2016 IL App (1st) 133884-U

FIRST DIVISION
MAY 31, 2016

No. 1-13-3884

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 13 CR 10867
	)	
ULYSSES WILLIAMS,	)	Honorable
	)	James B. Linn,
Defendant-Appellant.	)	Judge Presiding.

PRESIDING JUSTICE CUNNINGHAM delivered the judgment of the court.
Justices Connors and Harris concurred in the judgment.

ORDER

¶ 1 *Held*: Defendant-appellant's convictions, following a bench trial, for the offenses of aggravated battery and violation of Illinois' armed habitual criminal statute (720 ILCS 5/24-1.7 (West 2012)) are affirmed. The use of the defendant's 2003 felony drug conviction as a predicate offense for both a prior 2005 unlawful use of a weapon by a felon conviction, as well as the armed habitual criminal conviction in this case, did not constitute an impermissible double enhancement. Additionally, with respect to the offense of aggravated battery with a firearm, the State's evidence was sufficient to prove that the defendant acted knowingly, even though the defendant is legally blind and may have been under the influence of drugs at the time of the shooting. Lastly, the trial court did not abuse its discretion in sentencing the defendant to two concurrent 12-year sentences for the armed habitual criminal and aggravated battery with a firearm convictions.

¶ 2 Following a bench trial, defendant Ulysses Williams (defendant) was convicted of violating Illinois' armed habitual criminal (AHC) statute, 720 ILCS 5/24-1.7 (West 2012), aggravated battery with a firearm, and two counts of unlawful use of a weapon by a felon (UUWF). The AHC conviction was predicated upon a 2003 drug-related felony and a 2005 UUWF conviction (which had also been predicated on the 2003 conviction). The defendant now appeals, claiming that this court should (1) vacate his AHC conviction and reduce the conviction to UUWF because the use of the same 2003 drug conviction as a predicate for the 2005 UUWF and the instant AHC charge required an impermissible double enhancement; (2) reverse, or reduce to reckless discharge of a firearm, the defendant's conviction for aggravated battery with a firearm because the State failed to adequately prove the requisite mental state for the charge where the defendant was legally blind and under the influence of a controlled substance; and (3) reduce his sentences because the trial court abused its discretion when it sentenced him to two concurrent 12-year terms. For the following reasons, we affirm the judgment of the trial court.

¶ 3 BACKGROUND

¶ 4 On October 10, 2013, the circuit court of Cook County commenced a bench trial in which the State charged the defendant with attempted murder, aggravated battery with a firearm, two counts of UUWF, and a violation of Illinois' AHC statute. All of those charges resulted from an incident on the night of May 8, 2013.

¶ 5 During the bench trial, the State presented evidence regarding the events of that night. Darnell Williams (Darnell) testified that, at that time, he, his girlfriend Rubie Williams (Rubie), and the defendant, who is Rubie's nephew, were living together in a home on the 3900 block of West Flournoy Street in Chicago. The defendant had his own room within the home but often spent time with Rubie and Darnell.

¶ 6 Darnell testified further that, on the night of May 8, 2013, he was watching television and eating dinner within the front room of the home. Rubie was also home but remained within a back room of the house. Darnell asserted that throughout the evening he and the defendant had been talking and watching television together without any argument or disagreements.

¶ 7 Darnell testified that, later that evening, the defendant exited his room and approached the spot where Darnell sat watching television on the couch. Then, standing "right in front" of Darnell, the defendant drew a firearm and aimed it at Darnell before firing once. This first gunshot struck Darnell in the mouth. After being struck the first time, he fell onto the couch and away from the defendant before the defendant took aim once more and shot him again, this time striking Darnell in his back.

¶ 8 Darnell testified that he had never had any arguments or problems with the defendant prior to that night. Asked if he knew why the defendant shot him, Darnell testified that "he was high on something." On cross-examination, he agreed that he "thought [the defendant] was on PCP" because that day "[h]e was talking loud" and his behavior had been "different."

