

2009, the trial court granted defendant's motion for appointment of an expert to determine whether defendant was legally insane when he allegedly committed the battery. In April 2009, defendant was found fit for trial purposes, though the examining physician noted "he suffered a substantial disorder of thought, mood [,] and behavior *** at the time of the *** offense." In April 2009, the State filed an amended information, which contained only minor changes to the language. Defendant did not object to the new information.

¶ 5 In a pretrial hearing, the trial court addressed having defendant shackled during the proceedings in accordance with *People v. Boose*, 66 Ill. 2d 261, 362 N.E.2d 303 (1977). According to a security summary provided by Pontiac Correctional Center (Pontiac), defendant was considered a high security risk and had an extensive history of disciplinary problems while incarcerated. The court ordered defendant's legs shackled to the defense table but allowed his hands to remain unshackled. The defense table in the courtroom was skirted, and the jury was unable to see defendant's legs from its vantage point.

¶ 6 In March 2010, the case proceeded to jury trial. Testimony at trial showed, in pertinent part, the following.

¶ 7 Defendant was incarcerated at Pontiac when the alleged battery occurred and was housed in a single-person cell in the segregation unit. James Lindsay testified he was working as a correctional officer at Pontiac when he saw water seeping under the door of defendant's cell. Lindsay looked into defendant's cell through an observation window and saw him repeatedly flushing the toilet, causing it to overflow. Lindsay repeatedly ordered defendant to stop, but defendant did not comply, so the water to defendant's cell was shut off. Lindsay ordered defendant to place his wrists through the cuffing hatch in the door, but defendant refused.

Lindsay informed his lieutenant of the situation. The lieutenant notified the extraction team. The extraction team is a group of officers specially trained to remove problem prisoners from their cells.

¶ 8 Officer Edward Lewis testified to being a member of the extraction team called upon to remove defendant from his cell. Also on the team were Officers Smith, Small, Williamson, and Whitecotton. Upon arriving at defendant's cell, Whitecotton, the team leader, ordered defendant to place his wrists in the cuffing hatch three times. Defendant again refused and threw the contents of a Styrofoam cup, as well as feces, at the cell door. Lewis testified the water in the cell was approximately 4 1/2 inches deep. The team sprayed "Pepper Mace" through the slot in the door, but it did not appear to affect defendant. The team then entered defendant's cell.

¶ 9 Lewis's role on the extraction team was to hold a protective shield designed to prevent physical struggle and pin the inmate back against the wall, allowing the other team members to secure him. As the shield holder, Lewis entered the cell first. When Lewis entered the cell, defendant threw feces at him. The feces struck the shield, as well as Lewis's shoulder and glove. Lewis then pinned defendant, enabling the team to subdue him. The State played a digital video disc recording of the extraction for the jury. The defense did not offer any testimony or evidence.

¶ 10 The jury convicted defendant of aggravated battery (720 ILCS 5/12-4(b)(18) (West 2008)). In April 2010, the trial court sentenced defendant to three years' imprisonment to run consecutive to the sentence he was then serving. At the conclusion of the sentencing hearing, defendant informed the court of his intent to appeal. The court entered defendant's

notice of appeal and appointed OSAD as appellate counsel.

¶ 11 In May 2011, OSAD moved to withdraw as defendant's counsel, including in its motion a brief in conformity with the requirements of *Anders v. California*, 386 U.S. 738 (1967). The record shows service of the motion on defendant. On its own motion, this court granted defendant leave to file additional points and authorities by June 24, 2011. Defendant filed none. After examining the record and executing our duties in accordance with *Anders*, we grant OSAD's motion and affirm the trial court's judgment.

¶ 12 II. ANALYSIS

¶ 13 OSAD raises four possible issues and concludes each would be frivolous. First, OSAD claims no meritorious argument can be made regarding the sufficiency of the charging instrument, which was not challenged below.

¶ 14 An information need only (1) state the name of the offense, (2) cite the statutory provision alleged to have been violated, (3) set forth the nature and elements of the offense, (4) list the date and county of the offense, and (5) state the name of the accused. See 725 ILCS 5/111-3(a) (West 2008)). "When attacked for the first time on appeal *** the sufficiency of an information is not determined by whether its form precisely follows the provisions of section 111-3(a) of the Code [of Criminal Procedure of 1963]." *People v. Hughes*, 229 Ill. App. 3d 469, 471-72, 592 N.E.2d 668, 669 (1992). "Rather, it is sufficient that the information apprised the accused of the precise offense charged with sufficient specificity to prepare his defense and allow pleading a resulting conviction as a bar to future prosecution arising out of the same conduct." (Internal quotation marks omitted.) *Hughes*, 229 Ill. App. 3d at 472, 592 N.E.2d at 669. In the instant case, the information filed by the State contained all the pertinent information

required under section 111-3 of the Code of Criminal Procedure of 1963 (725 ILCS 5/111-3 (West 2008)). We agree with OSAD no meritorious arguments can be made regarding this issue.

¶ 15 OSAD next claims no meritorious argument can be made the State failed to introduce sufficient evidence to prove defendant guilty of aggravated battery beyond a reasonable doubt.

