm's muzzle flashed several times, illuminating a thick, light-colored stripe on the shooter's pants that stopped a few inches below the waist. Mr. Johnson testified that he saw a white stripe on the shooter's clothing when the muzzle flashed. He also testified that there were no other unhappy customers that day.

¶ 38 The evidence therefore showed Mr. Thornton had a hostile demeanor when he returned to Tires R Us, complained about his vehicle's issues, and had a confrontation with Mr. Hussein from which Mr. Hussein walked away. Mr. Thornton then drove from Tires R Us onto 171st Street, which provided access to the parking lot from which the shooter shot Mr. Hussein. Where mere minutes passed between Mr. Thornton's departure from Tires R Us and Mr. Hussein's shooting and the shooter's white-striped pants mirrored the pants Mr. Thornton had been wearing, there was sufficient circumstantial evidence for a rational factfinder to conclude that Mr. Thornton shot and killed Mr. Hussein.

¶ 39 Mr. Thornton argues that the "grainy" video of the shooter lacked probative value as it is of low quality, in black-and-white, and lacks audio. He notes that the shooter's features are indiscernible and the shooter appeared to wear a light-colored hooded top while his hooded coat was black. Mr. Thornton disagrees that the video clearly depicts that the shooter's pants had white stripes. He claims that we need not afford any deference to the trial court's conclusions from the video as we may view the video for ourselves. See *People v. Radojcic*, 2013 IL 114197, ¶ 34 (holding the trial court does not occupy a superior position to the reviewing court when evaluating evidence that involved no live testimony). Mr. Thornton also argues that the other videos show Mr. Thornton had a "calm" demeanor and never made argumentative gestures, and notes that officers did not recover the firearm or present any forensic evidence linking him to the shooting besides DNA on a cigarette butt confirming his presence at Tires R Us.

¶ 40 Mr. Thornton's arguments are a request that we reweigh the evidence and substitute our judgment for the factfinder's, which we will not do. *Sauls*, 2022 IL 127732, ¶ 52. Although the surveillance video may not show the shooter wearing the same-colored top as Mr. Thornton, the

shooting occurred after dark and the black-and-white footage may have altered the top's appearance. As to the striped pants, we decline to disregard the trial court's finding on this point. Our review of the video evidence in the record shows that, as the trial court stated, the shooter's pant leg was striped in the same distinctive manner as Mr. Thornton's. Further, Mr. Johnson testified consistently with the video that there was a white stripe on the shooter's clothing.

¶ 41 As to the fact that Mr. Johnson did not previously tell the police or an ASA that the shooter wore white-striped pants, the trial court was entitled to weigh the evidence and could reasonably conclude that Mr. Johnson nevertheless credibly testified that he observed a white stripe. See *Sauls*, 2022 IL 127732, ¶ 52 (stating it is the factfinder's responsibility to resolve conflicts in testimony and weigh the evidence, and we will not substitute our judgment on questions involving a witness's credibility). The same holds true for Mr. Thornton's contention that Mr. Diaz's testimony was discredited because he never told the ASA that Mr. Thornton was screaming. Moreover, the State was not required to present forensic evidence further linking Mr. Thornton to the shooting. *People v. Hill*, 2023 IL App (1st) 150396, ¶ 23.

¶ 42 Mr. Thornton additionally argues that Mr. Johnson's identification of the shooter was unreliable when considering the *Biggers* factors, which provide a framework for evaluating the reliability of eyewitness identifications. See *People v. Woodson*, 2023 IL App (1st) 191353, ¶ 71 (explaining *Biggers* factors). However, as the trial court noted, the *Biggers* factors are not probative here as Mr. Thornton's guilt does not rest on identification testimony. While Mr. Johnson told Detective Crocker that Mr. Thornton was the shooter, the reasonable inference from the whole of Mr. Johnson's testimony is that he believed Mr. Thornton was the shooter based on the circumstantial evidence, not because he saw the shooter's features. Additionally, despite any

limitation of Mr. Johnson's ability to see the shooter's pants, the stripe is visible on the video. Thus, we find Mr. Thornton's *Biggers* arguments unpersuasive.

¶ 43 Mr. Thornton also contends that the State did not introduce the pants that he supposedly wore during the shooting and argues that "black jogging pants with a white stripe down the side are a common clothing item," the identification of which is insufficient to support his guilt. He cites several cases in which the defendants' identifications as the offenders were based at least in part on their clothing and found insufficient to sustain their convictions. See *People v. McGee*, 21 Ill. 2d 440, 444-45 (1961); *People v. Hughes*, 59 Ill. App. 3d 860, 862-63 (1978); *People v. Versher*, 52 Ill. App. 3d 148, 150-51 (1977); *People v. Kincy*, 72 Ill. App. 2d 419, 424-28 (1966).

