

No. 1-14-0049

**NOTICE:** This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

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PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County
	)	
v.	)	
	)	13 CR 3106
MICHAEL DOUGLAS,	)	
	)	Honorable
Defendant-Appellant,	)	Stanley J. Sacks,
	)	Judge Presiding.
	)	

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Presiding Justice Pierce delivered the judgment of the court.  
Justices Neville and Hyman concurred in the judgment.

### ORDER

- ¶ 1 *Held:* The State proved defendant guilty of aggravated domestic battery beyond a reasonable doubt. Defendant's aggravated domestic battery convictions do not violate the one-act, one-crime rule. The trial court did not err in denying his motion to reduce his sentence. His sentence is not excessive.
- ¶ 2 Following a bench trial, defendant Michael Douglas was convicted of three counts of aggravated domestic battery, counts 5 and 6 pursuant to section 12-3.3(a), and count 7 pursuant to section 12-3.3(a-5). (720 ILCS 5/12-3.3(a), (a-5) (West 2012). Counts 5 and 6 were merged

and defendant was sentenced to two concurrent terms of six years' imprisonment. Defendant now appeals and argues: 1) the State failed to prove him guilty beyond a reasonable doubt; 2) his multiple convictions violate the one-act, one-crime rule; 3) the trial court erred in denying his motion to reduce his sentence; and 4) his sentence is excessive. For the following reasons, we affirm the judgment of the trial court.

¶ 3 BACKGROUND

¶ 4 Defendant was charged by way of information with four counts of aggravated kidnapping, three counts of aggravated domestic battery, eight counts of aggravated battery, and two counts of unlawful restraint for attacking Toska Moore.

¶ 5 Prior to January 1, 2013, Moore dated defendant on and off for approximately 11 years. At the time of the incident defendant and Moore were living together at 119 East Marquette Road with their son and Moore's other child. On December 31, 2012, Moore went to her cousin's house and defendant went to his mother's house to celebrate the new year. Moore texted defendant at some point during the evening to wish him a happy new year.

¶ 6 Moore arrived home at about 2 a.m. on January 1, 2013. When she arrived all of the lights were off inside the apartment. She assumed defendant was not there. After she took off her coat she proceeded to the bathroom where she was startled to see a shadow that turned out to be defendant.

¶ 7 Defendant pushed Moore backwards into the bathtub where she fell, hitting the back of her head against the wall. He then punched Moore about her head approximately four times with a closed fist. Moore attempted to protect herself from the blows by tucking her chin and covering her face with her arms. Defendant then grabbed Moore around her throat and squeezed.

He also turned on the water from the shower head and positioned his hand so that the water flowed into her face. Moore attempted unsuccessfully to remove defendant's hands from her neck and defendant continued to hold Moore's head in the stream of the water for another minute. Moore tried to breathe without allowing the water into her nose and mouth. She was unable to get away from defendant.

¶ 8 Defendant then turned the water off and took down the shower curtain rod. He removed the rubber cap from the end of the rod and began stabbing Moore with the rod. Moore curled up in the fetal position and protected her face with her hands. Defendant stabbed at Moore about 10 times making contact with her arms and back. When he was finished stabbing her, defendant stood over Moore and stomped, punched and kicked her. He then left the bathroom.

¶ 9 In the hallway outside of the bathroom defendant lit a cigarette. He called his mother and said, "Mom, I fucked up. I shouldn'ta [*sic*] never put my hands on this bitch. Come and get me." After he hung up the phone, he came toward Moore again and said "[y]ou thought it was over, bitch." He then took his lit cigarette and held it close enough to Moore's left hand that it burned her. He then proceeded to kick and punch Moore again until there was a knock at the front door.

¶ 10 Moore heard the front door open and close and got out of the bathtub and went into the living room to call the police. She made it to the phone but defendant then picked up a glass cocktail table and struck her on the head with it three or four times causing the glass to shatter. She then tried to run for the back door but defendant grabbed her sweater. Moore was able to break away and she ran into the corner. Defendant, who now had a knife in his hand, swung at Moore slicing her pinky finger with the knife.

