

No. 1-14-0019

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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. 11 CR 13640
)	
PAUL BRABOY,)	Honorable
)	Charles P. Burns,
Defendant-Appellant.)	Judge Presiding.

JUSTICE ELLIS delivered the judgment of the court.
Presiding Justice McBride and Justice Cobbs concurred in the judgment.

O R D E R

¶ 1 *Held:* State proved beyond reasonable doubt that defendant's killing of victim was not justified by self-defense or defense of another where victim had ceased beating defendant's girlfriend, walked toward defendant with can of pepper spray at her side, and did not threaten defendant. Trial court did not improperly consider factor inherent in second-degree murder where it merely mentioned victim's death. Trial court did not abuse its discretion in sentencing defendant to 14 years' incarceration.

¶ 2 After a bench trial, defendant Paul Braboy was found guilty of second-degree murder, based on an unreasonable belief that his actions were necessary for self-defense. The trial court

sentenced defendant to 14 years' incarceration. On appeal defendant contends that the State failed to prove beyond a reasonable doubt that his actions were not justified by self-defense or the defense of another. He also contends that, at sentencing, the trial court improperly considered a factor inherent in his offense where it mentioned the victim's death during sentencing and thus committed plain error. Finally, he argues that his 14-year sentence is excessive given the mitigating factors present. We affirm.

¶ 3 The evidence at trial established that Landis Smith and Dazaray Brent were at a party at defendant's apartment in the early morning hours of July 26, 2011. According to Landis, defendant, Nicole Smith, a man named Quentin, and others were also present at the party. During the party, Landis and Dazaray went into the bathroom and had a conversation. During the conversation, Nicole came into the bathroom three or four times, causing Dazaray to become "kind of upset." Landis and Dazaray left the bathroom, and Dazaray left the party.

¶ 4 Landis testified that he later went outside and saw Dazaray holding a can of pepper spray in front of the apartment building. Quentin was also outside. At some point, Nicole exited the apartment building. Dazaray sprayed Nicole's face with the pepper spray and began to punch her. When Nicole fell to the ground, Dazaray began to kick her. While Landis tried to stop Dazaray verbally, Quentin tried to "break it up *** physically." Quentin was able to lift Nicole onto her feet and they "moved a couple feet." By this time, defendant had exited the apartment. He and Dazaray began to argue. She told defendant that "this is between two women." Defendant then shot Dazaray twice with a .38-caliber revolver. Dazaray tried to run to the nearby alley, but fell.

¶ 4 Several officers responded to the scene following the shooting. According to one officer, he found Nicole sitting on a curb crying and bleeding with bruises to her face and some of her

hair pulled out. The officer also later saw defendant and noted that he was 5 feet and 11 inches tall and weighed 165 pounds. Other police officers went to defendant's apartment. According to two of the officers, defendant answered the door and informed them that there were two firearms in the apartment, including a revolver. He told the officers where the firearms were located, and they recovered them.

¶ 5 Chicago police detective John Murray took part in the investigation of Dazaray's shooting. Murray testified that he spoke with Nicole after she was released from a hospital. Her face was swollen and her eye was closed. Murray also later interviewed defendant multiple times. A video recording of the interviews and a corresponding transcript were entered into evidence at trial.

¶ 6 During the interview, defendant repeatedly said that he acted in self-defense. He said that after the party, he, Nicole, and Quentin went outside. As they left the building, Dazaray sprayed their faces with pepper spray and hit defendant in the nose.

¶ 7 Defendant said that he saw Dazaray kicking Nicole's face while Nicole was on the ground. Defendant ran back into his apartment and grabbed his revolver. He then ran back down out the apartment's front door and found Dazaray still kicking Nicole. He grabbed Dazaray in an attempt to break up the fight and she attempted to spray him with pepper spray, so he shot her. Defendant said that he was scared.

