2026 IL App (1st) 240758-U

No. 1-24-0758

Order filed November 3, 2026

Second 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. 20 CR 9797
	)	
CURTIS UNDERWOOD,	)	Honorable
	)	Stanley J. Sacks,
Defendant-Appellant.	)	Judge, presiding.

JUSTICE McBRIDE delivered the judgment of the court.
Justices Reyes and Van Tine concurred in the judgment.

ORDER

¶ 1 *Held*: We affirm defendant's 28-year sentence for second-degree murder where the trial court did not err at sentencing and did not impose an excessive sentence.

¶ 2 Following a jury trial, defendant Curtis Underwood was found guilty of second-degree murder and was sentenced to an extended term of 28 years' imprisonment. On appeal, defendant argues that the trial court erred at sentencing by failing to consider evidence in mitigation and imposing an excessive sentence. We affirm.

¶ 3 Defendant was charged by indictment with first-degree murder (720 ILCS 5/9-1(a)(1)-(2) (West 2020)) alleging that he stabbed and killed Sierra Ford.

¶ 4 Prior to trial, defendant asserted the affirmative defense of self-defense.

¶ 5 At trial, defendant testified that on July 29, 2020, while at Ford's home, Ford attempted to attack him with a knife while in her bedroom, they wrestled for the knife, and they landed on the bed with defendant laying on his back and Ford leaning on top of him. Defendant grabbed Ford's hand which held the knife, and Ford began punching defendant with her free hand. Defendant eventually "got possession" of the knife and stabbed Ford "a couple" of times. Ford had nothing in her hands when defendant stabbed her. Defendant was unsure of how Ford was first stabbed. During the altercation, defendant felt that his life was in danger. After the altercation, defendant discarded the knife in the garbage outside the home and fled to California.

¶ 6 The parties stipulated that the medical examiner would testify that Ford sustained 18 stab and incised wounds to her chest, left breast, right breast, left shoulder, left "epigastric region," right "epigastric region," left thigh, "right upper quadrant," right upper arm, right upper back, left upper back, and left "dorsal" surface hand. Ford also sustained numerous blunt force injuries to her body including contusions, abrasions, and bruising. Ford's cause of death was multiple stab and incised wounds and the manner of death was homicide.

¶ 7 The jury was instructed that first-degree murder could be reduced to the lesser offense of second-degree murder if at the time of the killing, defendant believed that circumstances existed which justified the deadly force used but such belief was unreasonable.

¶ 8 The jury found defendant guilty of second-degree murder (720 ILCS 5/9-2(a)(2) (West 2020)). Defendant's motion for a new trial was denied.

¶ 9 Prior to sentencing, the parties agreed that, due to a prior conviction, defendant was eligible for extended term sentencing with a maximum sentence of 30 years' imprisonment.

¶ 10 Defendant's presentence investigation (PSI) report reflected that he was "involved" with the Department of Children and Family Services (DCFS) due to his parents' absence from his life when his mother became addicted to drugs and his father was arrested for drug possession. Defendant became addicted to ecstasy at age 13 and began committing crimes to maintain his drug addiction. Defendant earned his GED in 2009 and was employed full-time at the time of his arrest. Defendant had prior juvenile convictions for aggravated battery, retail theft, criminal trespass to a vehicle, criminal damage to property, and battery. Defendant had prior adult convictions for aggravated battery, robbery of a victim 60 years of age or older, domestic battery, damage to property, and aggravated robbery.

¶ 11 In aggravation, the State published a victim impact statement from Rosemary Ford, Ford's grandmother. (Because Rosemary Ford shares a last name with Ford, we refer to Rosemary by her first name.) Rosemary stated that there was not a day that went by that she did not mourn Ford, and Rosemary's life would never be the same. It "hurt" Rosemary that Ford would not be able to see her children grow up. The State argued that defendant's criminal history and evidence presented at trial warranted a sentence "in the extendible [range]."

¶ 12 In mitigation, defense counsel presented numerous certificates for programs that defendant completed while in pretrial custody. Defense counsel also highlighted defendant's work history and education history, noting that defendant had taken some college courses and that his criminal history "happened a significant amount of time ago" and defendant had not "misbehav[ed]" while in custody. Defense counsel asked the court not to sentence defendant to an extended term. In

allocution, defendant apologized stating that the situation was "very difficult" for him and that he had made a mistake. While defendant was still speaking, the court asked defense counsel "what else do you want me to consider" and stated that "the defendant gave his heartfelt apologies."