¶ 9 Also on cross-examination, Darnell agreed that the defendant is legally blind. However, on re-direct examination, Darnell testified that the defendant does not need a seeing-eye dog or other assistance to get around the house or to come and go from the residence.

¶ 10 Following Darnell's testimony, Rubie testified that she heard popping sounds on the night of May 8, 2013. When she inquired about the sounds, Darnell yelled for her to stay in the back room of the house. Rubie stated that she eventually came to the front room. When she entered the front room she saw the defendant leaving the home and Darnell bleeding from his wounds.

¶ 11 Rubie agreed when asked if she believed that the defendant had been under the influence of drugs. She testified "I thought it was the cigars because the day before, he was acting funny"

and that on the day of the shooting, he was "fidgeting" and "was talking weird." Rubie also testified that, after an ambulance arrived to treat Darnell, the defendant returned to the scene, where he told her that he was "tripping on PCP." Rubie also testified that the defendant was legally blind at the time of the shooting.

¶ 12 Chicago Police Officer Samuel Truesdale (Truesdale) testified that, following the shooting, he and his partner arrived at the home in response to a call stating that someone had been shot. Emergency medical services arrived shortly thereafter to tend to Darnell's injuries. Around this time, Darnell told Truesdale and his partner that the defendant was responsible for shooting him.

¶ 13 Truesdale further testified that, while Darnell received medical treatment within an ambulance in front of the home, Darnell and Rubie noticed the defendant was nearby and informed the officers. Officer Truesdale testified that the defendant "stopped shortly in front of the house, asked us what was going on and if everybody was okay." At that time, the defendant was arrested on suspicion that he had committed the shooting.

¶ 14 Through other witnesses, the State introduced evidence that gunshot residue was later detected in a swab of the defendant's hands. The State also submitted into evidence a certified copy of a 2005 conviction for UUWF, as well as a certified copy of a 2003 conviction for delivery of a controlled substance.

¶ 15 The defendant declined to testify, and the defense presented no other witnesses or evidence.

¶ 16 At the conclusion of the bench trial, on October 24, 2013, the trial court convicted the defendant of the AHC charge, aggravated battery with a firearm, and two counts of UUWF. The defendant was acquitted of the attempted murder charge, as the trial court found that the State

had not proven the defendant's specific intent to kill. At a sentencing hearing on November 21, 2013, the defendant's counsel argued that there were mitigating circumstances, including his "troubled" childhood and substance abuse history, and the defendant expressed his remorse for shooting Darnell, whom he described as his uncle and a "great role model in my life." Asked by the court why the incident happened, the defendant said that he "can't explain that" and that he "wasn't in my right state of mind." Following this, the trial court sentenced the defendant to two concurrent 12-year sentences for the AHC and aggravated battery with a firearm convictions, noting that the two UUWF convictions merged into the AHC conviction. The trial court acknowledged that the defendant has had "a difficult life," but noted "I also have an obligation to protect the public as well" and emphasized that he had used a gun against "somebody who is being nice" to him. On December 18, 2013, the defendant filed a timely notice of appeal, conferring jurisdiction on this court pursuant to Illinois Supreme Court Rule 606(b) (eff. Feb. 6, 2013).

¶ 17 ANALYSIS

¶ 18 On appeal, the defendant first argues that this court should vacate his AHC conviction as resulting from an impermissible double enhancement, where the State used a single prior 2003 felony drug conviction to establish both the predicate felony for the defendant's prior 2005 UUWF conviction, and used the same 2003 conviction as a qualifying predicate conviction necessary to the instant AHC charge. Second, the defendant urges that we must reverse his conviction for aggravated battery with a firearm because the State failed to adequately prove his mental state for the charge, in light of the testimony that he is legally blind and was under the influence of a controlled substance at the time of the incident. Finally, the defendant contends that the trial court abused its discretion when it sentenced him to two concurrent 12-year

sentences. For the following reasons, we find that these arguments lack merit and we affirm the judgment of the trial court.