¶ 11 After defendant cut her, Sandra Douglas, defendant's mother, came into the room and

asked defendant if he was "going to kill her." Defendant responded, "[f]uck this bitch" and dropped the knife. Sandra told defendant that they should leave because the police would be on their way. Defendant asked his mother to grab his game console from under the television. Defendant and his mother then left and Moore called 911. She noticed that her finger was hanging on by the skin.

¶ 12 When an ambulance arrived, paramedics asked Moore to change into dry clothing. She was taken to Holy Cross Hospital where she met her mother. She and her mother waited an hour and a half without receiving treatment so they left and went to Rush University Hospital.

¶ 13 At Rush, Moore received a CAT scan, pain medication, a tetanus shot and stitches in her left pinky until she could see a hand surgeon. Upon leaving Rush, Moore went to the police station and spoke with Detective Struck. Thereafter she went to the courthouse and obtained an order of protection.

¶ 14 Moore saw a hand surgeon who concluded that she required immediate surgery. The surgeon repaired two tendons and performed a pulley reconstruction. She required two to three months of physical therapy and at the time of trial had no feeling in her finger.

¶ 15 After she was discharged from surgery, on January 9, 2013, she and Detective Struck went to her apartment. There, Detective Struck collected the shower rod and knife and took photos of the blood around the apartment and in the tub. He also took pictures of Moore.

¶ 16 This was not the first time that defendant had struck Moore. Moore recounted the details of several different attacks dating back to 2004.

¶ 17 The parties stipulated that if Mark Brow were called to testify he would state that he was a registered nurse at Holy Cross Hospital. At 3:35 a.m. on January 1, 2013, Moore arrived by

ambulance with a deep laceration to her left fifth finger, and a superficial laceration to her left thumb. Moore reported that she sustained these injuries from being stabbed with a knife. She also described being struck with a metal rod on her left wrist, left upper arm, both legs, upper back, right hand, and foot. She left Holy Cross Hospital at 4:57 a.m. without receiving treatment.

¶ 18 The parties further stipulated that Dr. Robert Ehrman was the attending physician at Rush when Moore arrived at 5:23 a.m. on January 1, 2013. Moore had numerous bruises to her back and extremities, superficial abrasions to her upper and mid back and a laceration across her left pinky finger. Moore reported to Dr. Ehrman that she was pushed into a tub and hit her head, that she was hit numerous times with fists and kicks, was stabbed with a shower curtain rod, and cut on her left fifth finger with a knife. A CAT scan of Moore's head was negative. She was given pain medication, a splint for her right foot, a tetanus vaccination, antibiotics, and four stitches in her left pinky finger. She was advised to follow up with a hand surgeon.

¶ 19 The parties also stipulated that Investigator Mary Ember of the Cook County State's Attorney's Office would testify that she collected a buccal swab from Moore's mouth that was inventoried with the Chicago police department. It was also stipulated that if Investigator Erin Vasilopoulos of the Cook County State's Attorney's office were called she would testify that she collected a buccal swab from defendant that was also inventoried with the Chicago police department.

¶ 20 The parties further stipulated that if called to testify Detective Joseph Struck would testify that he received an aggravated domestic battery assignment involving Moore and went with Moore to her apartment on January 9, 2013. Moore pointed out the shower curtain rod that

defendant used to stab her. The shower curtain rod was recovered and inventoried with the Chicago police department. Veronica Jackson, a forensic scientist for the Illinois State police received the shower curtain rod and collected a sample of cellular material. Upon doing so, Jackson noted damage to the rod.

¶ 21 Finally, the parties stipulated that if Greg DiDominic, a forensic scientist with the Illinois State police, were called to testify he would testify that he is qualified as an expert in forensic DNA analysis and he conducted an analysis on three swabs used to collect possible cellular material from the shower curtain rod, defendant and Moore. Female DNA was detected on the rod from which Moore could not be excluded.

¶ 22 The State rested. Defendant called Detective Andrea LaBelle, who interviewed Moore on January 2, 2013. Detective LaBelle did not recall Moore telling her anything about being hit with a table but Detective LaBelle did testify that Moore told her about being struck with the shower curtain rod and being struck and kicked by defendant.