¶ 13 In sentencing defendant, the sentencing judge stated that defendant was apologizing now for "going to prison for a long time," not for killing Ford. The judge stated that defendant "decided" he wanted to stab Ford "a whole bunch of times in the teens." The judge stated that he did not dislike defendant but did dislike what defendant did. The judge noted defendant's criminal history which included crimes committed as a juvenile such as aggravated battery, retail theft, criminal trespass to a vehicle, criminal damage to property, and battery, as well as crimes committed in adulthood including aggravated battery, robbery of a senior citizen, domestic battery, damage to property, and aggravated robbery. The judge stated that defendant's criminal history showed that defendant "liked to take things or do things to people that really can't do much to defend themselves."

¶ 14 The judge stated that the second-degree murder conviction itself was "mitigating, so the other stuff that [defense counsel] want[ed] to talk about *** doesn't add much to that." The judge stated that despite the jury finding mitigating circumstances in order to return a verdict of second-degree murder, defendant's "entire record, not only the stabbing of *** Ford *** shows a man who is dangerous."

¶ 15 The judge stated that it considered the PSI, documents in support, and arguments made in aggravation and mitigation. The judge noted that the crime and defendant's lengthy criminal history precluded a sentence near the minimum. The court sentenced defendant to an extended

term of 28 years' imprisonment. Defense counsel filed a motion to reconsider the sentence, which the trial court denied.

¶ 16 On appeal, defendant argues that the trial court erred at sentencing by failing to consider evidence in mitigation and imposing an excessive sentence.

¶ 17 Defendant acknowledges that his claim regarding mitigation is forfeited as he neither objected at sentencing nor included it in his motion to reconsider his sentence, but he contends that the error constitutes plain error under both prongs of the plain error doctrine. See *People v. Hillier*, 237 Ill. 2d 539, 544 (2010) ("both a contemporaneous objection and a written postsentencing motion raising the issue are required" to properly preserve a sentencing error). In the alternative, he argues that trial counsel was ineffective for failing to preserve the error in the trial court.

¶ 18 Forfeited sentencing claims may be reviewed under the plain error doctrine, which is a "narrow and limited exception" to forfeiture. *Id*. at 545. The burden of persuasion is on the defendant, who must first establish that a "clear or obvious error occurred." *Id*. For sentencing errors, the defendant must then show either that "(1) the evidence at the sentencing hearing was closely balanced, or (2) the error was so egregious as to deny the defendant a fair sentencing hearing." *Id*. This court must honor the procedural default where a defendant fails to establish plain error. *People v. Naylor*, 229 Ill. 2d 584, 593 (2008). We first determine whether an error at sentencing occurred at all. *Id*.

¶ 19 The Illinois Constitution provides that a trial court shall impose a sentence balancing "the seriousness of the offense" and "the objective of restoring the offender to useful citizenship." Ill. Const. 1970, art. I, § 11. The trial court has broad discretionary powers when imposing a sentence, and this court will not disturb a sentence within the statutory limits absent an abuse of discretion.

People v. Burton, 2015 IL App (1st) 131600, ¶¶ 35-36. An abuse of discretion occurs when a sentence "varies greatly from the spirit and purpose of the law" or is "manifestly disproportionate to the nature of the offense." *People v. Contursi*, 2019 IL App (1st) 162894, ¶ 23.

¶ 20 In fashioning a sentence, the trial court must consider "both the seriousness of the offense and the defendant's rehabilitative potential" and carefully consider all factors in aggravation and mitigation. *Id*. ¶ 24; *People v. Jones*, 2019 IL App (1st) 170478, ¶ 50. These factors include "the defendant's age, demeanor, habits, mentality, credibility, criminal history, general moral character, social environment, and education, as well as the nature and circumstances of the crime and of defendant's conduct in the commission of it." *People v. Quintana*, 332 Ill. App. 3d 96, 109 (2002). The seriousness of the offense is the most important factor in determining an appropriate sentence, and the court is not required "to give greater weight to mitigating factors than to the seriousness of the offense." *People v. Harmon*, 2015 IL App (1st) 122345, ¶ 123. Furthermore, the presence of mitigating factors does not "require a minimum sentence or preclude a maximum sentence." *Id*.

