

(720 ILCS 5/24-1.6(a)(1)(3)(A) (West 2006)). The cause proceeded to a jury trial on all counts except the charge for aggravated unlawful use of a weapon by a felon.

¶ 4 At trial, Tanita Roddy, the daughter of decedent Michael Roddy, testified that on the morning of May 26, 2006, defendant came to her father's home, where she was staying along with Michael's girlfriend Carmen Bournett. She testified that he entered without permission and that he had a gun in his hand and pointed it at her father Michael. She further testified that upon entry, defendant said the following: "[O]h, so you want to call the police, huh? *** [A]ll you motherfuckers going to die here today." Tanita testified that the night before, defendant had threatened Michael over the phone and that in response, Michael had called the police. Tanita further testified that defendant then told them to "close the motherfucking door" and added again that: "You all fixing to die today. They going to find all three of you all dead today." At that point, according to Tanita's testimony, a struggle ensued as Michael reached for the gun and Carmen ran out the door.

¶ 5 Tanita further testified that she observed defendant shoot Michael in the arm. Tanita rushed to her father's side and threw an ashtray at defendant. Defendant then shot Tanita in her side. Tanita then went into another room and played dead. She then heard another gunshot. As a result of their injuries, Tanita spent almost a month in the hospital and underwent two surgeries, and Michael died. Defendant was found guilty and sentenced to 50 years' imprisonment. The court denied defendant's motion to reduce and/or modify the sentence.

¶ 6

ANALYSIS

¶ 7 The Illinois Constitution provides that "[a]ll penalties shall be determined both according to the seriousness of the offense and with the objective of restoring the offender to useful citizenship." Ill. Const. 1970, art. 1, § 11. "The sentencing court is in the best position to consider matters relating to sentencing determinations and is vested with wide

discretion in making a reasoned judgment on the penalty appropriate for the circumstances of each case." *People v. Workman*, 368 Ill. App. 3d 778, 788 (2006) (citing *People v. Brown*, 250 Ill. App. 3d 767, 774 (1993)). In sentencing a defendant, "[t]he trial court must base its sentencing determination on the particular circumstances of each case, considering such factors as the defendant's credibility, demeanor, general moral character, mentality, social environment, habits, and age." *People v. Fern*, 189 Ill. 2d 48, 53 (1999) (citing *People v. Streit*, 142 Ill. 2d 13, 19 (1991)). In reviewing a sentence, we will "proceed with great caution and must not substitute [our] judgment for that of the trial court merely because [we] would have weighed the factors differently." *Id.* at 53-54 (citing *People v. Streit*, 142 Ill. 2d 13, 19 (1991)). "A sentence within the statutory guidelines that is alleged to be excessive will not be disturbed on review unless it is manifestly disproportionate to the nature of the offense." *Workman*, 368 Ill. App. 3d at 788 (citing *People v. Brown*, 250 Ill. App. 3d 767, 774 (1993)); *People v. Goyer*, 265 Ill. App. 3d 160, 169 (1994); *People v. Stacey*, 193 Ill. 2d 203, 210 (2000) ("For example, a sentence within statutory limits will be deemed excessive and the result of an abuse of discretion by the trial court where the sentence is greatly at variance with the spirit and purpose of the law, or manifestly disproportionate to the nature of the offense." (Citing *People v. Fern*, 189 Ill. 2d 48, 54 (1999))). We "will not reverse the trial court absent an abuse of discretion in its decision." *Goyer*, 265 Ill. App. 3d at 169 (citing *People v. Nussbaum*, 251 Ill. App. 3d 779, 780-81 (1993)).

¶ 8 Defendant argues that his sentence was excessive in light of his potential for rehabilitation and his posttraumatic stress disorder (PTSD). The State argues that because the sentence reflects the gravity of defendant's crime, it should be affirmed. We agree with the State.

¶ 9 Defendant argues that the court did not properly consider the psychologist's testimony that his PTSD made him "quick to over react when placed in a situation where he feels he

could get hurt." In support of his argument, defendant cites *Goad v. State*, 938 S.W.2d 363 (Tenn. 1996), in which the trial counsel was found ineffective for failing to present, in mitigation, evidence of a defendant's PTSD. However, as the State points out, while the court did not discuss the PTSD when sentencing defendant, the court was presented with evidence regarding the condition. Also, as the State points out, "[w]here mitigation evidence is before the court, it is presumed the court considered that evidence absent some contrary indication other than the sentence imposed." *People v. Smith*, 214 Ill. App. 3d 327, 339 (1991) (citing *People v. Willis*, 210 Ill. App. 3d 379 (1991); *People v. Burke*, 164 Ill. App. 3d 889 (1987); *People v. Ulmer*, 158 Ill. App. 3d 148 (1987)). Additionally, "[t]he existence of mitigating factors does not automatically oblige the trial court to reduce a sentence from the maximum sentence allowed." *Id.* (citing *People v. Powell*, 159 Ill. App. 3d 1005, 1011 (1987)).

¶ 10 Even if the PTSD were significant in this case, the testimony adduced at trial, although disputed by defendant, indicated that defendant went to the Roddy residence with bad intentions, *i.e.*, carrying a gun and prepared to inflict mortal injury. Defendant repeatedly told those in the Roddy residence that they were going to die or that he was going to kill them, before actually following through, killing Michael and severely wounding Tanita.

¶ 11 While defendant testified that Michael invited him into the house on the day of the incident, he also admitted that upon the request of Tanita that he leave, he said, "I ought to smack the shit out of you." These are hardly the words of a man with significant rehabilitative potential, especially given the fact that defendant has several prior convictions, including convictions for aggravated battery and reckless discharge of a firearm resulting from an incident in which he pointed a gun at his ex-girlfriend's head, threatened to kill her, and later fired at her two times as she ran away. In fact, defendant was still on mandatory supervised release following a two-year sentence at the time this crime was committed.

Defendant's own testimony reveals an individual with no respect for the law.

¶ 12 We also reject defendant's arguments that his normal-range IQ and history of self-employment without state aid demonstrates rehabilitative potential. We agree with the State that these factors do little in the way of demonstrating rehabilitative potential when compared to what the judge aptly described as "a mindless, cold and calculating act of evil."

¶ 13 CONCLUSION

¶ 14 The judgment of the circuit court is affirmed.

¶ 15 Affirmed.