2026 IL App (1st) 241653-U

THIRD DIVISION
Order filed: August 20, 2026
Modified Upon Denial of Rehearing: September 3, 2026

No. 1-24-1653

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. 2019 CR 7343
	)	
LAMAR BAKER,	)	Honorable
	)	Kenneth J. Wadas,
Defendant-Appellant.	)	Judge, presiding.

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

ORDER

¶ 1 *Held*: Defendant's conviction and sentence are affirmed over defendant's claims challenging the sufficiency of the evidence, the court's questioning of the venire about the *Zehr* principles, the court's ruling granting the State's motion to exclude evidence regarding who possessed the murder weapon several months after the shooting and counsel's decision not to call an eyewitness identification expert. Finally, defendant failed to show that his 40-year sentence was excessive.

¶ 2 Following a jury trial, defendant Lamar Baker was convicted of one count of first degree murder and sentenced to 40 years in prison for shooting and killing Arturo Pina on April 11, 2016.

He appeals his conviction and sentence, challenging the sufficiency of the evidence and raising a claim of ineffective assistance of counsel for failing to retain an expert witness on eyewitness identifications. He also asserts that the trial court erred in questioning the jury regarding the *Zehr* principles outlined in Illinois Supreme Court Rule 431(b) (eff. July 1, 2012), denying his motion to present evidence regarding the ownership of the firearm that was used to kill Pina, and failing to consider certain mitigating evidence at sentencing. For the following reasons, we affirm defendant's conviction and sentence.

¶ 3 I. BACKGROUND

¶ 4 In June 2019, defendant was indicted for the first degree murder of Pina. Prior to trial, the court granted the State's motion to present evidence of defendant's involvement in the Latin Kings street gang. The State also filed a motion *in limine* to preclude defendant from presenting evidence that the firearm used to kill Pina had been found in the possession of a member of a rival gang, the Satan Disciples, on July 28, 2016. The State's motion specifically sought to preclude defendant from using that fact "as alternate suspect evidence," stating, "[i]t is the State's position that the recovery of the gun and subsequent testing [confirming its connection to Pina's murder] is irrelevant and the only purpose in presenting the evidence would be under a theory of an alternate suspect." The State further argued that firearms are easily transferrable and can change hands very quickly, diminishing the relevance of evidence showing that another person later possessed the weapon.

¶ 5 Defendant responded that he did not intend to offer that evidence to present an alternate suspect, but instead, to impeach the testimony of State's witness Alejo Larios, a fellow Latin Kings gang member. Defendant expected Larios to testify that the firearm was a "nation gun," meaning a firearm belonging to the Latin Kings. Defendant also argued that the evidence would contradict

the State's contention that Pina's shooting was gang-related, since he belonged to the Latin Kings, Pina belonged to the Two Six gang, and the weapon was found on a member of a third gang, the Satan Disciples. The court granted the State's motion, finding that, even if offered to impeach Larios rather than to present an alternate suspect, the evidence was not relevant and barring it was consistent with the case law cited by the State.

¶ 6 Defendant was tried before a jury in November 2021. During jury selection, the court instructed the jury on the *Zehr* principles. After reciting and explaining those principles, the court stated:

> "If you don't understand those precepts, raise your hand.
>
> The record will reflect that no one in the venire has raised their hand indicating lack of understanding.
>
> Secondly, does everyone accept and embrace those concepts as fundamental basic precepts of the law? If you don't agree that those are basic precepts of the law, raise your hand.
>
> The record will reflect that no prospective juror has indicated a lack of acceptance of those basic legal precepts."

¶ 7 Daniel Pina, Jr., Arturo Pina's brother, testified that Arturo was known by the nickname "Risky."

¶ 8 Retired Detective James O'Brien testified that, shortly after 7:30 p.m. on April 11, 2016, he was called to the scene of a shooting at 2803 South Kedvale Avenue in Chicago, near the intersection of South Kedvale Avenue and 28th Street. The location was in front of a residence on Kedvale, immediately south of which was a gangway. O'Brien observed a fired bullet on the sidewalk in front of the gate to the gangway. He also found five spent cartridge casings in the grass

in front of the house just north of the gangway. O'Brien explained that semiautomatic handguns generally eject their spent cartridge cases "to the right and slightly back." When considering that fact and the location of the cartridge cases at the scene, O'Brien opined that "the gun was being fired towards the sidewalk." While on the scene, O'Brien spoke with two witnesses, Diego Chavarria and Modesta Echevarria. A month later, O'Brien and his partner, Detective John Halloran, spoke with Larios regarding Pina's murder. Larios was an informant for the Chicago Police Department and federal law enforcement.

¶ 9 Chavarria testified that on April 11, 2016, around 7:30 p.m., while it was still light, he was riding his bike home from the gym. He was traveling eastbound as he approached the area of 28th Street and Kedvale Avenue. When he reached the intersection, he saw a man he knew from the neighborhood and nodded to him. The man was walking alone on the sidewalk on Kedvale Avenue, south of 28th Street. Chavarria then turned left to head north on Kedvale, away from the man on the sidewalk. Chavarria testified that, "as I was turning, I seen someone come out the gangway and shoot the victim." The shooter was wearing a black hoodie and fired five or six shots. The gangway was one or two houses south of the intersection.

¶ 10 Chavarria stated, "As everything was happening, I turned left, and, like, I was riding my bicycle. And, like, there was a truck right on the corner, so I went, like, towards the front of it, and I just stood there and just watched." The State asked Chavarria, "And as you turned your bicycle, did you kind of make a loop so you turned back around towards the intersection and where you saw that gangway?" Chavarria answered "Yes." When asked what he was thinking during the shooting, Chavarria explained, "since I was in the *** way, I don't know, I just feared for my life, so I was hiding. Then I see him shoot him, and so I – I went across, and I seen the victim on the floor then I seen the shooter in the back going towards the back." Chavarria ran to aid the victim

and looked down the gangway, where he saw the shooter running away "towards the back." He testified that he was about 25 to 30 feet from the intersection of 28th and Kedvale and nothing obstructed his view of the shooting. The shooter was not wearing a face covering. Chavarria identified defendant in court as the shooter.