¶ 21 Defendant was found guilty of second-degree murder, a Class 1 felony, for committing first-degree murder while having the unreasonable belief that deadly force was justified. 720 ILCS 5/9-2(a)(2) (West 2020). Defendant was sentenced to an extended term of 28 years in prison for second-degree murder, which, as charged, carries a sentencing range of 15 years to 30 years in prison. 730 ILCS 5/5-4.5-30(a) (West 2024). As defendant's 28-year sentence falls within the statutory range, we must presume it is proper unless defendant can affirmatively establish otherwise. *People v. Knox*, 2014 IL App (1st) 120349, ¶ 46.

¶ 22 Nevertheless, defendant argues that the trial court erred in imposing his 28-year sentence because the court failed to take any of the mitigating evidence into consideration, made certain

comments and based the sentence on its own opinions, and imposed an excessive sentence that failed to weigh the seriousness of the offense with defendant's rehabilitative potential.

¶ 23 The trial court is not required to articulate every factor that it considers in rendering a sentence. *People v. Villalobos*, 2020 IL App (1st) 171512, ¶ 74. Moreover, a trial court may not ignore evidence in mitigation, but it may determine the weight given to such evidence. *People v. Brown*, 2017 IL App (1st) 142877, ¶ 63. We presume the sentencing court considered evidence in mitigation at sentencing. *Burton*, 2015 IL App (1st) 131600, ¶ 38. To rebut this presumption, a defendant must affirmatively show that the sentencing court did not consider the relevant factors. *Id*. Furthermore, this court will not substitute our judgment for that of the trial court merely because we would have weighed the sentencing factors differently. *Jones*, 2019 IL App (1st) 170478, ¶ 50.

¶ 24 Here, defendant has not shown that the trial court failed to consider mitigating evidence at sentencing. The record reveals that the trial court considered all factors in both aggravation and mitigation in fashioning defendant's sentence. Regarding certain comments made during the hearing, such comments "while ill-advised *** are generally of no consequence where the record shows the court otherwise considered proper sentencing factors." (Internal quotation marks omitted.) *People v. Walker*, 2012 IL App (1st) 083655, ¶ 33. Specifically, the trial court found that due to defendant's lengthy criminal history coupled with the heinous nature of his crime, killing Ford by stabbing her multiple times, the seriousness of the crime and evidence in aggravation outweighed the evidence in mitigation, which did not "add much" in aiding defendant in receiving a sentence closer to the minimum. As noted, the seriousness of the crime is the most important factor and the trial court is not required to give greater weight to mitigating factors over the

seriousness of the offense. *Harmon*, 2015 IL App (1st) 122345, ¶ 123. Moreover, the court is not precluded from imposing a sentence near the maximum merely because mitigating factors exist. *Id*. Here, the court used its discretion in determining that the seriousness of the crime and aggravating circumstances weighed heavily against defendant, undermined his rehabilitative potential, and warranted a sentence closer to the maximum.

¶ 25 In sum, defendant has not met his burden of affirmatively establishing that the trial court failed to consider evidence in mitigation. We therefore find no error in the court's sentencing decision and our plain error analysis need go no further. See *People v. Hood*, 2016 IL 118581, ¶¶ 18, 29 (stating there can be no plain error without a finding of error). Because we find no sentencing error, we need not address defendant's alternative ineffective assistance of counsel argument premised on counsel's failure to preserve the sentencing error for review. See *People v. Dorsey*, 2023 IL App (1st) 200304, ¶ 67 ("if there was not the clear or obvious error required for plain error, then there was also no ineffective assistance of counsel"). As defendant's 28-year sentence neither departs greatly from the spirit or purpose of the law nor is it manifestly contrary to constitutional guidelines, we find nothing to indicate that the trial court abused its discretion at sentencing. *Burton*, 2015 IL App (1st) 131600, ¶ 38.

¶ 26 For the foregoing reasons, we affirm the judgment of the circuit court.

¶ 27 Affirmed.