¶ 16 When reviewing a jury verdict, "this court considers whether, viewing the evidence in the light most favorable to the State, *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." (Emphasis in original; internal quotation marks omitted.) *People v. Wheeler*, 226 Ill. 2d 92, 114, 871 N.E.2d 728, 740 (2007). Generally, the trier of fact is in a better position to determine the credibility of witnesses and weight of evidence, and its decision will not be reversed unless "the evidence is so unreasonable, improbable, or unsatisfactory that it justifies a reasonable doubt of defendant's guilt." *Wheeler* 226 Ill. 2d at 115, 871 N.E.2d at 740.

¶ 17 A person commits a battery when he or she intentionally makes physical contact of an insulting or provoking nature with another individual without permission or authority to do so. See 720 ILCS 5/12-3(a)(2) (West 2008). An aggravated battery occurs when a person commits a battery against an individual he or she knows to be an officer of the State of Illinois engaged in the performance of his or her official duties. See 720 ILCS 5/12-4(b)(18) (West 2008). Here, the State introduced testimony which showed (1) Lewis was an officer of the State of Illinois engaged in his official duties when defendant struck him with feces, (2) Lewis was offended by the physical contact, and (3) defendant acted without permission or authority in throwing feces at Lewis. Given the circumstances, the jury could reasonably infer defendant

knew Lewis was an officer of the State engaged in his official duties. The State introduced sufficient evidence to prove defendant guilty of aggravated battery as it was charged in this case.

We agree with OSAD no meritorious argument can be raised regarding this issue.

¶ 18 OSAD next claims no meritorious argument can be made the trial court abused its discretion in sentencing defendant to three years' imprisonment.

¶ 19 We note defendant failed to raise this issue with the trial court in a timely posttrial motion; therefore, it is forfeited on appeal. See Ill. S. Ct. R. 605(a)(3)(A), (a)(3)(B) (eff. Oct. 1, 2001). Moreover, we agree with OSAD on the merits.

¶ 20 The imposition of a sentence is a matter of judicial discretion for the trial court, and this court will not disturb the trial court's sentencing determination absent an abuse of discretion. *People v. Perruquet*, 68 Ill. 2d 149, 154, 368 N.E.2d 882, 884 (1977). Defendant's sentencing constitutes an abuse of discretion when it is "arbitrary, fanciful, unreasonable, or where no reasonable person would take the view adopted by the trial court." (Internal quotation marks omitted.) *People v. Sutherland*, 223 Ill. 2d 187, 272-73, 860 N.E.2d 178, 233 (2006). Sentences imposed within the statutory guidelines are presumed proper and will not be overturned unless the sentence substantially departs from the spirit and purpose of the law and the nature of the offense. *People v. Hauschild*, 226 Ill. 2d 63, 90, 871 N.E.2d 1, 16 (2007).

¶ 21 Aggravated battery, as charged by the State in this case, is a Class 2 felony with a nonextended sentencing range of three to seven years. 720 ILCS 5/12-4(e)(2) (West 2008); 730 ILCS 5/5-8-1(a)(1)(5) (West 2008). The trial court sentenced defendant to three years' imprisonment, the minimum term. Further, defense counsel argued a three-year prison term was appropriate. We agree with OSAD no meritorious argument can be raised regarding this issue.

¶ 22 Finally, OSAD claims no meritorious argument can be made the trial court erred in having defendant shackled during the proceedings.

¶ 23 The supreme court has stated:

"A defendant may be shackled when there is reason to believe that he may try to escape or that he may pose a threat to the safety of the people in the courtroom or if it is necessary to maintain order during the trial. [Citation.] The determination is left to the discretion of the trial judge, and he may select the physical restraints most suitable in light of all the circumstances. [Citation.] The trial judge should state for the record his reasons for allowing the defendant to remain shackled, and he should give the defendant's attorney an opportunity to present reasons why the defendant should not be shackled." (Internal quotation marks omitted.) *People v. Boose*, 66 Ill. 2d 261, 266, 362 N.E.2d 303, 305 (1977).

Relevant factors to be considered by the court in deciding whether an individual should be shackled include the seriousness of the present charge against defendant, defendant's temperament and character, and his past record. *Boose*, 66 Ill. 2d at 266-7, 362 N.E.2d at 305-6. We review the trial court's decision to shackle defendant for an abuse of discretion. *Boose*, 66 Ill. 2d at 267, 362 N.E.2d at 306.

¶ 24 In the instant case, the trial court made a finding on the record regarding the need to have defendant shackled during trial and specifically cited the factors present in *Boose*. The

record shows defendant was classified as a high security risk by Pontiac personnel. Defendant had also received citations while incarcerated for, *inter alia*, strangling another inmate, and four prior incidents of assaulting or battering correctional officers. The case before the court also involved battery against a correctional officer. The court found it proper to have defendant's legs shackled to the table but allowed his hands to remain unshackled so he could interact with his attorney. Given defendant's violent history, especially where it involved assaults and batteries on authority figures and his classification as a security risk, the court did not abuse its discretion by having defendant shackled. We agree with OSAD no meritorious argument can be raised regarding this issue.

¶ 25

III. CONCLUSION

¶ 26 After reviewing the record consistent with our responsibilities under *Anders*, we agree with OSAD no meritorious issues can be raised on appeal, and we grant OSAD's motion to withdraw as counsel for defendant and affirm the trial court's judgment.

¶ 27 Affirmed.