¶ 11 During Chavarria's testimony, the State entered into evidence two videos capturing the area around 28th and Kedvale at the time of shooting. In the first, State's Exhibit 31, the camera is positioned on the northeast corner of the intersection, facing west down 28th Street. A few seconds into the video, Chavarria appears, riding east on 28th Street, and then he turns north onto Kedvale. Eight seconds into the video, three people enter the frame and walk west across Kedvale north of 28th Street. A few seconds later, those individuals suddenly look south down 28th Street, then quickly move in the opposite direction, out of the frame. At about 17 seconds into the video, the shooting started. 28 seconds into the video, Chavarria reappears on his bike heading south on Kedvale and crosses 28th Street toward the shooting.

¶ 12 In the second video, State's Exhibit 32, the camera is again positioned on the northeast corner of the intersection, this time facing south down Kedvale. The first 40 seconds of the video show Pina walking north on the sidewalk along Kedvale. One second later, Pina slumps and stumbles west into the grass between the sidewalk and the street, then lays motionless. Pina fell next to the second car from the intersection with 28th Street. 42 seconds into the video, while Pina is stumbling to the side, the video shows an individual appearing from between the houses on the east side of the sidewalk. He appears to be either even with Pina or slightly behind him. The individual stops just short of the sidewalk, appears to raise his arm in Pina's direction, then quickly retreats to the east, toward the direction of the houses, and exits the frame. One minute into the video, Chavarria appears, riding toward Pina on his bike. He gets off his bike at the corner of the

intersection, runs a few steps past Pina and appears to look to the east down the gangway, then returns to Pina, where he stays with a gathering crowd until police arrive and the video ends.

¶ 13 On May 31, 2016, Chavarria met with detectives and viewed a photo array with photographs of six individuals. Chavarria recognized two of the individuals and asked a detective to arrange an in-person lineup with those individuals. Defendant was one of the individuals Chavarria identified. Nearly three years later, on March 21, 2019, Chavarria viewed an in-person lineup, where he identified defendant as the person who shot Pina.[1]

¶ 14 On cross-examination, Chavarria denied knowing that Pina was a member of the Two Six gang. He acknowledged that he had "shavings" in his eyebrow, but denied knowing that members of the Two Six gang put shavings in their eyebrows and denied being a member of the Two Six gang. Chavarria explained that the shavings were "for Halloween" and that his wife had them as well. Regarding his ability to identify the shooter, Chavarria did not remember telling Detective O'Brien on the day of the shooting that the shooter was a Hispanic male who was "tall, thin, 6-foot or so." He further stated that, during the shooting, he "kind of ducked down, like, still watching but in front of the truck that was on – on the side." Chavarria also added that the hood of the shooter's sweatshirt was up. Chavarria was confronted with his testimony before the grand jury, in which he stated that, during the shooting, he was "crossing the intersection." Chavarria admitted that the grand jury testimony was not true and that the shooting happened after he crossed the intersection. Chavarria further admitted that he "had [n]o reason to loop around and go the other way" after turning north onto Kedvale. Regarding the in-person lineup, Chavarria testified that,

[1] Regarding the passage of time between the photo array and the live lineup, Chavarria acknowledged on cross-examination that "a few months after the shooting," police contacted him "to look at a live lineup," but he "didn't go." The parties also stipulated that, if called, Detective Daniel Gorman would have testified that "attempts were made" to find Chavarria in July 2016 and June 2017, but he could not be located.

after he identified defendant as the shooter, he asked defendant to stand up, but "he didn't want to and he was giving trouble to the police officers."

¶ 15 Modesta Echeverria testified that, on April 11, 2016, she was living in a second-floor apartment at the rear of a multi-family residence at 2801 South Kedvale Avenue. Around 7:30 p.m., she was inside her house when she heard gunshots. She ran to the rear porch where there was a "really small window" that she could "barely see" through. She did not see anything through the window. Echeverria then looked out her larger living room window, where she saw a black car parked behind her house. The vehicle was facing away from her, but she could see "a young female" in the driver's seat. Echeverria was only able to see the side of the woman's face. She saw a man wearing a black hoodie and holding a gun run down the gangway next to the house and get in the vehicle, which then drove away. Echeverria viewed two photo arrays provided by police, one with six females and one with six males. She was able to identify one of the females but could not identify any of the males.

¶ 16 Detective Michael Nestad testified that, on March 21, 2019, he served as the independent administrator for an in-person lineup for Chavarria. Chavarria identified defendant as the shooter from that line up. On cross-examination, Nestad confirmed that defendant was not cooperative with officer requests to turn his head during the lineup. Defendant entered into evidence photos of the lineup showing all of the subjects turning their heads while defendant looked straight ahead. Nestad also confirmed that defendant refused to stand when asked to do so.

¶ 17 Detective Chana Aubert testified that, on May 14, 2019, she arrested defendant for Pina's murder. She recorded defendant's height as five feet and five inches.

¶ 18 Larios testified that, in 2016, he was a member of the Latin Kings street gang. The main rival for his faction of the gang was the Two Six gang. Larios knew defendant, who was a member

of the same faction of the Latin Kings. Both were "enforcers" within the gang. In April 2016, there was an ongoing conflict between the Latin Kings and the Two Six gang. The location of Pina's shooting at 28th and Kedvale fell within Two Six gang territory.

¶ 19 On May 18, 2016, Larios approached Chicago Police Department ("CPD") detectives with information about Pina's murder. At that time, Larios was working as a paid informant for federal law enforcement, but he did not get paid for the information he provided to CPD in this case. Larios told CPD that in "mid-April," he had a conversation with defendant in which he jokingly called defendant and another Latin King named "Elias" "shorties," which, he testified, meant "they weren't doing anything significant in the gang." Defendant responded that "he was no longer shorties" and that "[t]hey were Risky gang," which meant "they were claiming a Two Six had been killed named Risky" and defendant was "[t]aking credit for it." Larios knew from social media and word of mouth that a Two Six named Risky had been killed. Larios further testified that defendant explained that "he caught [Risky] lacking," or "not paying attention to [his] surroundings." Defendant said he "was dropped off" by Amy Vasquez, another Latin King nicknamed "Nuny," and "ran through a gangway and shot him." Vasquez drove a black four-door sedan.

¶ 20 In November 2016, defendant and Elias came to Larios' home to get a tattoo. Defendant requested that Larios draw a "free smoke" tattoo on his forearm. According to Larios, "free smoke" meant "anyone can get it or whoever wants problems can get it." In other words, "welcoming confrontation" or "willing to kill anyone." Larios met with CPD detectives in July 2017 and met again with detectives and an Assistant State's Attorney ("ASA") in March 2019. The State's Attorney's Office ("SAO") paid for his transportation to and from the meeting, but no promises were made to him regarding his testimony in this case.