¶ 23 Defendant's mother Sandra Douglas testified that defendant was at her house on the night of December 31<sup>st</sup> and left at about 1:30 a.m. About one half hour later she received a call from defendant asking to pick him up. She put all five of her grandchildren in the car and drove to defendant's apartment. When she arrived, defendant came downstairs to let her in. They proceeded upstairs where defendant had a bin and bag of clothes at the front door. Defendant said that he was not ready to go because he still had things inside the apartment. Sandra took some of the things downstairs and when she came back upstairs she saw defendant and Moore arguing in the living room.

¶ 24 Sandra told defendant to just leave but defendant said that he needed all of his

belongings. Sandra stated that she then saw Moore open a kitchen drawer and stab defendant in the arm with a knife. Sandra stated that she wrestled with Moore for the knife, pushing her against the door and beating her hand until she dropped it. Moore then fell to the floor and Sandra turned to defendant and told him to go. Defendant got up, grabbed his game console and walked out of the door. Sandra then called her sister to find a police station.

¶ 25 Sandra testified that she never heard defendant say that he "fucked up" or that she asked defendant if he was going to kill Moore. She denied seeing defendant hit or stab Moore. She denied that she went towards Moore when Moore grabbed the knife. Moore was able to cut defendant before Sandra got involved. She testified that she did not notice that Moore was bleeding when she and defendant left the house.

¶ 26 When they left, she and defendant went to the police station on Cottage Grove and called Sandra's sister, a corrections officer, to meet them there. Sandra saw cuts on defendant's arm and defendant showed them to the police. Although the officers offered defendant medical treatment, they did not offer to photograph him. Defendant had blood on his shirt but Sandra did not know where it came from. Defendant never obtained an order of protection against Moore despite being given instructions at the police station on how to obtain one.

¶ 27 Sandra testified that she spoke with Detective Struck but denied telling him that she was only available by phone and would not come down to the station for an interview. Sandra testified that defendant had been drinking that evening. When he left her house he was not upset with Moore.

¶ 28 Defendant testified that before going to his mother's house on December 31<sup>st</sup>, he texted Moore and told her he wanted to end the relationship. Moore said she would pack his things and

drop them at his mother's house. Defendant left his mother's house at about 1:30 a.m. and returned to an empty apartment. He was packing his things when Moore returned and told him to get out. He called his mother to pick him up.

¶ 29 Moore grabbed defendant's shirt with both hands and hit him on the back. Defendant pushed Moore and she fell into the tub. She then got out of the tub and came at him with the shower curtain rod. After Moore hit him with the rod, defendant took it from her and started stabbing her with it between four and six times. He then threw the rod down and left the bathroom.

¶ 30 Defendant testified that his mother called him and he let her inside the apartment. She grabbed a bin to take to the car while defendant unplugged things from the television. Moore came back and told defendant to get out. He then pushed her onto the couch. When she got up, she went into the kitchen to get a knife. Defendant testified that Moore then stabbed him in the chest and in his arm. Defendant showed a scar on his arm that he claimed was the result of Moore's attack. The court noted the scar was "a small mark on his right arm just below the elbow area."

¶ 31 Defendant stated that his mother tried to wrestle the knife away from Moore and punched her hand until she dropped the knife. Defendant then grabbed his game console and he and his mother left.

¶ 32 Defendant denied that he struck or choked Moore in April and November 2004 or that he touched Moore in December 2010. Defendant stated that when he went to the police station he refused medical treatment. The mark on his arm was the source of the blood on his shirt. He was not upset with Moore when he left for his mother's house on December 31<sup>st</sup> and denied that



they had argued about their plans for the evening. He denied seeing Moore bleeding. He stated that Moore held the knife in her left hand and that he sat on the couch while his mother and Moore struggled over the knife. He denied telling Detective Struck that he hit Moore with the shower rod or that they struggled over the knife. He admitted that he hit Moore with the shower rod on her upper body after she fell into the tub.

¶ 33 In rebuttal, the State called Chicago police officer Gene Alexander who was working in the lock-up when defendant came in. Defendant never showed Officer Alexander an injury to his arm. The parties also stipulated that Chicago police Officer Michael Roberts would testify that when defendant came into the police station on January 1, 2013, he asked defendant whether he wanted his cut photographed or wanted medical attention. Defendant refused both.