¶ 7 In a subsequent interview, Detective Murray told defendant that other witnesses' accounts of the shooting did not match his own. In this interview, defendant said that, after retrieving his revolver, he left the apartment through the back door and ran to the front through an alley. When he reached the front, Nicole was still on the ground but people were helping her up. Dazaray

walked towards him with the pepper spray in her hand, held at her side. Defendant told her, "You don't even know this lady," and Dazaray said, "That's some bogus ass shit." He then removed his revolver from his pocket and shot Dazaray twice. Defendant noted that he was scared and angry. When Murray asked if defendant was angry that Nicole was being beat up, defendant replied, "Yeah. *** It's like it was (inaudible) I mean my responsibility not, not I mean, you know I gotta look out for her."

¶ 8 An evidence technician investigated the area outside of the apartment building. He recovered a fired bullet, a spent bullet casing, and a canister of pepper spray. He also found red spots on the ground that appeared to be blood, as well as a piece of a hair extension. The technician examined the revolver the police officers recovered from defendant's apartment. It was loaded with five bullets and contained a spent cartridge. The parties stipulated that the recovered bullet had been fired by defendant's revolver.

¶ 9 Dazaray's autopsy showed that she was 5 feet, 8 inches tall and weighed 149 pounds. The medical examiner opined that Dazaray had died from two gunshot wounds: one to her chest and one to her back. The parties stipulated that a bullet fragment was recovered from Dazaray's body.

¶ 10 At trial, defendant presented two witnesses who testified about prior acts of violence by Dazaray. According to police officer Robert Carrion, he arrested Dazaray in May 2010 for burning a flag in her high school. During the arrest, Dazaray threatened to fight the police officers and told school security officers that she would follow them home and kill their children. According to police officer Macapagal, he arrested Dazaray in January 2010, after she fought and argued with another girl. Initially, Macapagal determined the other girl was the aggressor

and arrested her. However, he arrested Dazaray after she kicked the other girl after the other girl had been arrested.

¶ 11 The trial court found defendant guilty of second-degree murder based on an unreasonable belief in the necessity of self-defense. In making its findings, the court noted that the only contested question before it was "whether or not the defendant was justified in the use of [deadly] force." The court also indicated:

"I don't believe the defendant had the right to use deadly force in this matter. I don't believe that the mere fact that a person had a can of Mace in his hand and was not using it to threaten, at least directly threaten, the victim in the matter gives rise or justification to use force or great bodily harm."

It concluded that it believed defendant had a belief that his actions were necessary, but that belief was unreasonable. At the subsequent sentencing hearing, the court sentenced defendant to 14 years' incarceration. Defendant appeals.

¶ 12 Defendant first contends that the State failed to prove beyond a reasonable doubt that his actions in shooting Dazaray were not justified, because the evidence showed: (1) he was justified in using deadly force to defend himself, and (2) he was justified in using deadly force to defend Nicole. We first address the background law applicable to both claims before addressing each specific claim in turn.

¶ 13 Due process requires the State to prove each element of a criminal offense beyond a reasonable doubt. *People v. Cunningham*, 212 Ill. 2d 274, 278 (2004), citing *In re Winship*, 397 U.S. 358, 364 (1970). When a defendant sufficiently raises an affirmative defense, including self-defense or defense of another, the State must also disprove that affirmative defense beyond a

reasonable doubt. *People v. Johns*, 387 Ill. App. 3d 8, 13 (2008); *People v. Dillard*, 319 Ill. App. 3d 102, 106 (2001).

¶ 14 When reviewing the sufficiency of evidence, a reviewing court must decide "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." (Emphasis in original.) *Jackson v. Virginia*, 443 U.S. 307, 313 (1979); see also *Cunningham*, 212 Ill. 2d at 278. A reviewing court will not overturn a guilty verdict unless the evidence is "so improbable, unsatisfactory, or inconclusive that it creates a reasonable doubt of defendant's guilt." *People v. Collins*, 214 Ill. 2d 206, 217 (2005). A reviewing court must resolve all reasonable inferences in favor of the prosecution. *Cunningham*, 212 Ill. 2d at 280. This court may not retry a defendant on appeal. *People v. Milka*, 211 Ill. 2d 150, 178 (2004).

