

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) 251204-U

NO. 4-25-1204

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED

September 17, 2026

Carla Bender

4th District Appellate
Court, IL

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
Plaintiff-Appellee,	)	Circuit Court of
v.	)	Henry County
RICHARD N. FOSTER,	)	No. 24CF252
Defendant-Appellant.	)	
	)	Honorable
	)	Terence M. Patton,
	)	Judge Presiding.

JUSTICE HARRIS delivered the judgment of the court.

Justices Zenoff and Knecht concurred in the judgment.

ORDER

¶ 1 *Held:* The appellate court affirmed, holding (1) the trial evidence, viewed in the light most favorable to the State, was sufficient to prove defendant guilty beyond a reasonable doubt of aggravated battery of a peace officer and (2) the trial court did not abuse its discretion by sentencing defendant to eight years' imprisonment.

¶ 2 Defendant, Richard N. Foster, appeals his conviction for aggravated battery of a peace officer (720 ILCS 5/12-3.5(d)(4) (West 2024)). Defendant argues (1) the trial evidence was insufficient to prove him guilty beyond a reasonable doubt of aggravated battery of a peace officer because body camera footage disproved the allegation that he placed the officer in a headlock, and the State otherwise failed to prove the requisite mental state for the offense and (2) the trial court's eight-year prison sentence was excessive given the nature of the offense. We affirm.

¶ 3

I. BACKGROUND

¶ 4 The State charged defendant with aggravated battery of a peace officer (*id.* § 12-3.5(d)(4)), in that he “knowingly engaged in conduct of an insulting and provoking nature, in that said defendant wrapped his left arm around [Officer] Josh Carpenter's head placing [Carpenter] in a headlock, knowing [Carpenter] to be a peace officer engaged in the execution of his official duties.” The State also charged defendant with resisting a peace officer (*id.* § 31-1(a)(1)), in that he knowingly resisted an authorized act within the official duties of a peace officer by lying on the ground and refusing to comply with the commands of the officers who were detaining him, specifically, Carpenter and Andrew Kingdon.

¶ 5 The matter proceeded to a jury trial. Officers John Gearhart, Sarah Hansen, Carpenter, and Kingdon testified concerning events that occurred in the early morning hours on the day of the incident. Several video clips from their body cameras were also admitted into evidence and played for the jury. The officers’ testimony established that they were dispatched to a bar at 12:30 a.m. to remove an “unwanted subject,” later determined to be defendant, who was causing a disturbance. Gearhart stated defendant was intoxicated, argumentative, and uncooperative when they arrived. The officers placed defendant in handcuffs and attempted to walk him out to a squad car. However, defendant sat on the ground and refused to move. The officers eventually got defendant into the back of a squad car. Gearhart stood on one side of the squad car, and he attempted to hand a seat belt to Carpenter, who was standing on the other side of the squad car, to secure defendant. During this time, defendant was aggressive and yelling. At one point, he flung his body toward Gearhart and “headbutted” him in the groin. The officers were eventually able to buckle defendant’s seat belt.

¶ 6 Hansen testified that she and Carpenter then drove defendant from the bar to his residence. Defendant refused to exit the vehicle when they arrived at his residence, despite

Carpenter repeatedly asking him to do so. Carpenter testified that, when he attempted to release defendant, defendant swore at him and said he wanted to go to jail. Carpenter then attempted to remove defendant from the vehicle. However, defendant anchored his feet inside the vehicle, such that he was lying on the ground while his feet were still in the vehicle. Kingdon then arrived.

¶ 7 A recording from Kingdon's body camera that was admitted into evidence showed that defendant was lying on the street with his feet in the squad car when Kingdon arrived. In the recording, Kingdon asked defendant what the officers could do to get him "unstuck" so that he could go inside his residence, and he offered to undo defendant's handcuffs. Defendant replied that they would be there all night and that he did not care. Kingdon removed defendant's feet from the car and directed him to stand up, but he refused. The officers lifted defendant and placed him back into the squad car. Carpenter testified that they arrested defendant at that point and drove him to the police station.