¶ 34 Chicago police Detective Joseph Struck had a conversation with defendant on January 9, 2013, wherein defendant stated that he and Moore had an altercation on New Year's Eve over whose family they would spend the holiday with. Defendant told Detective Struck that after he pushed Moore into the bathtub he closed the door and held it shut. Defendant denied striking Moore with the shower rod even after being confronted with marks on Moore consistent with the end of the shower rod and made no mention of Moore striking him with the rod. Defendant did not mention his mother and Moore struggling over the knife or that Moore had stabbed him. Defendant did not show Detective Struck any cuts or injuries to his arm.

¶ 35 After hearing all of the evidence, the trial court found defendant guilty of two counts of aggravated domestic battery pursuant to section 12-3.3(a) and one count of aggravated domestic battery by strangulation pursuant to section 12-3.3(a-5). 720 ILCS 5/12-3.3(a), (a-5) (West 2012).

¶ 36 After denying defendant's motion for a new trial, and hearing aggravation and mitigation, the court sentenced defendant to two concurrent terms of 6 years' imprisonment. The court denied defendant's motion to reduce his sentence. It is from this judgment that defendant now appeals.

¶ 37 ANALYSIS

¶ 38 Defendant first argues that the State failed to prove him guilty beyond a reasonable doubt because Moore was an incredible witness. Defendant contends that Moore is "inherently incredible" because she defended herself in previous "physical encounters" yet in this incident she "offered no resistance" and when compared to the "credible" testimony of defendant's mother that contradicts Moore's version, it is clear that the State failed to prove him guilty beyond a reasonable doubt.

¶ 39 The standard of review on a challenge to the sufficiency of the evidence is whether, after viewing the evidence in the light most favorable to the prosecution, a rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. *People v. Ross*, 229 Ill. 2d 255, 272 (2008). It is not the function of the reviewing court to retry the defendant or substitute its judgment for that of the trier of fact. *People v. Collins*, 214 Ill. 2d 206, 217 (2005). The trier of fact assesses the credibility of the witnesses, determines the appropriate weight of the testimony and resolves conflicts or inconsistencies in the evidence. *People v. Naylor*, 229 Ill. 2d 584, 614 (2008). The trier of fact is not required to disregard inferences that flow from the evidence or search out all possible explanations consistent with innocence and raise them to a level of reasonable doubt. *People v. Hall*, 194 Ill. 2d 305, 332 (2000). A criminal conviction will not be set aside unless the evidence is so improbable or unsatisfactory that it creates a

reasonable doubt of the defendant's guilt. *People v. Siguenza-Brito*, 235 Ill. 2d 213, 225 (2009).

¶ 40 To sustain the conviction for aggravated domestic battery under section 12-3.3(a), the State was required to prove that defendant knowingly caused great bodily harm to a family or household member without legal justification. 720 ILCS 5/12-3.3(a) (West 2012). A "family or household member" includes a former spouse. 725 ILCS 5/112A-3(3) (West 2012). Whether an injury constitutes great bodily harm is a question for the trier of fact. *People v. Cisneros*, 2013 IL App (3d) 110851, ¶ 12; *People v. Figures*, 216 Ill. App. 3d 398, 401 (1991). The term "great bodily harm" is not susceptible of precise legal definition. *People v. Doran*, 256 Ill. App. 3d 131, 136 (1993). It requires an injury of a greater and more serious character than an ordinary battery. *Figures*, 216 Ill. App. 3d at 401.

¶ 41 Defendant makes multiple arguments impugning Moore's credibility and asks us to weigh her credibility against that of his mother's. We note that the court found defendant's testimony to be incredible. It is the trial court who was in the best position to resolve conflicts in the testimony, weigh the evidence and draw reasonable inferences from the facts. *People v. Siguenza-Brito*, 235 Ill. 2d 213, 224 (2009). This court will not substitute its judgment for that of the trial court, which was the trier of fact in this bench trial, on issues involving the weight of evidence or the credibility of witnesses. *Id.*; *People v. Austin*, 349 Ill. App. 3d 766, 769 (2004). Because we are not in a better position to determine whether Moore gave credible testimony, we accept the decision of the experienced trial judge that Moore's testimony was credible. We now review whether her testimony, along with the other evidence, proved defendant guilty beyond a reasonable doubt of the crimes charged.