¶ 21 On cross-examination, Larios acknowledged that he received $41,550 from federal law enforcement for being an informant, and in 2016, the State reduced a felony weapon charge to a misdemeanor for his work as an informant for CPD. He explained that he was arrested for armed robbery on August 11, 2014, and that charge was disposed of April 7, 2015, before he gave CPD information related to this case. Also, he came forward to police in May 2016 and was not charged with the gun case until August 2016. Larios admitted that he was looking for information to give to law enforcement in 2016 to help with his pending weapon charge, but he denied killing Pina. Larios confirmed that "some" Two Six gang members shave a piece of their eyebrow as an identifier, but he also testified that other gangs do as well. Larios was no longer a Latin King at the time of trial, and he denied being a member of the Satan Disciples.

¶ 22 The parties then stipulated that, if called, Dr. Marta A. Helenowski would have testified that she performed an autopsy on Pina and observed six gunshot wounds, including one each to the right side of his face, his right shoulder, his right forearm, and his left torso, and two to his right arm. Dr. Helenowski identified the gunshot wounds as the cause of death.

¶ 23 The parties further stipulated that, if called, Detective Carlos Cortez would have testified that he presented photo arrays to Echeverria. One of the arrays contained photos of six men, none of whom were defendant. Echeverria did not identify any of the men as the person she saw running to the black vehicle parked behind her building. The second array contained photos of six women. Echeverria identified one of the women, Saleyka Rodriguez, as the driver of the black vehicle. The stipulation did not mention whether Vasquez was included in that photo array. The parties also stipulated that Vasquez and Rafael Martir "were the registered co-owners of a black 2003 Mazda four-door car in April of 2016." The State then rested.

¶ 24 In defendant's case, the parties stipulated that, if re-called, Detective O'Brien would testify that when initially interviewed at the scene on April 11, 2016, Chavarria stated that "the offender was tall, thin, six foot zero inches or so." Defendant then rested.

¶ 25 During closing argument, defense counsel argued that Larios' story should not be believed because he was a convicted felon and was motivated by a desire to have his felony weapons charge reduced. Counsel also pointed out that Echeverria identified Rodriguez as the driver of the black vehicle, yet Vasquez did not testify at trial. Regarding his alleged confession to Larios, counsel suggested that defendant falsely took credit for the killing in response to Larios' teasing about defendant not doing much in the gang. Defense counsel argued that Chavarria likely did not see the shooting, citing the video evidence showing that the shooting occurred six seconds after he turned north on Kedvale, away from the location of the shooting. Counsel also noted that Chavarria did not provide an explanation for his claim that he "looped" back to the south and had not mentioned that prior to his trial testimony. Counsel argued that, if Chavarria had looped back around, he would have mentioned it earlier to police or the grand jury. Defense counsel also noted that Chavarria initially described the shooter as a thin, six-foot-tall Hispanic male and that defendant is five feet, four inches tall. He referenced the jury instructions on evaluating eyewitness testimony and explained why the jury should discount Chavarria's identification of defendant.

¶ 26 The jury found defendant guilty of first degree murder. After defendant filed a motion for new trial, his trial counsel, Marc Gottreich, withdrew and was replaced by Lillian McCartin, who then filed an amended motion for new trial and a second amended motion. Attorney McCartin then withdrew, and defendant proceeded *pro se*.

¶ 27 Defendant filed numerous *pro se* motions, most of which are not relevant to this appeal. On March 13, 2023, defendant filed an amended motion for new trial raising 30 claims of error

and 8 claims of ineffective assistance of trial counsel. In relevant part, defendant asserted that the court erred in granting the State's motion *in limine* to bar evidence that the murder weapon was found in the possession of a rival gang member and that trial counsel rendered ineffective assistance by not hiring an expert on eyewitness identifications. Defendant also alleged that the evidence was insufficient to prove him guilty beyond a reasonable doubt.

¶ 28 Also on March 13, defendant filed a motion requesting a *Krankel* hearing on his claims of ineffective assistance of counsel. At a court date held that day, defendant clarified that he was abandoning the motions for new trial filed by counsel and proceeding on his *pro se* motion alone. He also stated that he sent a subpoena to his prior attorney, Marc Gottreich, to ensure that he appeared for the *Krankel* hearing. The court scheduled a hearing for April 5. Defendant also explained to the court, "what I placed in today was a motion of a *Krankel* hearing of a pro law [*sic*] of *Strickland v. Washington* to determine the ineffectiveness of assistance of counsel for Marc Gottreich," to which the court responded, "Okay. That will be *** litigated on April 5th." Defendant then asked the court if his two motions could be litigated as "separate matters" with his motion for *Krankel* hearing first. The court acknowledged his request and asked the State's Attorney for her position. The court then stated that they could decide at the April 5 hearing "if it turns out the bulk of this is allegations of ineffective assistance of Counsel in the motion for new trial, then we don't need to bifurcate the two, we'll take all witnesses during that hearing." Both defendant and the State's Attorney agreed to that plan.

¶ 29 At the ensuing hearing on April 5, 2023, defendant informed the court, "we can proceed on with the *Krankel* hearing," and the court then conducted a *Krankel* inquiry and received testimony on defendant's claims of ineffective assistance of counsel. Defendant represented himself *pro se* and called attorney Gottreich as a witness. When asked about his decision not to

retain an expert on eyewitness identification, Gottreich testified that it was his opinion that an expert was not necessary because he believed "we had enough to go on to show the identification was not good" and "an identification expert would not have been helpful." He also testified that when he cross-examined the eyewitnesses, he asked questions about the distance to the shooting, light, ability to observe, etc., and argued this to the jury. At the conclusion of the hearing, the court heard argument on and denied a portion of defendant's motion for new trial concerning alleged newly discovered evidence, but continued the remainder of the motion for another evidentiary hearing on April 25, 2023.

¶ 30 At the next hearing, the court heard testimony from several other witnesses not relevant to the issues on appeal and continued the matter for another evidentiary hearing on May 9, 2023, then continued to May 24, 2023. A half-sheet dated May 24, 2023, reflects that the court held a hearing and denied defendant's motion for new trial, but the record does not contain a transcript of that hearing or a written order disposing of the motion.

¶ 31 At the next hearing, defendant filed a motion to reconsider the denial of his motion for new trial, which the court denied. At defendant's request, the court appointed counsel to represent him for sentencing.