¶ 19 The defendant's first argument on appeal asserts that it was plain error for the State to convict the defendant on an AHC charge[1] which was premised upon (1) the defendant's 2003 felony drug conviction; (2) the defendant's 2005 UUWF conviction (which was itself premised on the 2003 drug conviction); and (3) the defendant's possession of a firearm on the night of May 8, 2013. The defendant claims that the State's use of the 2003 drug conviction as an element of *both* the instant AHC charge and the AHC charge's other qualifying predicate conviction, the 2005 UUWF conviction, constitutes an impermissible double enhancement. For the following reasons, we hold that no such enhancement occurred.

¶ 20 As a threshold matter, we address whether the defendant has forfeited this first argument by failing to address it at the sentencing hearing or within his motion to reconsider sentencing. The defendant does not dispute that the issue was not raised before the trial court, but asserts that the purported improper double enhancement is nonetheless reviewable.

¶ 21 We note that, in his initial appellate brief, the defendant urged that review of the issue was not forfeited because "[a] sentence that is not permitted by statute is void and therefore may be challenged at any time." Under the so-called "void sentence rule," the Illinois supreme court had previously held that "a sentence that does not conform to a statutory requirement is void"

---

[1]The AHC statute reads in relevant part: "A person commits the offense of being an armed habitual criminal if he or she receives, sells, possesses, or transfers any firearm after having been convicted a total of 2 or more times of any combination of the following offenses:

(1) a forcible felony as defined in Section 2-8 of this Code;

(2) unlawful use of a weapon by a felon; *** or

(3) any violation of the Illinois Controlled Substances Act *** that is punishable as a Class 3 felony or higher." 720 ILCS 5/24-1.7 (West 2012).

and could be challenged at any time. *People v. Thompson*, 2015 IL 118151, ¶ 33 (citing *People v. Arna*, 168 Ill. 2d 107, 113 (1995)). However, the defendant has submitted a supplemental appellate brief in which he acknowledges that our supreme court has "recently abolished the void sentence rule." See *People v. Castleberry*, 2015 IL 116916, ¶ 19 ("the void sentence rule is constitutionally unsound" and "is hereby abolished"); *Thompson*, 2015 IL 118151, ¶ 33 (recognizing that a void sentence "challenge is no longer valid").

¶ 22 Thus, instead of pursuing review under the "void sentence rule," the defendant's supplemental brief "now asks this Court to consider the [double enhancement] issue as a matter of plain error or, in the alternative to find that counsel provided ineffective assistance by failing to object and then include the error in his motion to reconsider sentence." We first address his claim of plain error.

¶ 23 Generally, an error is forfeited and unreviewable on appeal if it is not raised at trial and preserved in a post-trial motion. *People v. Piatkowski*, 225 Ill. 2d 551, 564 (2007). However, our supreme court has held that appellate review is nevertheless available under the plain error doctrine. *Id.* Plain error review is appropriate either (1) 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; or (2) when a clear or obvious error occurred and that error was serious enough to affect the fairness of the defendant's trial and challenge the integrity of the judicial process, regardless of the closeness of the evidence. *Id*. at 565. Accordingly, the first step in plain error analysis requires us to determine whether error occurred. *People v. Johnson*, 2015 IL App (1st) 133663, ¶ 12. Because we find that no error occurred, our analysis will not extend beyond this first step.

¶ 24 Turning now to the merits of the defendant's first argument, we recognize that an

improper double enhancement occurs where either "(1) a single factor is used both as an element of an offense and as a basis for imposing a harsher sentence than might otherwise have been imposed, or (2) the same factor is used twice to elevate the severity of the offense itself." *People v. Guevara*, 216 Ill. 2d 533, 545 (2005). The rule against such enhancements is a rule of statutory construction "premised on the assumption that the legislature considered the factors inherent in the offense in determining the appropriate range of penalties for that offense." *People v. Rissley*, 165 Ill. 2d 364, 390 (1995). Because "this is merely a rule of statutory construction," there is no error if the legislature clearly intended to enact a double enhancement. *Id*. ("Where the legislature clearly intends to enhance the penalty based on some aspect of the crime, and such an intention is clearly expressed, there is no prohibition."). Additionally, because it is a rule of statutory construction, we note that our standard of review of a double enhancement claim is *de novo*. *People v. Phelps*, 211 Ill. 2d 1, 12 (2004).