¶ 42 We find Moore's testimony, in conjunction with that of the treating physician and the

physical evidence, sufficient to establish that defendant committed the offenses of aggravated domestic battery. Moore testified that defendant pushed her into the bathtub and strangled her while spraying water in her face. He then removed the shower curtain rod and stabbed Moore with the bare end repeatedly as she lay in the bathtub. Once Moore was able to escape the bathroom, defendant hit her over the head with a glass cocktail table shattering the glass. He then produced a knife and swung it at her, connecting with her left pinky finger. The laceration was so severe that her finger hung by a flap of skin and required surgery to repair. Viewing this evidence in the light most favorable to the State, we find the evidence sufficient to support defendant's convictions beyond a reasonable doubt.

¶ 43 Defendant next argues that the "relatively short duration" of the incident in addition to the similarity of the parties and the unchanging location show that "whatever offense was committed should be found to be a single act, rather than multiple acts." The State responds that defendant was charged under two separate statutory provisions of the aggravated domestic battery statute and thus the multiple convictions were proper.

¶ 44 Although defendant concedes that he waived this issue by failing to object to this error at trial, we review one-act, one-crime issues pursuant to the second prong of the plain error doctrine because the potential for an unwarranted conviction and sentence threatens the integrity of the judicial process. *People v. Carter*, 213 Ill.2d 295, 299 (2004).

¶ 45 To determine whether a violation of the one-act, one-crime doctrine has occurred, courts must determine: 1) whether the defendant's conduct involved multiple acts or a single act; and 2) if the conduct involved multiple acts, whether any of the offenses are lesser-included offenses. *People v. Miller*, 238 Ill. 2d 161, 164 (2010). Multiple convictions are improper if they are

based on precisely the same physical act. *Id.* We review *de novo* whether a defendant's convictions violate the one-act, one-crime doctrine. *People v. Csaszar*, 375 Ill. App. 3d 929, 943 (2007).

¶ 46 Defendant here makes no claim regarding whether one count of domestic battery could be considered a lesser offense of the other. Rather, defendant claims that his conduct constituted a single act and therefore multiple convictions are improper. Therefore we must determine whether defendant's conduct constituted a single act or separate acts.

¶ 47 *People v. Crespo*, 203 Ill. 2d 335 (2001) is instructive here. In *Crespo*, the defendant was convicted of first degree murder of one victim. The defendant stabbed a second victim three times and was convicted of armed violence and aggravated battery with respect to that victim. *Id.* at 337. On appeal to our supreme court, the defendant argued that his conviction for aggravated battery should be vacated because it stemmed from the same physical act as the armed violence charge. *Id.* The State did not charge the defendant for the three separate acts of stabbing in the indictment but chose to charge the three stabbings as different counts under different theories of criminal culpability. *Id.* at 342. Additionally, the State's theory at trial was that defendant's conduct was a single attack. *Id.* at 343-44.

¶ 48 The *Crespo* court held that where a defendant commits multiple criminal acts but the indictment only charges the defendant with a single course of conduct, the trial court cannot convict the defendant of separate criminal acts. The court emphasized that the State could have charged the crime as multiple acts and could have argued the case to the jury that way but chose not to do so. *Id.* at 344.