¶ 15 A reviewing court must give due consideration to the fact that a trial court is able to see and hear the witnesses. *People v. Ortiz*, 196 Ill. 2d 236, 267 (2001). A fact finder's determination of a witness's credibility "is entitled to great deference but is not conclusive." *Cunningham*, 212 Ill. 2d at 279. Where a conviction depends on eyewitness testimony, the reviewing court may find testimony insufficient "only where the record evidence compels the conclusion that no reasonable person could accept it beyond a reasonable doubt." *Id.*

¶ 16 First-degree murder occurs when an offender (1) kills another individual (2) without lawful justification and (3) either intended to kill or do great bodily harm to that individual or another, or knows that such acts will cause death. 720 ILCS 5/9.1 (West 2010). Second-degree murder occurs when an individual commits first-degree murder, but the individual is acting under a sudden and intense passion resulting from serious provocation or the individual

unreasonably believes the circumstances to be such that the killing is legally justified. 720 ILCS 5/9.2 (West 2010). The trial court found defendant guilty of second-degree murder under the latter circumstance.

¶ 17 Defendant first argues that the State failed to prove beyond a reasonable doubt that his actions were not justified by a need for self-defense. He asserts that he reasonably believed that he was in danger of great bodily harm because he witnessed Dazaray's attack on Nicole, Dazaray began to walk towards him while arguing, and she still had the can of pepper spray. He also notes that Dazaray had sprayed him with pepper spray when she sprayed Nicole and that Dazaray had a history of violent acts. The State responds that Dazaray did not present a threat of imminent harm to defendant, because she was only walking up to him and had the pepper spray down at her side. It also asserts that defendant's belief that deadly force was necessary was unreasonable because Dazaray was 17 years old and only armed with a can of pepper spray.

¶ 18 In order to raise self-defense, there must be some evidence supporting each of the six elements of self-defense: (1) that unlawful force was threatened against the defendant; (2) that the defendant was not the aggressor; (3) that the danger of harm was imminent; (4) that the use of force was necessary; (5) that the defendant actually and subjectively believed that a danger existed that required the use of force that he applied; and (6) that the defendant's beliefs were objectively reasonable. *People v. Lee*, 213 Ill. 2d 218, 225 (2004); *People v. Morgan*, 187 Ill. 2d 500, 533 (1999). If the State negates any one of the elements of self-defense, the defendant's claim fails. *Lee*, 213 Ill. 2d at 225.

¶ 19 We find that ample evidence supports the trial court's finding that defendant's actions were not justified by self-defense. Landis testified that defendant and Dazaray were only arguing

when defendant shot her. While defendant initially told police officers that Dazaray attempted to spray him, he later admitted that Dazaray was only walking towards him and held the pepper spray down at her side. Neither defendant nor Landis indicated that Dazaray made any verbal threats towards defendant and she did not raise the pepper spray or give any indication that she was going to use it on defendant. While defendant had witnessed Dazaray attack Nicole, there was no indication that she would similarly attack defendant. Based on this evidence, the trial court could rationally conclude that Dazaray was not threatening imminent force against defendant at the time he shot her. Taking the evidence in the light most favorable to the State, the trial court could similarly find beyond a reasonable doubt that defendant's belief that Dazaray presented a danger necessitating lethal response was objectively unreasonable.

¶ 20 Defendant cites numerous cases holding that pepper spray can be a dangerous weapon depending on the circumstances of its use. See, e.g., *People v. Elliott*, 299 Ill. App. 3d 766, 776 (1998). While a victim's possession of a dangerous weapon is relevant to a court's determination of self-defense, we do not believe it is dispositive. Self-defense requires a showing of an imminent threat to defendant. *Lee*, 213 Ill. 2d at 225. Based on defendant's statements and the testimony of Landis, the trial court could have reasonably concluded that the victim made no verbal threats to defendant, made no threatening gestures towards him, and held the pepper spray down at her side as she approached him. Thus, the trial court could rationally find beyond a reasonable doubt that Dazaray was not an imminent threat to defendant.