¶ 25 The defendant's argument contends that the use of his 2003 felony drug conviction twice, both as a predicate for the instant AHC charge and as a predicate offense for the AHC charge's other prior qualifying offense, the 2005 UUWF conviction, amounts to an improper "double use of a single factor." In support of his argument, the defendant points to this court's decision in *People v. Chaney*, 379 Ill. App. 3d 524 (2008). *Chaney*, however, does not support the defendant's argument. Rather, it elucidates the key distinctions between the defendant's AHC conviction (where the same 2003 conviction was an element for two offenses) and an impermissible double enhancement that imposes a harsher *sentence* for the crime.

¶ 26 In *Chaney*, the defendant had two prior Class 2 felony convictions under the Illinois Controlled Substances Act when he was charged with a third offense, UUWF, a Class 3 felony. *Id.* at 529. Based on the two prior Class 2 felony convictions, his subsequent UUWF charge was

elevated from a Class 3 felony to a Class 2 felony offense. *Id*. Thus, after having been convicted of the UUWF charge, the *Chaney* defendant had three separate Class 2 felony convictions. *Id*. The State argued that because the defendant now had three separate Class 2 felony convictions (including the UUWF charge that had been elevated from a Class 3 felony), the trial court was obligated to enhance his sentence to that of a Class X felon. *Id*. On appeal, this court held that sentencing the *Chaney* defendant as a Class X felon would constitute an impermissible double enhancement. *Id*. This court reasoned that the language of the Code mandated Class X felony status only for those with three Class 2 felony offenses. 730 ILCS 5/5–5–3(c)(8) (West 2004); *Id.* at 528. Thus, it was impermissible to use one of his prior Class 2 felonies to both (1) elevate his Class 3 UUWF charge to a Class 2 offense; and (2) impose enhanced Class X sentencing. *Id*. at 532.

¶ 27 The defendant's reliance on *Chaney* is misplaced. The defendant claims that, similar to *Chaney*, one of his prior convictions was "used twice, thereby violating the proscription against double enhancements." However, at no point during trial or sentencing was the defendant's 2003 drug conviction used to enhance or elevate his sentence above the range prescribed within the AHC statute. In *Chaney*, one of the defendant's two predicate offenses was used to establish the third charge as an elevated class of felony, which, in turn, was used to warrant further sentencing enhancement. In contrast, the defendant in this case was sentenced as a Class X felon pursuant to the AHC statute, which establishes that "[b]eing an armed habitual criminal is a Class X felony." 720 ILCS 5/24-1.7(b) (West 2012). Accordingly, the defendant's AHC sentence was not enhanced or elevated once, let alone twice, in the same way as the *Chaney* defendant's sentence. In other words, the 2003 conviction was simply never used "as a basis for imposing a harsher sentence than might otherwise have been imposed" or to "elevate the severity

of the [AHC] offense itself." *Guevara*, 216 Ill. 2d at 545.

¶ 28 Second, and arguably more important to our analysis here, even if the use of the 2003 drug conviction to support both his 2005 UUWF conviction and the subsequent AHC conviction could be construed as a double enhancement, it would be permitted under the clear, unambiguous language within the AHC statute. The AHC statute states: "A person commits the offense of being an armed habitual criminal if he or she receives, sells, possesses, or transfers any firearm after having been convicted a total of 2 or more times of *any combination of the following offenses.*" (Emphasis added.) 720 ILCS 5/24-1.7(a) (West 2014). The statute then enumerates a list of specific offenses, including UUWF, along with two additional categories of offenses, including "any violation of the Illinois Controlled Substances Act *** that is punishable as a Class 3 felony or higher." *Id.* Accordingly, and the defendant has not argued otherwise, the two predicate offenses supporting his AHC conviction are expressly included within the statute's defined predicate offenses. Therefore, we cannot now find that his AHC conviction, even if considered a double enhancement, was one which the legislature did not intend. Doing so would require a reasonable argument as to why the legislature would include as predicate offenses, without limitation, *both* UUWF *and* other offenses which may support a UUWF charge. There is no such argument before us here.