¶ 49 Here, defendant was convicted of three counts of aggravated domestic battery, counts 5, 6

and 7. In this case, unlike *Crespo*, defendant was charged with separate counts of aggravated domestic battery: in count 5 for causing Moore great bodily harm and in count 6 for causing her permanent disfigurement. These counts were charged pursuant to section 12-3.3(a). 720 ILCS 5/12-3.3(a) (West 2012). Count 7 charged defendant with the offense of aggravated domestic battery for strangulation of Moore pursuant to section 5/12-3.3(a-5). 720 ILCS 5/12-3.3(a-5) (West 2012). The State provided sufficient evidence of great bodily harm and permanent disfigurement as charged in counts 5 and 6. Moore testified to the events of that evening and stated that defendant pushed, kicked, and punched her. He also stabbed her with a shower curtain rod, smashed a glass table over her head and cut Moore's finger with a knife. Moore testified that her pinky finger required surgery as a result. At the time of trial she had no feeling in it. Dr. Ehrman described injuries consistent with Moore's testimony. In addition, the State provided evidence of the strangulation as charged in count 7 through Moore's testimony that defendant choked her while she lay in the bathtub and forced water into her face.

¶ 50 The court considered all three of these counts separately and found defendant guilty of all three. The court stated:

"One is the choking in the shower and the other is the other way the girl was injured. So 5 and 6 merge with each other really, great bodily harm and also permanent disfigurement, the cutting of the hands, et cetera. And 7, a different aggravated battery altogether is the question of strangling in the shower."

¶ 51 Based on the above charges, we disagree with defendant that the indictment failed to treat the conduct of defendant as multiple acts. The State clearly charged defendant with different acts of aggravated domestic battery. Defendant's act of cutting Moore's finger was a separate act

from choking Moore. Thus, his convictions under count 5 and 6 as merged, and count 7 stand as they do not violate the one-act, one-crime rule.

¶ 52 Defendant next contends that the trial court erred when denied his motion to reduce his sentence because defense counsel attempted to present two witnesses who were allegedly former girlfriends of defendant to show defendant's "prior treatment of women." In his motion to reduce his sentence, defendant asked permission to present the testimony of two witnesses who would speak to defendant's character "behind closed doors" to rebut Moore's statement in aggravation that "people don't know what Michael Douglas is like behind closed doors."

¶ 53 Defendant is essentially arguing that the evidence he attempted to present was wrongly excluded. It is well recognized that in order to preserve an evidentiary error for review, an offer of proof must be made in the trial court. *People v. Andrews*, 146 Ill. 2d 413 (1992). An offer of proof serves to provide the trial judge and opposing counsel the nature of the offered evidence and to enable a reviewing court to determine whether exclusion of the evidence was proper. *Id.* The failure to make an adequate offer of proof results in a waiver of the issue on appeal. *Id.* An offer of proof that merely summarizes the witness' testimony in a conclusory manner or is an unsupported speculation of counsel as to what the witnesses would testify is inadequate. *Id.*

¶ 54 Here, defendant did not request to make an offer of proof nor can anything defense counsel argued to the trial court constitute an adequate offer of proof. With respect to the evidence he wished to present, counsel stated, "[w]e have two women here. As indicated in my motion, Judge, there was an issue that came up. The complaining witness stated that people do not know what kind of person [defendant] is behind closed doors." Counsel then stated, "I would think it would be reflective of the kind of person he is if there's other women [defendant has]

been involved with that have had extended relationships with him and they did not experience any physical abuse." No specifics were offered concerning the content of the statements that these women would allegedly make. Defense counsel's statement amounted to no more than mere speculation as to what he believed the relevancy of the testimony might be. Such speculation is not sufficient to preserve the issue for review. *Id.* We thus conclude that defendant's failure to make an adequate offer of proof resulted in the waiver of this issue on appeal.

¶ 55 Even if defense counsel's statement could be construed as an offer of proof, the evidence defendant offered was not relevant. As the court explained to defense counsel,

"I don't consider one way or the other about other people. He is on trial involving someone named Tosca Moore, his long-time girlfriend. And her comment was, people don't know what happened behind closed doors. I took it only to mean between he and Tosca Moore, that's all. The fact that he had other women at various times and he treated [them] fine is not relevant to me one way or the other. Not at all."

¶ 56 Evidence is relevant if it tends to make more or less probable the existence of any fact that is of consequence to the determination of the action. Ill. R. Evid. 401, 402 (eff. Jan. 1, 2011); *People v. Hope*, 168 Ill. 2d 1, 23 (1995). It is within the discretion of the trial court to determine whether evidence is relevant and admissible. *People v. Pursley*, 284 Ill. App. 3d 597, 603 (1996). The trial court's determination will not be reversed absent an abuse of discretion. *Id.*

¶ 57 The trial court determined that any evidence regarding defendant's treatment of other women, as it related to his sentence, was not relevant because the trial court believed Moore's comment to pertain to defendant's behavior towards Moore alone behind closed doors. We find



that the trial court's decision to not allow this evidence was not an abuse of discretion.