¶ 44 Mr. Thornton's arguments are unavailing. "The identification of distinctive clothing worn by a defendant may be sufficient to sustain his conviction, particularly when other evidence of guilt exists, and a positive facial identification is not required." *People v. Ward*, 66 Ill. App. 3d 690, 693 (1978). Although black pants with white stripes may be common, when considering the totality of the evidence, the style of the pants at issue here could lead a rational factfinder to conclude that Mr. Thornton was the shooter. For one, the stripes on the pants worn by Mr. Thornton and the shooter were thick and stopped at their side pockets, increasing the pants' distinctiveness. Further, Mr. Thornton was seen wearing similar pants about three minutes before the shooting and near the shooter's location, increasing the likelihood that the pants were worn by the same person. The implication of Mr. Thornton's argument is that another person wearing pants extremely similar to those Mr. Thornton wore could have shot Mr. Hussein, with whom Mr. Thornton had just argued, from a location towards which Mr. Thornton had just traveled. This is an explanation consistent with Mr. Thornton's innocence that the trial court was not required to raise to the level

of reasonable doubt. *Spears*, 2024 IL App (1st) 181491, ¶ 194. Thus, we affirm the trial court’s finding of guilt.

¶ 45 Mr. Thornton next claims his 48-year sentence is excessive given the circumstances of the offense, his rehabilitative potential and background, and that he will be more than 70 years old when released.

¶ 46 The proportionate penalties clause of the Illinois Constitution requires all sentences to 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; *People v. Spencer*, 2025 IL 130015, ¶ 42. The sentencing court must balance the “retributive and rehabilitative purposes of punishment,” including factors like the defendant’s age, demeanor, habits, mentality, credibility, criminal history, general moral character, social environment, education, and the nature and circumstances of the offense. *People v. Hussain*, 2024 IL App (1st) 230471, ¶ 43. “[T]he seriousness of the offense is the most important factor.” *Id.* ¶ 44. Further, the presence of mitigating evidence does not require a minimum sentence. *Id.* Unless the defendant affirmatively shows the contrary, we presume the sentencing court considered all the evidence of mitigating factors and rehabilitative potential before it. *Id.*

¶ 47 As the trial court personally observed Mr. Thornton, it is better suited than the reviewing court to determine an appropriate sentence. *People v. Jones*, 2019 IL App (1st) 170478, ¶ 50. Accordingly, we will not substitute our judgment for the trial court’s merely because we would have weighed the sentencing factors differently. *Id.* Rather, we review a sentence within the statutory range for an abuse of discretion and will only alter it “if it significantly deviates from the intent and purpose of the law or is clearly disproportionate to the nature of the offense.” *People v.*

Gray, 2025 IL App (1st) 191086-B, ¶ 44. We presume that a sentence within the statutorily-mandated guidelines is proper. *People v. Guerrero*, 2020 IL App (1st) 172156, ¶ 52.

¶ 48 Mr. Thornton was found guilty of first degree murder, which carries a sentencing range of 20 to 60 years in prison. 730 ILCS 5/5-4.5-20(a) (West 2020). Additionally, he faced a mandatory sentencing enhancement of 25-years-to-life as he personally discharged a firearm that proximately caused Mr. Hussein’s death. 730 ILCS 5/5-8-1(a)(1)(d)(iii) (West Supp. 2019). Thus, he faced a minimum sentence of 45 years in prison. The court sentenced Mr. Thornton to 48 years in prison.

¶ 49 As Mr. Thornton’s sentence was within the statutorily-mandated range, it is presumed proper. *Guerrero*, 2020 IL App (1st) 172156, ¶ 52. Moreover, the circumstances of Mr. Thornton’s offense were aggravating in that Mr. Thornton apparently shot and killed Mr. Hussein over an issue with his vehicle that Mr. Hussein and Mr. Diaz had offered to fix the following morning, including Mr. Diaz offering to fix it for free. When he shot at Mr. Hussein—which he did multiple times, as shown by the several distinct muzzle flashes in the surveillance video and the fact that the police recovered multiple shell casings—he also threatened serious harm to Mr. Johnson, who stood near Mr. Hussein, and Ms. Victoria and her brother, who were in a vehicle near Mr. Hussein. See 730 ILCS 5/5-5-3.2(a)(1) (West 2022) (factors in aggravation include that the defendant’s conduct threatened serious harm). Nevertheless, despite the seriousness of the offense, the court imposed a sentence only three years above the minimum. We cannot say that Mr. Thornton’s sentence constitutes an abuse of discretion, significantly deviates from the intent and purpose of the law, or is clearly disproportionate to the nature of the offense.

¶ 50 Mr. Thornton argues that the trial court failed to consider that, as Mr. Thornton must serve 100% of his sentence (730 ILCS 5/3-6-3(a)(2)(i) (West Supp. 2019)), he will not be released until

he is in his seventies. He claims his sentence is therefore excessive as it exceeds his life expectancy and cannot be said to have his rehabilitation as an objective. He argues he was a productive member of society before his incarceration, citing information from his PSI.

