

and caused multiple bruises and soft tissue injuries.

¶ 5 The defendant was charged with two counts of aggravated battery (720 ILCS 5/12-4(a), (b)(8) (West 2008)) and one count of intimidation (720 ILCS 5/12-6(b) (West 2008)). In January 2010, the defendant entered an open plea of guilty to one charge of aggravated battery (720 ILCS 5/12-4(a) (West 2008)), and in exchange, the State dismissed the remaining counts against him. When entering his plea, the defendant was advised that because he was extended-term eligible (730 ILCS 5/5-5-3.2(b)(1) (West 2008)), a 2- to 10-year term of imprisonment was a possibility.

¶ 6 In February 2010, the defendant's cause proceeded to a sentencing hearing, where both parties presented evidence and arguments in support of their respective positions. The State presented video evidence of the defendant's battery inflicted on Miller, in addition to evidence that the defendant twice reenacted the beating to other inmates. Citing the defendant's criminal history, his lack of remorse, his failure to meet previous court obligations, and the seriousness of the injuries that Miller suffered, the State asked the circuit court to impose a sentence of eight years' imprisonment.

¶ 7 The defense presented evidence that the defendant, who was 23 years old, lived with his pregnant wife and two children and that he supported his family through his employment with T & T Tree service, earning approximately \$300 weekly. In his statement in allocution, the defendant stated:

"I made a mistake by putting my hands on this kid. And I know—and I regret it, because it took me away from my family for Christmas. I got to miss my little girl's first Christmas, the first everything. And I made a mistake."

Emphasizing that the defendant had expressed remorse and that the defendant's employment wages were his family's primary source of income, defense counsel requested the circuit court to impose a sentence of four years' probation, in addition to ordering the defendant to

pay full restitution to Miller.

¶ 8 In the presentence investigation report, the evaluator noted that the defendant had reported that he had made no progress in his educational endeavors since the filing of a previous 2008 presentence investigation report. The evaluator further revealed that the defendant's criminal history included theft, identity theft, retail theft, possession of a controlled substance, and residential burglary.

¶ 9 When imposing the sentence, the circuit court referenced the video in evidence, noting that the defendant, who was considerably larger than his victim, repeatedly punched and stomped on Miller, while Miller did not offer resistance, attempting only to duck, cover, or escape. The circuit court further noted the defendant's criminal history, his failure to pay restitution in the past, and his failure to complete previous sentences of probation and parole. The circuit court recognized that the defendant regretted his conduct and that he was facing separation from his family. The circuit court concluded, however, that a sentence of probation would "deprecate the seriousness of [the defendant's] conduct and be inconsistent with the ends of justice" and that the defendant's criminal history made him extended-term eligible. The circuit court ultimately ordered the defendant to serve a six-year term of imprisonment and ordered that he pay \$228.85 in restitution. The defendant brought the present appeal following the court's denial of his motion to reconsider sentence.

¶ 10

DISCUSSION

¶ 11 The defendant maintains that by failing to properly consider factors in mitigation, the circuit court abused its discretion when imposing sentence. Specifically, the defendant alleges that the circuit court failed to consider his willing guilty plea, expressed remorse, rehabilitative potential, including his youth and interest in further education and job training, and the hardship that a six-year sentence would impose on his dependents.

¶ 12 "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). In determining an appropriate sentence, a sentencing court must consider all relevant factors in aggravation and mitigation and "balance them against each other." *People v. Mays*, 230 Ill. App. 3d 748, 758 (1992). "In determining an appropriate sentence, the defendant's history, character, rehabilitative potential, the seriousness of the offense, the need to protect society and the need for deterrence and punishment must be equally weighed." *People v. Jones*, 295 Ill. App. 3d 444, 455 (1998). "[T]he trial court is in the best position to fashion an appropriate sentence," and a reviewing court will not disturb a sentence falling within the allowable sentencing range absent an abuse of discretion. *People v. Murphy*, 322 Ill. App. 3d 271, 287 (2001). "An abuse of discretion will be found only where the circuit court's decision is arbitrary, fanciful, or unreasonable or where no reasonable person would take the circuit court's view." *People v. Ursery*, 364 Ill. App. 3d 680, 686 (2006).

¶ 13 Here, the record affirmatively shows that the circuit court considered, as mitigating factors, that the defendant had expressed regret for his conduct and that he was facing separation from his family. "A trial judge is not required to enumerate each factor he considered in arriving at the sentence," and "[w]hen mitigating evidence is before a judge, it is presumed he considered it, absent an indication other than the sentence imposed, to the contrary." *People v. Case*, 246 Ill. App. 3d 566, 578 (1993). The circuit court properly considered the mitigating factors that the defendant claims it did not, and to the extent that the defendant suggests the circuit court should have given those factors greater weight than it did, "[a] court of review will not reverse a trial court's sentencing decision simply because it might have balanced the appropriate factors differently." *People v. Kyles*, 303 Ill. App. 3d 338, 355 (1998).

¶ 14 Moreover, we cannot otherwise conclude that the circuit court abused its discretion in imposing sentence in the present case. The defendant, whose criminal record includes

burglary, retail theft, theft, and residential burglary convictions, repeatedly failed to complete sentences of probation, parole, and restitution. His crime was savage and his subsequent boasting of the beating indicated his lack of remorse. Accordingly, the circuit court was in the best position to make the sentencing determinations, and we will not disturb its reasoned judgment.

¶ 15

CONCLUSION

¶ 16 For the foregoing reasons, the defendant's sentence is hereby affirmed.

¶ 17 Affirmed.