¶ 58 Finally, defendant argues that his 6-year sentence is excessive given his lack of criminal background and the lack of any serious injury to Moore.

¶ 59 A trial court has broad discretionary powers in choosing the appropriate sentence a defendant should receive. *People v. Jones*, 168 Ill. 2d 367, 373 (1995). A reasoned judgment as to the proper sentence to be imposed must be based upon the particular circumstances of each individual case and depends upon many factors, including the defendant's credibility, demeanor, general moral character, mentality, social environment, habits and age. *People v. Perruquet*, 68 Ill. 2d 149, 154 (1977). “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). There is a strong presumption that the trial court based its sentencing determination on proper legal reasoning, and the court is presumed to have considered any evidence in mitigation that is before it. *People v. Partin*, 156 Ill. App. 3d 365, 373 (1987). The imposition of a sentence is a matter within the trial court's discretion, and a reviewing court has the power to disturb the sentence only if the trial court abused its discretion. *Jones*, 168 Ill. 2d at 373-74.

¶ 60 At sentencing, the court heard a victim impact statement from Moore wherein she spoke of the lasting physical and emotional scars inflicted by defendant. She also discussed the medical bills and financial issues she endured because of defendant's attack. The State also emphasized the eight prior domestic violence incidents involving defendant and Moore. The State asked the court to consider what Moore had been through and to consider the extent of her

permanent injuries. The State argued that one of the counts encompassed defendant's cutting, burning and beating of Moore and the other count dealt with defendant's strangulation of Moore. The State asked the court to sentence defendant consecutively on both counts. In mitigation, the court heard from defendant's co-worker Victor Diaz, a construction and landscaping trainer. He testified that defendant was a "good worker" and an "honest man" who treated his wife with respect and had "never seen [defendant] have any problems with anybody, women or men." The court also heard from defendant's mother Sandra who testified that her son was a "kind, loving" person who was "always looking out for everybody, sacrificing his own self for other people. He's a sweetheart." She described defendant as "gentle," and "caring" with everyone, not only women. She also described him as a good father to his two children. Defendant also submitted letters written on his behalf from Paul Sengpiehl, the Chairman of the American Baptist Cook county jail ministry board, Tina Thomas from the student council advisory computer systems downtown and from Geneva Peterson Castelberry of the Chicago area project. He also submitted an unofficial student transcript. Defense counsel attempted to mitigate Moore's injuries. Defendant then made a statement in allocution stating that he realized that he and Moore were not good together and had no intention of getting back together with Moore in the future. He also stated that he would be graduating from computer tech school in three months and had a job lined up.

¶ 61 We find no abuse of discretion in this case. The record is clear that in imposing sentence, the court considered the evidence at trial, the presentence investigation, and the evidence offered in aggravation and mitigation. See 730 ILCS 5/5-5-3.1, 5-5-3.2 (West 2012). The court noted that defendant has shown his ability to be a nice person if he chooses to do so, but not to Moore

behind closed doors.

¶ 62 Furthermore, defendant's 6-year sentence fell within the statutory range of imprisonment and is therefore presumptively proper. *People v. Johns*, 285 Ill. App. 3d 849, 856 (1996); 720 ILCS 5/5-5-3(c) (West 2012). Aggravated domestic battery is a class 2 offense punishable by a term of imprisonment of not less than 3 years and not more than 7 years for a second or subsequent offense. 720 ILCS 5/12-3.3(b) (West 2012). In light of the facts of this case and in light of the mitigating and aggravating circumstances, we find that the trial court properly exercised its discretion in sentencing defendant to two concurrent term of 6 years' imprisonment.

¶ 63 CONCLUSION

¶ 64 Based on the foregoing, we affirm the judgment of the trial court.

¶ 65 Affirmed.