¶ 21 Defendant also argues that he told officers that Dazaray had initially used the pepper spray on him, and thus she was an imminent threat when she later approached him with the canister. We disagree. First, defendant's statement to police that he was with Nicole during the

initial attack and hit by pepper spray contradicts Landis's testimony that defendant was not present until later. Moreover, even if we accept defendant's statement that he was also sprayed by pepper spray as true, he was then able to leave the area and enter his apartment. Given his demonstrated ability to flee and escape the threat caused by Dazaray's pepper spray, the trial court could rationally find that his use of lethal force was unnecessary when he later voluntarily returned to the scene.

¶ 21 Defendant analogizes his case to *People v. Williams*, 56 Ill. App. 2d 159, 161-62 (1965). In *Williams*, the defendant, a taxi driver, drove past a group of young men beating an old man who was calling for help. *Id.* at 161. The defendant turned around and drove back toward the group and, as he neared them, his car was hit by a rock or brick. *Id.* According to the defendant, the young men then "started toward" him. He fired two shots into the group, killing one of the individuals. *Id.* Another witness corroborated the defendant's account. *Id.* at 163. The reviewing court reversed defendant's conviction for involuntary manslaughter finding that the State had not disproved that the defendant acted in self-defense. *Id.* at 169. The court repeatedly emphasized that several young men had thrown a cement block at the defendant and then started towards him, and thus the defendant reasonably believed that he was in imminent danger. *Id.* at 167-69. We find the present case to be distinguishable from *Williams*. Here, defendant was faced with a single individual. Dazaray did not throw a brick or rock at defendant and defendant's assertion that she had sprayed him earlier with pepper spray was not corroborated by Landis or any other witness. Thus, we find *Williams* to be distinguishable.

¶ 22 Defendant's reliance on *People v. Evans*, 259 Ill. App. 3d 195 (1994), is similarly misplaced. In that case, this court reversed the defendant's first degree murder conviction of her

husband, concluding that she had acted in self-defense when she stabbed him while "he was in the midst of imposing a physical beating of [the defendant] as he had done repeatedly in the past." *Id.* at 206. Specifically, we noted that the defendant was a victim of battered woman's syndrome resulting from her husband verbally brutalizing and physically beating her with a shovel, baseball bat, and skillet. *Id.* at 211. Here, there was no long history of physical abuse; at most, defendant had been sprayed with pepper spray well before he shot Dazaray.

¶ 23 Defendant also argues that the State failed to prove beyond a reasonable doubt that his actions were not justified by his desire to defend Nicole. Similarly to self-defense, a defendant's defense of another is justified where (1) force is threatened against the person, (2) the person threatened is not the aggressor, (3) the danger of harm is imminent, (4) the force threatened is unlawful and (5) the defendant actually believes that a danger exists, that the use of force is necessary and that such beliefs are reasonable. See *People v. Ellis*, 269 Ill. App. 3d 784, 789-90 (1995); see also 720 ILCS 5/7-1(a) (West 2010).

¶ 24 Taking the evidence in the light most favorable to the State, the trial court could have rationally found that defendant's actions were not justified. Defendant told police officers that he was acting in self-defense. He did not say that he acted in defense of Nicole. While defendant stated that he had to "look out" for Nicole when Detective Murray asked if Dazaray's attack had angered him, this does not indicate that he shot Dazaray in Nicole's defense, particularly where defendant unequivocally and repeatedly stated that he acted in self-defense. Furthermore, Landis testified that Quentin had broken the fight up, gotten Nicole onto her feet, and helped her move away from Dazaray by the time defendant returned. Dazaray left Nicole to approach defendant. Given the fact that the beating had stopped and Nicole was being supported by another

individual, the trial court could reasonably infer that the threat to Nicole was no longer imminent. Because defendant did not indicate he was acting to defend Nicole and Landis's testimony indicated that the fight was over, the trial court could rationally find beyond a reasonable doubt that defendant did not have a reasonable belief that his actions were necessary to defend Nicole.

¶ 25 Taking the evidence in the light most favorable to the State, the trial court could rationally find that defendant's killing of Dazaray was not justified by self-defense or defense of another. Accordingly, the State sufficiently proved defendant guilty of second-degree murder.