¶ 32 At the sentencing hearing, the State presented victim impact statements from Pina's brother and sister in which they recounted numerous fond memories of their brother, expressed the profound impact that his loss has had on them and his family, and asked that the court impose the maximum sentence. In mitigation, defendant presented testimony from four witnesses. Defendant's father, Lamar Baker, Sr., testified that he has seen a change in his son since his incarceration and he was taking life more seriously. According to Baker, upon his eventual release, defendant hoped to mentor young men to steer them away from gang involvement.

¶ 33 Magdalena Vargas, defendant's mother, testified that she was addicted to drugs during defendant's childhood and was unable to be there for him emotionally. Defendant was the oldest of Vargas' five children, and he always tried to help with his younger siblings.

¶ 34 Yvette Vargas, defendant's aunt, testified that she was nine years older than defendant and grew up in the same home, which was filled with "toxic adults, unstable adults, battling addiction, mental health, [and] abuse." Vargas explained that defendant "always tried to absorb the shock" and "carry all that pressure" of living in that environment. At the age of eight or nine, defendant "had to step in" and be a parent and protector to his siblings.

¶ 35 Madeline Negrete, defendant's cousin, testified that she grew up in the same house as defendant. She described the experience as "terrible" with domestic violence and drug abuse. They often did not have heat or electricity, and defendant's parents were "living their own lives" and "were never there." Defendant was five years old when he, his uncle, and Negrete were shot at in their car. Defendant moved back in with his mother when he was seven, at which point he "had to learn how to grow up by himself and take on the responsibility of his little brothers and sisters" because if he did not take care of them, no one would. Defendant was recruited by his uncles to join a gang when he was 12. Negrete explained that defendant "didn't know any better" and "didn't know what it was or what that lifestyle holds." According to Negrete, defendant would have significant family support upon his release.

¶ 36 Defendant made a statement in allocution. He explained that he sought education when he was young, but without support and with absent parents, he eventually found "alternative parents, which were the street." He grew up believing that "gang banging was a cycle" and that death at a young age from gang involvement was inevitable. He asked the court to allow him the opportunity that his circumstances in life had not previously afforded him.

¶ 37 The State then presented a proffer of allegations against defendant in a separate case in which he was charged with mob action. The State alleged in the proffer that, on June 20, 2018, while incarcerated in the Cook County Jail on another charge of which he was ultimately acquitted, defendant and another inmate beat an inmate for using the "Kings' phone."

¶ 38 In explaining its sentencing decision, the court noted that it "listened carefully" to the State's witnesses and defense witnesses and considered the facts of the case and relevant sentencing factors. The court recounted that defendant's family members "tried to take the blame for the defendant going in the wrong direction," to which it responded, "I don't buy that at all. It was not your fault. Life is full of tough choices. The defendant had certain choices to make." The court also noted that there was evidence that defendant was immature, but there was no evidence that defendant failed to appreciate the consequences of his actions. The court further acknowledged the evolving science on adolescent brain development but found "no actual evidence in this record that this defendant, Lamar Baker, exhibited juvenile immaturity and behavior, lack of development based on [the] circumstances and facts of this case." Finally, the court observed that the shooting was not a spontaneous act, but instead a planned ambush. Accordingly, the court sentenced defendant to 40 years' imprisonment. Defendant moved for reconsideration, and the court denied the motion, noting that a shorter sentence would minimize the seriousness of the offense. This appeal follows.

¶ 39 II. ANALYSIS

¶ 40 A. Sufficiency of the Evidence

¶ 41 First, defendant argues that the evidence was insufficient to sustain his conviction because Chavarria's identification was inconsistent and unreliable, Larios had a motive to produce a false story implicating him, and there was no physical evidence linking him to the crime. The State

responds that Chavarria, Larios, and Echeverria corroborated each other's accounts and that defendant's arguments ultimately consist of challenges to the witnesses' credibility, which is within the province of the jury. We agree with the State.

¶ 42 When evaluating a defendant's challenge to the sufficiency of the evidence, the appellate court "'must determine 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.'" *People v. Johnson*, 2026 IL 131337, ¶ 59 (quoting *People v. Jackson*, 2020 IL 124112, ¶ 64). Our task is not to retry the defendant. *Id.* (citing *People v. Sutherland*, 223 Ill. 2d 187, 242 (2006)). Indeed, "'a reviewing court will not substitute its judgment for that of the trier of fact on issues involving the weight of the evidence or the credibility of witnesses.'" *Id.* (quoting *Jackson*, 2020 IL 124112, ¶ 64). To set aside a conviction, the evidence must be "so improbable or unsatisfactory that it creates a reasonable doubt of the defendant's guilt." *Jackson*, 2020 IL 124112, ¶ 64 (citing *People v. Belknap*, 2014 IL 117094, ¶ 67, and *People v. Tenney*, 205 Ill. 2d 411, 427 (2002)).

¶ 43 To prove defendant guilty of first degree murder, the State had the burden of proving that he (1) fatally shot Pina and, in doing so, (2) either intended to kill or do great bodily harm to Pina or knew that there was a substantial probability that repeatedly shooting Pina created a strong probability of killing or doing great bodily harm to him. See *Johnson*, 2026 IL 131337, ¶ 76 (citing 720 ILCS 5/9-1(a)(1), (a)(2) (West 2016)). "'The testimony of a single witness is sufficient to convict if the testimony is positive and credible, even where it is contradicted by the defendant.'" *Id.* ¶ 77 (quoting *People v. Gray*, 2017 IL 120958, ¶ 36).

¶ 44 The State presented two witnesses, Chavarria and Larios, who directly implicated defendant in the shooting of Pina, and a third, Echeverria, who corroborated aspects of Chavarria's

and Larios' accounts. Defendant contends that the testimonies of all three witnesses suffer from significant defects that render them insufficient to support his conviction. We disagree.

¶ 45 Larios testified that, during a conversation in mid-April of 2016, defendant took credit for Pina's murder, specifically telling Larios that he "was dropped off" by Vasquez and "ran through a gangway and shot him," catching Pina "lacking" and by surprise. Larios further recalled that Vasquez drove a black four-door sedan at the time. Larios' testimony on these points was corroborated in several ways. First, the manner of the shooting, with defendant running down a gangway and shooting an unsuspecting Pina, was supported by the video evidence of the shooter appearing from the gangway next to Pina, who was casually walking down the sidewalk, the physical evidence of spent cartridge cases located near the entrance to the gangway, and Echeverria's testimony that a man with a gun ran down the gangway. The account of the shooter being driven to the scene by Vasquez was also supported by Echeverria's testimony that the man with the gun got into a black vehicle driven by a young woman. Vehicle registration records admitted into evidence further confirmed that Vasquez drove a black sedan at the time. Larios also testified that defendant admitted to shooting Pina during an ongoing conflict between the Latin Kings and the Two Six gang in Two Six territory.