¶ 29 In this respect, we reiterate the reasoning set forth in *People v. Johnson*, 2015 IL App (1st) 133663, in which our court recently rejected a nearly identical double enhancement challenge, also arising from an AHC conviction predicated in part on a prior UUWF conviction. In *Johnson*, the defendant "contend[ed] that his prior conviction of residential burglary *** was used to prove both predicate felonies of the armed habitual criminal offense – once by itself, and then again as an element of the second predicate felony of UUWF." *Id.* ¶ 13. In rejecting the

contention that the same prior offense could not be used to support both the UUWF and AHC convictions, we explained that:

> "[T]he residential burglary conviction was used only once – as a predicate felony to defendant's armed habitual criminal conviction and not again to enhance defendant's sentences. The other predicate felony to defendant's armed habitual criminal conviction was UUWF, which was predicated on defendant's residential burglary conviction. Finding that a UUWF conviction could not be predicated on the same conviction *** as that used for one of the predicate offenses required for an armed habitual criminal conviction, would render the armed habitual criminal statute illogical. If defendant's construction of the armed habitual criminal statute were to be accepted, any defendant whose armed habitual criminal conviction consisted of the offense of UUWF would then have to have a third conviction – one that did not serve as a predicate offense to his UUWF conviction. *** There is no such language in the armed habitual criminal statute, and we refuse to read it into the statute." *Id.* ¶ 18.

¶ 30 The same reasoning applies in this case. As in the case of the predicate burglary conviction at issue in *Johnson*, in this case there is nothing in the AHC statute that precludes the use of the defendant's 2003 drug conviction to support both the 2005 UUWF conviction, as well as the subsequent AHC conviction. In fact, the legislature clearly expressed that "any combination" of the specified predicate offenses (which include violation of the Controlled

Substances Act and UUWF) may be used in conjunction to support an AHC conviction. 720 ILCS 5/24-1.7 (West 2012). Thus, even if the AHC conviction could be interpreted as a double enhancement, such a result is expressly contemplated by the legislature and thus does not constitute reversible error. See *Rissley*, 165 Ill. 2d 364, 390 (1995).

¶ 31 For these reasons, we hold that the defendant was not subject to an impermissible double enhancement. Accordingly, we find no error and, thus, need not further address the defendant's claims under the "plain error" doctrine. Similarly, as we have determined that the double enhancement argument lacks merit, the defendant cannot establish that his trial counsel's failure to object to the "double" use of the 2003 felony drug conviction was deficient performance or that it caused him prejudice for purposes of establishing a claim of ineffective assistance of counsel. See *Strickland v. Washington*, 466 U.S. 668, 687-92 (1984) (holding that convicted defendant claiming ineffective assistance of counsel must show both deficient performance by counsel and that the defendant suffered resulting prejudice). Therefore, the defendant's AHC conviction is affirmed.

¶ 32 The defendant's second argument contends that this court should reduce his aggravated battery with a firearm conviction to reckless discharge of a firearm because the State failed to prove beyond a reasonable doubt that the defendant possessed the requisite mental state, that he acted "knowingly." See 720 ILCS 5/12-3.05(e)(1) (West 2014). Specifically, the defendant asserts that the State's evidence at trial failed to sufficiently prove that the defendant "knowingly" committed the acts in question because he is legally blind and was under the influence of a controlled substance at the time of the shooting. For the following reasons, we hold that the evidence was sufficient to support the court's finding that the defendant was guilty of aggravated battery with a firearm beyond a reasonable doubt.