¶ 51 However, Mr. Thornton presents no affirmative evidence that the trial court failed to consider his rehabilitative potential. See *Hussain*, 2024 IL App (1st) 230471, ¶ 47 (noting that a harsh sentence alone does not show that the trial court ignored mitigating evidence). Rather, the court indicated it had considered all the factors in aggravation and mitigation, and specifically recited Mr. Thornton's limited criminal history, education, work history, and children. When it denied Mr. Thornton's motion to reconsider the sentence, it noted it had also considered his age. His counsel noted Mr. Thornton's potential life expectancy and that the minimum sentence would require his imprisonment beyond that point. We presume the court considered the evidence before it. *Id.* ¶ 44. Moreover, the existence of mitigating evidence did not require a minimum sentence (*id.*), and again, the court imposed a sentence only three years above the minimum. Mr. Thornton's arguments are a request that we substitute our judgment for the trial court's on the appropriate weight of the sentencing factors, which we will not do. *Jones*, 2019 IL App (1st) 170478, ¶ 50. Accordingly, we decline to find his sentence was excessive.

¶ 52 Last, Mr. Thornton claims that his counsel was ineffective at sentencing for failing to request a below-minimum sentence on the basis that a minimum sentence would violate the proportionate penalties clause. He contends that his sentence was a *de facto* life sentence as he cannot be released before he is in his seventies.

¶ 53 Our state and federal constitutions guarantee the right to effective representation of counsel. *People v. Johnson*, 2021 IL 126291, ¶ 52. To prevail on a claim of ineffective assistance

of counsel, Mr. Thornton must demonstrate that (1) his counsel's representation fell below an objective standard of reasonableness, and (2) his counsel's deficient performance prejudiced him. *Id.* To satisfy the second prong, the defendant must show there is a reasonable probability that the outcome of the proceedings would have been different. *Id.* A reasonable probability is one sufficient to undermine confidence in the outcome. *Id.* ¶ 54. For a sentencing claim, Mr. Thornton must show there is a reasonable probability that his counsel's poor performance affected his sentence. *People v. Steidl*, 177 Ill. 2d 239, 257 (1997).

¶ 54 We review the ultimate question of whether a defendant received ineffective assistance of counsel *de novo*. *Johnson*, 2021 IL 126291, ¶ 52. As discussed below, Mr. Thornton cannot establish prejudice; we therefore need not first determine whether he established that counsel performed deficiently. *Id.* ¶ 53.

¶ 55 Mr. Thornton notes that, at sentencing, his counsel requested a minimum sentence but conceded that the minimum sentence would extend his imprisonment beyond his expected life span and ignore his rehabilitative potential. He asserts that there is a reasonable probability the court would have imposed a below-minimum sentence had counsel requested one, given the mitigating evidence and his rehabilitative potential.

¶ 56 In making this argument, Mr. Thornton relies on *People v. Miller*, 202 Ill. 2d 328 (2002). There, the 15-year old defendant, who had been found guilty of the first degree murder of multiple victims under an accountability theory after standing as a lookout, faced mandatory life imprisonment as statutes required him to be tried as an adult and be held equally responsible as his co-offenders. *Id.* at 330-31, 340. At sentencing, the trial court found the statute mandating his life imprisonment was unconstitutional as-applied to the defendant and sentenced him to 50 years in

prison. *Id.* at 331-32. The State appealed directly to our supreme court. *Id.* at 332-35. The court recognized that a punishment may be unconstitutionally disproportionate if it is “cruel, degrading, or so wholly disproportionate to the offense as to shock the moral sense of the community.” *Id.* at 338. It found a mandatory life sentence for the defendant, “the least culpable offender imaginable,” was unconstitutionally disproportionate under that standard. *Id.* at 341.

¶ 57 Mr. Thornton acknowledges that *Miller* is factually distinguishable where Mr. Thornton here was 24 years old on the date of his offense and the only offender involved in Mr. Hussein’s death. He argues that, nevertheless, *Miller* shows a circuit court may impose a below-minimum sentence under certain circumstances. However, during sentencing here, rather than decry the minimum sentence as the court had done in *Miller* (see *id.* at 331-32), the court found an aggravating factor in the need to deter others, noted it had considered all the factors in aggravation and mitigation, and imposed a sentence of 48 years in prison, 3 years above the minimum. Given the court’s statements, and the fact that it imposed nearly the minimum sentence, Mr. Thornton has not shown that the court would have found the minimum sentence was unconstitutionally disproportionate and imposed a below-minimum sentence had counsel requested one. Thus, his ineffective assistance claim fails, and we affirm his sentence.

¶ 58

III. CONCLUSION

¶ 59 For the foregoing reasons, we affirm the judgment of the circuit court of Cook County.

¶ 60 Affirmed.