¶ 46 Defendant argues that this evidence was insufficient to prove him guilty beyond a reasonable doubt because Larios had a motive to lie—the potential for favorable treatment on a pending weapons charge—and Echeverria did not identify him from a photo array. However, a picture of defendant was not included in the photo array that Echeverria viewed, making her non-identification immaterial. Further, we are required to view the evidence presented in a light most favorable to the State (see *Johnson*, 2026 IL 131337, ¶ 59), and when viewed through that lens, we do not believe that no reasonable person could have found Larios' account of defendant's

confession credible (see *id.*). While Larios may have had a motive to lie, his testimony was corroborated by physical and video evidence and Echeverria's account and did not conflict with the evidence in any material way. Given that corroboration, it would not have been unreasonable for the jury to accept Larios' testimony and convict defendant based on his confession to Larios. See *People v. Schultz*, 99 Ill. App. 3d 762, 771-72 (1981) (holding that the defendant's confession to police was sufficient to sustain his conviction when there was other evidence corroborating the confession, and noting that the credibility of the officers testifying about the confession and any discrepancies between the evidence and the confession were for the jury to weigh).

¶ 47 While defendant argues that Chavarria's testimony was unreliable because he demonstrated indecision when he identified two people from the photo array as having possibly been the shooter, he initially told Detective O'Brien that the shooter was 6'0" tall, while defendant is 5'5", and three years passed before he viewed a live lineup, those issues were all raised in cross-examination or closing argument and presented to the jury. The jurors were instructed how to consider the testimony of each of the witnesses and that they could take into account their ability and opportunity to observe, memory, manner while testifying, interest, bias or prejudice and the reasonableness of their testimony in light of all of the evidence in the case. The jury's finding of guilt implicitly rejecting those concerns is "accorded great weight because the jurors observed and heard the witnesses firsthand and, thus, the jurors are best equipped to determine the witnesses' credibility, weigh their testimony, draw reasonable inferences from the evidence, and ultimately choose among conflicting accounts of events." *People v. Henderson*, 2017 IL App (1st) 142259, ¶ 166. Further, there were aspects of Chavarria's testimony from which the jury could have found his identification credible. Although he identified two people from the photo array, one of them was defendant. Additionally, as with Larios, his account of the shooter coming out of the gangway

was also corroborated by the video and physical evidence and by Echeverria's testimony that she saw a man with a gun run down the gangway.

¶ 48 We also note that, although defendant contends that the *Biggers* factors for evaluating the reliability of witness identifications demonstrate that Chavarria's identification should be disregarded in our evaluation of the sufficiency of the evidence, our supreme court has recently clarified that the *Biggers* test concerns the *suppression* of a witness identification and "simply does not apply to a review of the sufficiency of the evidence." *Johnson*, 2026 IL 131337, ¶ 65. Further, the lack of physical or forensic evidence does not preclude a conviction when, as here, the State has presented sufficient witness testimony that the jury could find credible. See *People v. Campbell*, 2019 IL App (1st) 161640, ¶ 33. Thus, we reject defendant's argument.

¶ 49 B. *Zehr* Principles

¶ 50 In his second issue, defendant argues that the circuit court erred by failing to ask the potential jurors whether they understood and accepted the four fundamental principles of criminal law outlined in Illinois Supreme Court Rule 431(b) (eff. July 1, 2012), which are also known as the *Zehr* principles (see *People v. Zehr*, 103 Ill. 2d 472 (1984)). Defendant acknowledges that he did not preserve this issue because he did not object at trial or raise the issue in a post-trial motion. See *People v. Sebby*, 2017 IL 119445, ¶ 48 ("To preserve a purported error for consideration by a reviewing court, a defendant must object to the error at trial and raise the error in a posttrial motion"). However, to avoid forfeiture, he asks that we review the issue for first-prong plain error, which allows for reversal of an unpreserved error when "'a clear or obvious error occurred and the evidence is so closely balanced that the error alone threatened to tip the scales of justice against the defendant, regardless of the seriousness of the error.'" *Id.* (quoting *People v. Piatkowski*, 225

Ill. 2d 551, 565 (2007)). We do not see any clear or obvious error in the court's handling of the *Zehr* principles and reject his argument.

¶ 51 Rule 431(b) codifies the *Zehr* principles and requires the trial court to "ask each potential juror, individually or in a group, whether that juror understands and accepts" that (1) the defendant is presumed innocent of the charges against him or her, (2) the State must prove the defendant guilty beyond a reasonable doubt, (3) the defendant is not required to present evidence in his or her defense, and (4) the defendant's failure to testify cannot be held against him or her. Ill. S. Ct. R. 431(b). The rule also provides that "[t]he court's method of inquiry shall provide each juror an opportunity to respond to specific questions concerning the principles set out in this section." Ill. S. Ct. R. 431(b). Our supreme court has interpreted these provisions as "mandat[ing] a specific question and response process." *People v. Thompson*, 238 Ill. 2d 598, 607 (2010). Our review of a trial court's compliance with Rule 431(b) is *de novo*. *People v. Wilmington*, 2013 IL 112938, ¶ 26.

¶ 52 In his brief, defendant seems to concede that the circuit court properly recited the four *Zehr* principles and asked whether the potential jurors accepted those principles. However, he asserts that the court erred by "not strictly comply[ing] [with Rule 431(b)], as he failed entirely to ask any of the potential jurors if they understood the principles." The State responds that defendant misread the record and that court did, in fact, ask the venire whether every potential juror understood the principles, rendering defendant's argument meritless. The State is correct, as the record shows that the court explained all four principles to the potential jurors twice, and then asked, "Does everyone in this prospective venire understand those four precepts? If you don't understand those precepts, raise your hand." The court then asked: "does everyone accept and embrace those concepts as fundamental basis precepts of the law?" and stated that if they did not agree, they should raise their

hands. The court noted that no one raised their hands. Thus, the record shows that the court gave each potential juror an opportunity to respond as to their understanding and acceptance of those principles.