¶ 33 In reviewing the sufficiency of evidence to sustain a verdict on appeal, "the relevant inquiry is 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. Cooper*, 194 Ill. 2d 419, 430-431 (2000); *Jackson v. Virginia*, 443 U.S. 307, 318-319 (1979). This is a deferential standard, aimed at preventing a reviewing court from substituting its own judgment for that of the trier of fact, whose responsibility is to weigh the evidence, evaluate the credibility of witnesses, and draw reasonable inferences as to the facts at issue. *Cooper*, 194 Ill. 2d at 431. Additionally, the same standard of review applies regardless of whether the trial court held a bench trial or jury trial. *People v. Howery*, 178 Ill. 2d 1, 38 (1997).

¶ 34 In order to prove a charge of aggravated battery with a firearm, the State must show, beyond a reasonable doubt, that the defendant knowingly discharged a firearm and caused injury to another person. 720 ILCS 5/12-3.05(e)(1) (West 2014). A person acts "knowingly" when he is "consciously aware" that a result is "practically certain to be caused by his conduct." *People v. Moore*, 358 Ill. App. 3d 683 (2005); 720 ILCS 5/4-5 (West 2014). A trier of fact may infer intent "from the character of defendant's acts as well as the circumstances surrounding the commission of the offense." *People v. Perez*, 189 Ill. 2d 254, 266 (2000).

¶ 35 The defendant contends that the State, in its prosecution of the aggravated battery with a firearm charge, failed to adequately prove that he acted knowingly. The defendant relies on testimony that the defendant is legally blind and that he was "tripping" on PCP when he shot his uncle, and suggests that he did not realize that he was shooting at Darnell. Accordingly, the defendant claims that he could not have been "consciously aware" that Darnell's injuries were "practically certain to be caused by his" act of walking up to Darnell and firing a weapon twice.

Therefore, the defendant asserts, the State could not have sufficiently proven that he possessed the requisite mental state, absent evidence to rebut either his blindness or intoxication.

¶ 36 We disagree. Although the State did not deny that the defendant is legally blind or that he was intoxicated at the time of the shooting, it did provide sufficient evidence from which a rational trier of fact could find that the defendant acted knowingly. Notably, notwithstanding his legal blindness, Darnell's testimony indicated that the defendant could navigate within the home and in public without assistance. There was no testimony suggesting that his legal blindness prevented him from knowing the nature of his actions. Rather, the record reflects that the shooting occurred after the defendant retrieved a firearm from his bedroom and approached Darnell. Standing only a few feet away, the defendant then raised the gun, aimed it at Darnell, and shot him once in the mouth. The defendant then fired the gun a second time, striking Darnell in the back. The defendant then fled the residence and disposed of the gun.

¶ 37 Considering this evidence in a light favorable to the prosecution, it is certainly reasonable to view this behavior as that of a man who was consciously aware that his firing of the weapon at close range — twice—would cause his uncle to be injured. Moreover, his act of fleeing the residence afterwards indicates that he understood the gravity of his decisions and the potential repercussions. See *People v. Harris*, 225 Ill. 2d 1, 23 (2007) (asserting that "evidence of flight *** may be admissible as proof of consciousness of guilt").

¶ 38 Moreover, the defendant's voluntary intoxication, if true, would not establish that the defendant could not have acted knowingly. Although intoxication may be a defense to a specific intent crime, it would provide no defense to a general intent crime, such as aggravated battery. See *People v. Rodgers*, 335 Ill. App. 3d 429, 433 (2002) (holding that defense counsel should not have been permitted to argue voluntary intoxication defense for aggravated battery).