¶ 8 Carpenter testified that, when they arrived at the police station, defendant was placed in a holding cell. Carpenter stated that defendant "was rude, agitated, aggressive, and he dove on the floor several times, laid there, and basically cussed us out, wanting to go to the county jail." Carpenter returned to the holding cell to release defendant from custody. He handed defendant his paperwork, but defendant refused to leave the holding cell, saying he wanted to go to the county jail. Carpenter stated:

"We were having to push him out of the jail cell, holding cell, and at that point he was being handsy, physically touching us. He dove on the floor at one point. I picked him up, tried to get him out, and then he turned around and I would say physically hit me in the head trying to put me in a headlock."

Carpenter stated he “felt [he] was in a headlock” briefly. According to Carpenter, defendant hit him in the head and “hooked” him, and Carpenter ducked. His hat fell off his head at that point.

¶ 9 Kingdon testified that, after the officers brought defendant to the police station, they issued him a notice to appear and attempted to release him. Kingdon and Carpenter repeatedly told defendant to leave his holding cell, but he refused. Kingdon tried to grab him by the arm and walk him out of the cell, but defendant jerked his arm away. Defendant stated he “wanted to be booked,” and Kingdon told him they would book him when he left the cell, hoping he would walk out the open door of the police station. Defendant then exited the cell and saw that the door to the sally port was open. According to Kingdon, defendant pinned himself against the door and stated he wanted to stay. Carpenter blocked him from reentering the holding cell and then tried to grab him by the arm. Kingdon saw defendant try to wrap his arm around Carpenter’s head. Carpenter then “ducked down as [defendant] was grabbing for his head in kind of a headlock position.”

¶ 10 Kingdon’s body camera footage was admitted into evidence and played for the jury. In the video, Kingdon and Carpenter enter defendant’s holding cell and attempt to release him. Defendant refuses to take his belongings and paperwork from the officers, repeatedly saying “f*** you.” He then refuses to leave, asking instead to be taken to the county jail. After a few minutes, defendant walks out of the cell. After briefly turning away, Kingdon’s body camera shows defendant outside of his cell, falling to the floor. Carpenter tells him to get up and leave the police station, and defendant refuses. Carpenter and Kingdon again tell him to leave. Defendant is seen shouting profanities at the officers, telling them they had arrested him for no reason. Defendant frees his left arm from Carpenter’s grip and lifts it over Carpenter’s head, briefly making contact with Carpenter’s neck and head.

¶ 11 The jury found defendant guilty of both charges.

¶ 12 A presentence investigation report (PSI) was prepared. The PSI indicated that defendant was 46 years old. He had prior convictions in Alabama for forgery, burglary, and larceny. He had prior felony convictions in Illinois for aggravated battery of a pregnant person, domestic battery, aggravated battery of a child, manufacture or delivery of heroin, and aggravated domestic battery. His first felony conviction was from 2000. His most recent felony convictions, for aggravated domestic battery and manufacture or delivery of heroin, were entered in 2016, and he received concurrent sentences of 10 years' imprisonment and 12 years' imprisonment, respectively. He was on mandatory supervised release (MSR) for these offenses at the time of the offenses charged in the instant case. He also had several prior misdemeanor convictions, including one for battery.

¶ 13 According to the PSI, defendant was employed. Defendant reported he had a history of using drugs from the ages of 16 to 36. He stated he had a history of alcohol use, and he believed he was an alcoholic. He reported that he last drank alcohol in September 2024 (the month in which the incident occurred). He stated he was either drunk or high the majority of his life. A letter from defendant was attached to the PSI in which he apologized for his actions, asserted they were out of character for him and caused by alcohol consumption, and requested probation.