¶ 53 In his reply, defendant changes his argument and argues that the court failed to use the precise language of Rule 431 in asking the potential jurors whether they understood and accepted the *Zehr* principles and deviated "from the rule's explicitly delineated question and answer process." This is a new argument raised for the first time in his reply brief, and thus, it is forfeited. See Ill. S. Ct. R. 341(h)(7) (eff. Oct. 1, 2020). Forfeiture aside, we find it to be without merit.

¶ 54 This court has previously rejected defendant's argument and "recognized that the rule contains some latitude with regard to how a trial judge conducts the question-and-response process with the potential jurors." *People v. Brown*, 2019 IL App (5th) 160329, ¶ 13. Indeed, "there is no requirement that a trial court use the exact language of the rule and the rule does not 'prescribe a precise formula for trial judges to use in ascertaining jurors' prejudices or attitudes.'" *People v. Morris*, 2013 IL App (1st) 110413, ¶ 83 (quoting *People v. Emerson*, 122 Ill. 2d 411, 426-27 (1987)). Accordingly, we have approved of trial court admonishments that were "substantially in accordance with the mandate of Rule 431(b) and were sufficient to confirm the venire's understanding and acceptance of all the principles set forth in the rule." *Id.* (finding no error when "the trial court initially told the venire that it was essential that they all 'understand' and 'embrace' the four principles *** [and] then reviewed each principle in depth and confirmed that none of the venire disagreed the principle"); see also *Brown*, 2019 IL App (5th) 160329, ¶ 13 (finding no error when the trial court asked the venire row by row whether they "can follow and apply" the *Zehr* principles).

¶ 55 The court in this case instructed the venire to raise their hands if they did not "understand" the *Zehr* principles or "agree that those are basic precepts of the law" and asked whether they "accept[ed] and embrace[d] those concepts as fundamental basic precepts of the law." Thus, the court's admonishments and questions, which asked the potential jurors whether they "understand" and "accept" the *Zehr* principles, tracked the language of the rule even more closely than we have previously found acceptable in *Morris* and *Brown*. Further, Rule 431(b) merely requires that the court ask the venire, either individually or in a group, whether they understand and accept the *Zehr* principles and allow an opportunity for a response from each potential juror as to their understanding and acceptance of these principles. See *Thompson*, 238 Ill. 2d at 607. The circuit court provided that opportunity. Rule 431(b) does not require the court to seek a verbal response from each venire member rather than by a show of hands or to individually admonish each potential juror. *People v. Birge*, 2021 IL 125644, ¶ 27; *People v. Alexander*, 2024 IL App (3d) 210575-U, ¶ 29. We find no clear error and, thus, no plain error. As a result, defendant's unpreserved argument has been forfeited. See *Morris*, 2013 IL App (1st) 110413, ¶ 83.

¶ 56 C. Ineffective Assistance of Counsel

¶ 57 Defendant next challenges the denial of the portion of his motion for new trial asserting that his trial counsel rendered ineffective assistance by failing to retain an expert on the reliability of eyewitness identifications. However, due to an insufficient record, we find that defendant is unable to demonstrate error. See *Webster v. Hartman*, 195 Ill. 2d 426, 432 (2001) ("[I]n order to support a claim of error on appeal the appellant has the burden to present a sufficiently complete record." (citing *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391-92 (1984))); see also *People v. Fair*, 193 Ill. 2d 256, 264 (2000) (applying *Foutch* to a criminal case).

¶ 58 The record contains a transcript of the April 5, 2023, evidentiary hearing at which the court heard testimony from attorney Gottreich regarding defendant's ineffective assistance claim, but the court continued the matter to a later date. A half-sheet from a hearing on May 24, 2023, reflects that the court denied defendant's motion for new trial, which included defendant's ineffective assistance claim, but we do not have a transcript of the May 24 hearing or a written order providing the basis for the circuit court's denial of defendant's motion. Accordingly, the State argues that defendant forfeited this argument.

¶ 59 We initially note that, although the result will generally be the same in the end (affirmance), forfeiture is technically not the appropriate consequence for an appellant's failure to present an adequate record on appeal. Rather, as explained in *Webster*, when the record contains only the court's ultimate disposition of an issue and does not contain a transcript, written order, or other appropriate record revealing the basis for the court's decision, "we will presume that the trial court heard adequate evidence to support its decision and that its order *** was in conformity with the law." *Webster*, 195 Ill. 2d at 433-34 (citing *Foutch*, 99 Ill. 2d at 391-92).

¶ 60 In this case, we have no information regarding the basis for the court's denial of defendant's motion for new trial. Accordingly, we must assume that the court's ruling was correct, and defendant is unable to demonstrate error. See *id.* In his reply, defendant argues that the insufficiency of the record regarding the basis for the court's ruling is immaterial because ineffective assistance claims are reviewed *de novo* and we can review the issue without consideration of the trial court's findings and reasoning. Defendant is correct that, when an issue is reviewed *de novo*, the absence of a record of the trial court's ruling is not necessarily an impediment to review. See, *e.g.*, *Gonnella Baking Co. v. Clara's Pasta di Casa, Ltd.*, 337 Ill. App. 3d 385, 388 (2003). However, *de novo* is not the appropriate standard of review for this issue.

¶ 61 The *Krankel* procedure provides that, when a defendant raises a *pro se* post-trial claim of ineffective assistance of counsel, the trial court first examines the factual basis to determine whether "the claim lacks merit or pertains only to matters of trial strategy." *Jackson*, 2020 IL 124112, ¶ 97; see also *People v. Krankel*, 102 Ill. 2d 181 (1984). If the allegations show possible deficient performance, the defendant is appointed new counsel, who then represents the defendant at a hearing on the *pro se* claim. *Jackson*, 2020 IL 124112, ¶ 97. Whether the court properly conducted the initial inquiry is a legal issue that is reviewed *de novo*. *Id.* However, when, as in this case, the court conducts a proper *Krankel* inquiry and then disposes of the issue on the merits after an evidentiary hearing, finding that the defendant failed to demonstrate ineffective assistance, we review the court's decision for manifest error. *Id.* ¶ 98; *People v. Boose*, 2025 IL App (4th) 231467, ¶ 43 (rejecting a *de novo* standard and instead conducting a manifest-error review of the trial court's merits-based denial of the defendant's post-trial ineffective assistance claim); *People v. McCall*, 2021 IL App (1st) 172105, ¶ 57.