Additionally, evidence within the record of the defendant's intoxication is sparse. Although Darnell and Rubie testified to their belief that the defendant was on drugs and that he told Rubie that he had been "tripping" on PCP, the defendant did not present evidence at trial that he was intoxicated to a degree that he was unaware of his surroundings or the harmful nature of his actions. Even assuming that he was in fact under the influence of a controlled substance, there is other evidence within the record — including the circumstances of shooting his uncle twice at close range and the defendant's act of fleeing the scene to dispose of the weapon — from which the trial court, as factfinder, could reasonably determine that the defendant acted knowingly.

¶ 39 Accordingly, we hold that, viewing the evidence in the light most favorable to the prosecution, it was reasonable for the trial court to find the defendant guilty of the offense of aggravated battery with a firearm. We therefore affirm the defendant's conviction for that offense.

¶ 40 The defendant's third argument on appeal asserts that the trial court abused its discretion by sentencing him to two concurrent 12-year sentences for AHC and aggravated battery with a firearm. Specifically, the defendant claims that the trial court would have reduced his concurrent sentences further had it properly considered the mitigating factors of the defendant's drug addiction, his "strong family ties," and other "unique circumstances" at the time he committed the offenses that make it unlikely for him to reoffend. For the following reasons, we hold that the trial court's sentencing decision was not an abuse of discretion.

¶ 41 Due to its more intimate familiarity with the evidence and parties involved, a trial court has a superior opportunity to evaluate sentencing factors than that afforded to us by the "cold record" on appeal. *People v. Perruquet*, 68 Ill. 2d 149, 154 (1977). Accordingly, a trial court's sentencing decisions are entitled to "great deference and weight" and must not be altered upon

review absent an abuse of discretion. *Id*. An abuse of discretion occurs where a sentence is "greatly at variance with the spirit and purpose of the law, or manifestly disproportionate to the nature of the offense." *People v. Stacey*, 193 Ill. 2d 203, 210 (2000).

¶ 42 The defendant contends that several factors pertinent to sentencing, if properly weighed, suffice to make his two concurrent 12-year sentences "manifestly disproportionate to the nature" of his offenses and therefore, an abuse of discretion. Namely, the defendant asserts that the trial court did not properly weigh the factors of his drug dependency and intoxication at the time of the shooting, his remorse, his family support, the forgiveness of the victim, the general inefficacy of prison in rehabilitating offenders, and the defendant's participation in an addiction treatment program.

¶ 43 Notably, the trial court sentenced the defendant to terms well below the maximum permitted by statute. Aggravated battery with a firearm and AHC are both Class X felony offenses. 720 ILCS 5/12-3.05(h) (West 2014); 720 ILCS 5/24-1.7(b) (West 2014). A Class X felony mandates a sentence of "not less than 6 years and not more than 30 years." 730 ILCS 5/5-4.5-25(a) (West 2014). Accordingly, the defendant's two concurrent 12-year sentences amount to six years above the statutory minimum sentence and eighteen years below the maximum. In other words, the trial court sentenced the defendant to the *lower* end of permissible sentences for Class X felonies.

¶ 44 Considering the totality of factors before the trial court, we cannot now find that such a sentence was an abuse of discretion. Here, the defendant had twice been adjudicated a felon, yet still maintained a weapon in his possession. Further, the defendant not only illegally possessed the firearm but used it to shoot his uncle, a man with whom he had a good relationship, without any provocation. After the shooting, the defendant fled the scene and disposed of the illegal

firearm. All of these factors weigh in favor of the trial court's decision to issue a sentence six years beyond the statutory minimum sentence for a Class X felony.

¶ 45 The factors noted by the defendant, including his drug addiction and family support, do not weigh so heavily in his favor as to make the sentences "manifestly disproportionate to the nature of the offense." Indeed, the transcript of the sentencing hearing indicates that the trial court considered these factors in deciding *not* to impose a harsher sentence. Considering the totality of the factors at play during sentencing and the trial court's greater familiarity with the evidence, there was no abuse of discretion. Accordingly, the trial court's sentencing decisions will not be disturbed.

¶ 46 For the foregoing reasons, we affirm the judgment of the circuit court of Cook County.

¶ 47 Affirmed.