¶ 14 On August 19, 2025, a sentencing hearing was held. Defendant testified that the incident at the police station was not consistent with who he was, and he did not remember the incident. He stated: "I don't understand what happened to this day, and I am truly sorry for what I've done, but it was the alcohol and stuff. It had to be, because I've never act[ed] like that a day in my life, man, never." He stated he was sorry for the incident, had not been drinking following

the incident, and had been seeking help.

¶ 15 The trial court stated it had considered the nature and circumstances of the offense, the information in the PSI, the statutory factors in aggravation and mitigation, the evidence presented at the sentencing hearing, and the arguments of counsel. In aggravation, the court found defendant had a history of prior violent criminal activity, the sentence was necessary to deter others from committing the same crime, and his rehabilitative potential was low because he kept committing crimes of violence. The court sentenced defendant to eight years' imprisonment for aggravated battery of a peace officer. The court also sentenced defendant to 364 days in jail for resisting a peace officer, which the court stated would merge with his prison sentence for aggravated battery of a peace officer.

¶ 16 This appeal followed.

¶ 17 II. ANALYSIS

¶ 18 On appeal, defendant argues that the trial evidence was insufficient to prove him guilty beyond a reasonable doubt of aggravated battery of a peace officer. He asserts Kingdon's body camera footage disproves the allegation that he placed Carpenter in a headlock, and the State otherwise failed to prove the requisite mental state for the offense. Defendant also argues the eight-year prison sentence imposed by the trial court was excessive given the nature of the offense.

¶ 19 A. Sufficiency of the Evidence

¶ 20 Defendant argues the State's evidence was insufficient to prove him guilty beyond a reasonable doubt of aggravated battery of a peace officer. Specifically, defendant argues that the video footage from Kingdon's body camera disproves Carpenter's claim that defendant placed him in a headlock. Defendant asserts that the video showed that he freed his

left arm from Carpenter’s grip, pulling it back from behind Carpenter’s shoulder and upper back, and he “did not touch Carpenter forcefully.” Defendant claims that his actions constituted, at most, resisting a peace officer, and the State did not prove that he had the requisite *mens rea* for the offense of aggravated battery of a peace officer.

¶ 21 When presented with a challenge to the sufficiency of the evidence, it is not the function of the reviewing court to retry the defendant. *People v. Collins*, 106 Ill. 2d 237, 261 (1985). Rather, “ ‘the relevant question is whether, after viewing the evidence in the light most favorable to the prosecution, *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.’ ” (Emphasis in original.) *Id.* (quoting *Jackson v. Virginia*, 443 U.S. 307, 319 (1979)).

“This standard does not require a reviewing court to determine whether it would find the defendant guilty beyond a reasonable doubt, but only whether *any* rational trier of fact, taking all the evidence in a light most favorable to the State, could have found the essential elements of the offense beyond a reasonable doubt.” (Emphasis in original.) *People v. Jones*, 2023 IL 127810, ¶ 36.

¶ 22 In order to prove defendant guilty of aggravated battery of a peace officer, the State was required to prove that defendant (1) knowingly and without legal justification made physical contact of an insulting or provoking nature with Carpenter and (2) knew that Carpenter was a peace officer performing his official duties. 720 ILCS 5/12-3, 12-3.5(d)(4)(i) (West 2024).

¶ 23 Here, the trial evidence, viewed in the light most favorable to the State, was sufficient to prove defendant guilty of aggravated battery of a peace officer. The evidence showed that Carpenter and Kingdon, who were working as uniformed police officers at the time of the incident, were attempting to release defendant from a holding cell at the police station at

the time of the incident. Defendant repeatedly shouted profanities at them and refused to leave. Carpenter testified that, during the course of this encounter, defendant “physically hit [him] in the head trying to put [him] in a headlock.” Carpenter stated that defendant “hooked” him, and he felt that he was briefly in a headlock. Kingdon’s body camera footage, which showed defendant making contact with Carpenter’s neck and head with his bent arm, albeit briefly, was not inconsistent with Carpenter’s testimony. Whether defendant’s brief contact with Carpenter is characterized as a “headlock,” a “hook,” or a “hit,” a rational jury could infer, based on defendant’s aggressive and combative behavior immediately prior to and during the incident, that he knowingly made contact of an insulting or provoking nature with Carpenter when he struck him in the neck and head. See *People v. Phillips*, 392 Ill. App. 3d 243, 259 (2009) (“[A] jury could reasonably infer intent from expressions of anger, made immediately prior to the battery.”).