¶ 62 Here, defendant declined the appointment of counsel for his post-trial motion and chose to proceed on the motion and at the *Krankel* hearing *pro se.* On appeal, he does not challenge the court's handling of the *Krankel* inquiry, but argues only that it erred in finding that he failed to show ineffective assistance of counsel. Therefore, defendant needs to demonstrate that the court erred and that the error was "clearly evident, plain, and indisputable." *Jackson*, 2020 IL 124112, ¶ 98. In the absence of a record containing the grounds for the court's ruling, defendant is unable to do so. See *Webster*, 195 Ill. 2d at 433-34 (holding that, without a transcript of proceedings, the court could not review whether the trial court's ruling was manifestly erroneous); see also *People v. Williamson*, 2024 IL App (2d) 230148-U, ¶ 24 (affirming the denial of the defendant's *Krankel* motion when, among other things, documents that were necessary to support the defendant's

ineffective assistance claim were absent from the record on appeal, citing *Foutch*). Accordingly, we reject defendant's argument.

¶ 63 In a petition for rehearing, defendant argues that the April 5, 2023, hearing was not a *Krankel* hearing and that our corresponding analysis of the sufficiency of the record is therefore flawed. However, the record refutes that contention. On March 13, 2023, defendant filed two separate motions: a motion for new trial raising claims of ineffective assistance of counsel and a motion for a *Krankel* hearing on those claims. At the court appearance that day, defendant informed the court about the *Krankel* motion and the court advised him that it would be heard on April 5, 2023, along with his motion for a new trial. Additionally, after defendant asked the court to bifurcate his motions to have separate hearings for the motion for a new trial and the *Krankel* motion, the court stated that they could decide that at the April 5 hearing and "if it turns out the bulk of this is allegations of ineffective assistance of Counsel in the motion for new trial, then we don't need to bifurcate the two, we'll take all witnesses during that hearing." Both defendant and the State's Attorney agreed to that plan. At that ensuing hearing, defendant told the court that he was ready to "proceed on with the *Krankel* hearing," and defendant then presented testimony from attorney Gottreich on his ineffective assistance claims. Thus, it is plain from the record that the April 5 hearing was a *Krankel* hearing.

¶ 64 Defendant cites to one exchange between himself and the court where the court stated "I don't know what exactly you're talking about" after defendant mentioned a *Krankel* hearing and argues that this shows that the court did not hold a *Krankel* hearing. However, a review of that portion of the transcript shows that the court's confusion concerned defendant's request that the State's Attorney file a written response to his *Krankel* motion rather than make her arguments orally. Upon clarification from the State's Attorney, the court noted that the State had no obligation

to file a written response and then proceeded with the evidentiary hearing. The court did not correct defendant or advise him that the hearing would not be on his *Krankel* motion. Thus, we reject defendant's argument.

¶ 65 While the hearing did not include the appointment of new counsel for the purpose of the hearing (see *Jackson*, 2020 IL 124112, ¶ 97), defendant had been representing himself *pro se* for almost six months by that point and had made it clear that he intended to litigate his motion for new trial *pro se*, rendering the lack of an appointment of new counsel irrelevant because there was no conflict of interest in prosecuting the motion. We therefore reject defendant's argument on rehearing as well.

¶ 66 D. Motion *In Limine*

¶ 67 Next, defendant challenges the circuit court's order granting the State's motion *in limine* to bar the evidence that the firearm used to shoot Pina was found three months later in the hands of Juan Toledo, a member of the Satan Disciples. He argues that the court's exclusion of that evidence deprived him of an opportunity to present a complete defense by using the evidence to impeach Larios' credibility. The State responds that we cannot address the merits of the issue because we do not have a record of the circuit court's ruling denying defendant's motion for new trial and defendant did not present an offer of proof regarding what the evidence would be, citing Illinois Rule of Evidence 103(a)(2) (eff. Oct. 15, 2015). In the alternative, the State argues that the court correctly found the evidence irrelevant because firearms can change hands quickly, defense counsel's argument revealed that Larios' hypothetical testimony would merely consist of repeating defendant's own statements about the firearm belonging to the Latin Kings, making the evidence not relevant to Larios' credibility, and the evidence would necessitate a mini-trial regarding Toledo, his gang status, and how the firearm changed hands.

¶ 68 Initially, we reject the State's procedural arguments. Unlike defendant's ineffective assistance of counsel claim, the record contains the parties' arguments and the court's ruling on the State's motion *in limine*. Although defendant raised the issue again in his motion for new trial and the basis for the court's ruling on that motion is not in the record, that ruling is not necessary to our determination of whether the court erred in granting the State's motion and barring the evidence.

¶ 69 Further, Rule 103(a)(2) provides, in relevant part, that "[e]rror may not be predicated upon a ruling which admits or excludes evidence unless *** the substance of the evidence was made known to the court by offer or was apparent from the context within which questions were asked." The two primary functions of this offer-of-proof requirement are "to disclose to the trial judge and opposing counsel the nature of the offered evidence, enabling them to take appropriate action, and to provide the reviewing court with a record to determine whether exclusion of the evidence was erroneous and harmful." *People v. Thompkins*, 181 Ill. 2d 1, 10 (1998) (citing *People v. Sanchez*, 131 Ill. 2d 417, 425 (1989)). The State's written motion set out the substance of the matter in detail, and the parties then provided further elucidation in their arguments at the hearing, thereby accomplishing both of the goals described in *Thompkins*. Because the record contains sufficient detail regarding the substance of the evidence the State sought to exclude, Rule 103(a)(2) does not bar relief in this case.

¶ 70 As for the merits of defendant's argument, "when a party claims he was denied his constitutional right to present a complete defense due to improper evidentiary rulings, the standard of review is abuse of discretion." *People v. Burgess*, 2015 IL App (1st) 130657, ¶ 133. A ruling amounts to an abuse of discretion when no reasonable person would adopt the view taken by the

trial court. *Id.* ¶ 134. No such abuse occurred in this case, as we agree with the State's argument that the evidence at issue was irrelevant.

¶ 71 Defendant argues that the evidence of Toledo's possession of the firearm was relevant to impeach Larios' credibility. Defendant claims that Larios would have testified that the firearm belonged to the Latin Kings, a rival of Toledo's Satan Disciples. Defendant contends that the fact that the gun was found in the possession of a rival gang undercuts Larios' alleged claim that the firearm belonged to the Latin Kings, who would not have shared the weapon with a rival. However, we agree with the State that the court reasonably concluded that such evidence was not relevant to Larios' credibility.