¶ 24 While defendant maintains that he is not raising an issue of a variance between the charging instrument and trial evidence on appeal, he repeatedly asserts in his brief that the State’s evidence failed to show that he placed Carpenter in a headlock, as alleged in the information. We note that the State was required to prove only that defendant made contact of an insulting or provoking nature with Carpenter, not that this contact constituted a “headlock.” See 720 ILCS 5/12-3, 12-3.5(d)(4)(i) (West 2024); *People v. Collins*, 214 Ill. 2d 206, 219 (2005) (“Where an indictment charges all essential elements of an offense, other matters unnecessarily added may be regarded as surplusage.”).

¶ 25 We reject defendant’s argument that the body camera footage showed that his contact with Carpenter did not rise to the level of aggravated battery of a peace officer, but rather constituted only the lesser offense of resisting or obstructing a peace officer. The latter offense

requires proof that a defendant knowingly resisted arrest or obstructed the performance by a person he knew to be peace officer of any authorized act within his official capacity (720 ILCS 5/31-1(a) (West 2024)). Defendant asserts that it is a defendant's mental state that distinguishes the offense of aggravated battery of a peace officer from the offense of resisting or obstructing a peace officer. Specifically, defendant states:

“Illinois law punishes aggravated battery of a police officer more harshly than resisting a peace officer, specifically due to the defendant's mental state, not the actual severity of the physical contact. A defendant that does not knowingly and intentionally act to insult or provoke a peace officer, but rather simply to resist that officer, will generally receive a lesser sentence—even if he actually causes an injury to the officer. Accordingly, it is critical to determine whether the State here presented sufficient evidence as to [defendant's] mental state, to distinguish it from merely resisting a peace officer ***.”

Defendant further argues: “One cannot reasonably conclude that an officer would be insulted or provoked by *any* act of resistance—or else *all* resistance would become aggravated battery.”

(Emphases in original.) Defendant contends that Carpenter's testimony and the body camera footage failed to prove that his actions were committed with the knowledge that they were practically certain to insult or provoke Carpenter.

¶ 26 We find defendant's discussion of the offense of resisting or obstructing a peace officer to be inapposite. Contrary to defendant's argument on appeal, the offenses of aggravated battery of a peace officer and resisting or obstructing a peace officer are not distinguished merely by their requisite mental states. Rather, aggravated battery of a peace officer requires proof of physical contact of an insulting or provoking nature with an officer (see *id.* § 12-3, 12-

3.5(d)(4)(i)), while the offense of resisting or obstructing a peace officer does not require proof of any physical contact with an officer at all (*id.* § 31-1(a)). Thus, defendant is correct that not all resistance constitutes aggravated battery of a peace officer. However, any time a defendant resists or obstructs a known peace officer performing his or her official duties by knowingly making contact of an insulting or provoking nature with the officer, the defendant, by definition, commits the offense of aggravated battery of a peace officer. See *id.* § 12-3, 12-3.5(d)(4)(i). Again, a rational trier of fact, viewing the evidence in the light most favorable to the State, could have found this was proven beyond a reasonable doubt in the instant case.

¶ 27 B. Excessive Sentence

¶ 28 Defendant argues the extended-term sentence of eight years' imprisonment imposed by the trial court for aggravated battery of a peace officer was excessive in light of the facts of the case. Defendant asserts that he did not attempt to choke Carpenter, and he did not cause any injuries to Carpenter. Defendant also notes that he was under the influence of alcohol and frustrated with the officers for taking him into custody.

¶ 29 "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 trial court is granted such deference because the trial court is generally in a better position than the reviewing court to determine the appropriate sentence.

The trial judge has the opportunity to weigh such factors as the defendant's credibility, demeanor, general moral character, mentality, social environment, habits, and age." *People v. Stacey*, 193 Ill. 2d 203, 209 (2000).

Accordingly, the appellate court must not substitute its judgment for that of the trial court merely

because it would have weighed the foregoing factors differently. *Id.*

¶ 30 We will not alter a defendant’s sentence on review absent an abuse of discretion by the trial court. *Alexander*, 239 Ill. 2d at 212. “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.) *Id.*

¶ 31 Aggravated battery of a peace officer, as charged in the instant case, is a Class 2 felony. 720 ILCS 5/12-3.05(h) (West 2024). The nonextended-term sentencing range for a Class 2 felony is 3 to 7 years’ imprisonment, and the extended-term sentencing range is 7 to 14 years’ imprisonment. 730 ILCS 5/5-4.5-35(a) (West 2024). Here, defendant was eligible for extended-term sentencing due to his criminal history, as he had previously been convicted of the same or greater class of felony within 10 years of the conviction in the instant case. See *id.* § 5-5-3.2(b)(1).

¶ 32 We find that the eight-year prison sentence imposed by the trial court, while harsh, was not an abuse of discretion. While defendant did not seriously injure Carpenter during the incident, he repeatedly and unnecessarily escalated his encounter with the officers over the course of the night in ways that threatened their safety. When the officers initially made contact with defendant at the bar, he refused to get into the squad car as directed and headbutted an officer trying to buckle his seat belt. When officers drove him to his residence and tried to direct him to exit the vehicle and go home, he repeatedly swore at them and refused to leave the squad car. When Carpenter and Kingdon later tried to release him from the police station, he repeatedly shouted profanities at them, refused to leave, and ultimately struck Carpenter in the neck and head with his arm as the officers were trying to get him to leave.

¶ 33 Moreover, the sentencing evidence showed that this was not defendant’s first

violent offense. Defendant was on MSR for, *inter alia*, aggravated domestic battery at the time of the incident. In addition to that conviction, he had prior felony convictions for aggravated battery of a child, domestic battery, and aggravated battery of a pregnant person, as well as a misdemeanor battery conviction.

¶ 34 We reject defendant's reliance on *People v. Busse*, 2016 IL App (1st) 142941, ¶¶ 1, 3-4, where the appellate held that the 12-year sentence of imprisonment imposed by the trial court for the offense of burglary committed in a school was grossly disproportionate to the offense, which involved the defendant walking into a building on a university campus and stealing \$44 from a vending machine. The *Busse* defendant was subject to Class X sentencing due to his criminal history, though the *Busse* court noted that most of the defendant's prior offenses were for theft, and none involved violence against another person. *Id.* ¶¶ 30-31. The court reduced the defendant's sentence to the minimum of six years' imprisonment, though it expressed a view that even this sentence was inappropriate given the petty nature of the offense. *Id.* ¶¶ 36-38. Justice Mason dissented, asserting that the 12-year sentence was not an abuse of the trial court's broad discretion given the defendant's criminal background and lack of remorse. *Id.* ¶¶ 42-48 (Mason, J., dissenting). Justice Mason stated that the question of whether Class X sentencing was appropriate for the defendant's offense was a matter for the legislature and not the court to determine. *Id.* ¶ 45.

¶ 35 Here, unlike in *Busse*, both the instant offense and many of defendant's prior offenses involved violence against others. The trial court rendered its sentencing decision after considering the appropriate factors, including defendant's significant, violent criminal history, and it did not abuse its broad sentencing discretion. Moreover, we note that this court has previously been critical of the *Busse* decision and has expressed agreement with Justice Mason's

dissent. See *People v. Cunningham*, 2018 IL App (4th) 150395, ¶¶ 54-55.

¶ 36

III. CONCLUSION

¶ 37

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

¶ 38

Affirmed.