¶ 72 The basis for the State's argument and the court's ruling was *People v. Mayberry*, 2020 IL App (1st) 181806, ¶ 36, in which the trial court excluded evidence that the firearm used in the shooting was also used in a later unrelated shooting while the defendant was in custody. The trial court found that the evidence was "too remote and too speculative" to be relevant because firearms "are as fluid as anything can be on the street" and can easily change hands. *Id.* ¶ 37. The appellate court agreed, noting that the gun was "a small handheld item that can easily be given to, or taken by, another person" and that the firearm was the only link between the incidents. *Id.* ¶ 40. On that latter point, the court analogized the case to *People v. Kirchner*, 194 Ill. 2d 502, 540 (2000), in which evidence that several weeks before the murder at issue another person had possessed the knife that the killer used was too remote and speculative to be relevant to the issue of the killer's identity.

¶ 73 Defendant argues that *Mayberry* is inapplicable because it examined whether the evidence was admissible to suggest an alternate suspect, while he only sought to use the evidence at issue to impeach Larios' credibility. However, regardless of whether defendant wanted to offer the

evidence to propose an alternate suspect or to impeach Larios' credibility regarding the owner of the weapon, the import of *Mayberry* and *Kirchner* is the same: evidence of a person's possession of a small, easily transferrable item such as a handgun, by itself, is irrelevant to the issue of who possessed the item weeks earlier or later. See *Mayberry*, 2020 IL App (1st) 181806, ¶ 40; *Kirchner*, 194 Ill. 2d at 540. Thus, the evidence of Toledo's possession of the firearm three months after Pina's shooting would not have impeached Larios' possible testimony that the weapon belonged to the Latin Kings. The trial court's ruling barring evidence of Toledo's possession of the weapon was therefore not unreasonable or an abuse of discretion.

¶ 74 E. Sentencing

¶ 75 Finally, defendant argues that his 40-year sentence is excessive because the trial court failed to consider the mitigating evidence regarding his social circumstances and difficult upbringing. The State responds that the court properly considered defendant's mitigation evidence and exercised its discretion to give greater weight to other factors. We agree with the State.

¶ 76 Because it had the opportunity to observe the defendant and the proceedings and "to weigh such factors as the defendant's credibility, demeanor, general moral character, mentality, social environment, habits, and age," the trial court has broad discretion when imposing a sentence, and its sentencing decision is afforded great deference. *People v. Alexander*, 239 Ill. 2d 205, 212 (2010) (citing *People v. Stacey*, 193 Ill. 2d 203, 209 (2000)). When a defendant contends that his or her sentence is excessive, a reviewing court may only reduce the sentence if the trial court has abused its discretion. *Id.* (citing *People v. Hauschild*, 226 Ill. 2d 63 (2007)). "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,'" and the reviewing court must not

substitute its judgment for that of the trial court regarding the weight afforded to the applicable sentencing factors. *Id.* (quoting *Stacey*, 193 Ill. 2d at 210).

¶ 77 Citing cases holding that a trial court may not refuse to consider mitigating evidence (see *Hitchcock v. Dugger*, 481 U.S. 393, 398-99 (1987)) or merely mention mitigating factors in a mechanical fashion without due consideration (see *People v. Choate*, 71 Ill. App. 3d 267, 273 (1979)), defendant contends that the trial court failed to adequately consider the testimony he presented regarding his difficult childhood and social environment. He premises this argument entirely on the following comments from the court at sentencing:

> "I listened carefully to the defense witnesses, basically family members, who in a sense tried to take the blame for the defendant going in the wrong direction. It was like their fault that he went in the wrong direction.
>
> I don't buy that at all. It was not your fault. Life is full of tough choices. The defendant had certain choices to make. Was he young and impressionable and susceptible to suggestibility by gang members? Yes. The case was gang related. I'm factoring in the defendant's potential for rehabilitation."

Defendant argues that the court's statement "I don't buy that at all" demonstrates that the court refused to consider his mitigating evidence. We disagree.

¶ 78 The court's comments show that it merely rejected defendant's family members' attempts to take the blame for placing defendant on the path toward joining the Latin Kings and shooting Pina. Indeed, when viewing the court's comments from the hearing as a whole (see *People v. Ellis*, 401 Ill. App. 3d 727, 730 (2010)), it is apparent that the court considered defendant's mitigating evidence. The court acknowledged evidence that defendant was immature, but found no evidence that he failed to appreciate the consequences of his actions. The court also recognized that

defendant's act was heartless, merciless and cowardly. The court considered his rehabilitative potential and the fact that there was "no actual evidence" that defendant exhibited juvenile immaturity and behavior. The court found that the murder was "not spontaneous or attributable to impetuousness where the defendant spontaneously saw a gang banger from an opposing gang, and because of his environment, his lack of family, his circumstances, and everything else, had no choice but to kill that individual." He did not drive by and shoot, but drove around the back of the house, through the alley and entered "stealthily through the gangway and walk[ed] some distance, all this period of time, he's thinking about how he can kill the individual who was in front of the house. This was not a spontaneous act."

¶ 79 In its comments, the court recognized the stories that defendant's family members provided regarding his upbringing, and it further noted that "[t]here is evidence that the defendant was immature" and "[t]here were family environment issues." The court also explained, "I'm trying to do balancing tests all the way through. Does his youth, recklessness, suggestibility from the gang outweigh other factors?" Ultimately, the court found that they did not, stating that the shooting of Pina "was [a] stealthy, cowardly activity, as characterized by the State, an ambush. Really, it was an ambush. And that *** debunked the idea of impetuous spontaneity caused by gang influences." In denying defendant's motion to reconsider sentence, the court also added, "I have actually reconsidered and actually over the years I've thought about this case a lot. I've tried to decide whether [he should] be entitled to something under 40. I reject that. That would be minimizing the seriousness of this offense as it relates to this defendant. And 40 is the appropriate sentence considering the law that I am forced to comply with at this moment in time."

¶ 80 Thus, the record as a whole reflects that the court considered defendant's mitigating evidence, but found it to be outweighed by the seriousness of the offense and the nature in which

it was carried out. The court's analysis in that respect was not improper (see *People v. Quintana*, 332 Ill. App. 3d 96, 109 (2002) ("The seriousness of the crime is the most important factor in determining an appropriate sentence ***")), and we may not substitute our judgment for that of circuit court regarding the weight given to those factors. Accordingly, because he has not demonstrated that the court's sentence was greatly at variance with the spirit and purpose of the law or manifestly disproportionate to the nature of the offense, we affirm defendant's sentence.

¶ 81 For the foregoing reasons, we affirm defendant's conviction and sentence.

¶ 82 Affirmed.