¶ 26 Defendant next contends that the trial court committed plain error by improperly considering a factor inherent in second-degree murder, Dazaray's death, as an aggravating factor at sentencing. He also argues that his trial counsel was ineffective for failing to preserve the issue. The State responds that defendant forfeited this argument by failing to object and include this issue in his motion to reconsider sentence. It argues alternatively that the trial court's mention of Dazaray's death was not improper, as the court was only considering the seriousness of the offense.

¶ 27 At defendant's sentencing hearing, the State offered victim impact statements from Dazaray's aunt and father. The defense offered a letter from a childhood friend in support of defendant.

¶ 28 The State argued in aggravation that defendant had a prior misdemeanor conviction for driving under the influence. It also argued that defendant had fired a weapon and murdered a 17-year-old girl. It asked for a maximum sentence.

¶ 29 Defense counsel noted that the presentence investigation indicated that defendant was a high school graduate and had only one misdemeanor conviction. Counsel argued that Dazaray was a violent person and that defendant was eligible for probation and asked for a minimum sentence. In allocution, defendant apologized for his actions.

¶ 30 The trial court noted that it had considered all factors in aggravation and mitigation in order to craft "[a] sentence that's justified based on the facts of the crime commensurate with the defendant's criminal history, contributions to society, taking into consideration the rehabilitative potential, taking into consideration the deterrence aspect of the sentence." The court also stated:

"Unfortunately, all too many times I have to sentence an individual for committing a crime where a person died. It's not something I enjoy doing, it's something I don't like doing. But for the acts of one person, another individual is not here."

The court then noted that it was considering defendant's lack of a criminal background and employment history as mitigating factors, as well as the fact that he "accepted some responsibility" in his statements in allocution. The court continued, noting that probation was not "proper" as it would "deprecate the seriousness of what happened here." Indicating that a minimum sentence was inappropriate, the court stated:

"This is a situation where the defendant made some decisions, wrong decisions, but these decisions led to the death of another individual. This is, defendant went, obtained a weapon and shot and killed Ms. Brent.

After looking at all the evidence in aggravation and mitigation here, after doing some soul searching as to the proper sentence here, I do believe that the defendant needs

to spend a substantial period of time in the penitentiary for responsibility for the acts that he caused, the death of Ms. Brent."

The court sentenced defendant to 14 years' incarceration.

¶ 31 Before considering the merits of defendant's claim, we must determine whether it has been forfeited. To preserve a sentencing issue, a defendant must contemporaneously object and include the issue in a post-sentencing motion. *People v. Hillier*, 237 Ill. 2d 539, 544 (2010). Defendant concedes that he failed to properly preserve his claim that the trial court considered an improper factor in aggravation, but he asks this court to consider his claim as plain error, arguing that the consideration of improper aggravating factors is an error so serious that it affects his fundamental right to liberty. Under plain error analysis, a reviewing court may consider an error, despite forfeiture, when a clear and obvious error occurred and either (1) the evidence is so closely balanced that the error alone threatened to tip the scales of justice against defendant or (2) the error is so serious as to challenge the integrity of the judicial process. *People v. Piatkowski*, 225 Ill. 2d 551, 565 (2007). Before considering defendant's claim under either prong, we must first determine whether error has occurred. *Id.*

¶ 32 The propriety of a sentence is generally within a trial court's discretion; however, the determination of whether a court improperly relied on a factor in aggravation presents a question of law to be reviewed *de novo*. *People v. Abdelhadi*, 2012 IL App (2d) 111053, ¶ 8. There is a strong presumption that the trial court based its sentencing determination on proper legal reasoning. *People v. Dowding*, 388 Ill. App. 3d 936, 942-43 (2009). The defendant bears the burden of establishing that a sentence was based on improper considerations. *Id.* at 943.

¶ 33 A trial court may not consider a factor implicit in an offense as an aggravating factor in sentencing. *People v. Phelps*, 211 Ill. 2d 1, 12, 284 (2004). When sentencing a defendant for murder, consideration of death as an aggravating factor is improper because death is an element of the offense. See *People v. Harmon*, 2015 IL App (1st) 122345, ¶ 128. A trial court may consider, however, the manner and circumstances of the killing. *Id.*

¶ 34 When determining whether a sentencing court considered proper factors, we must consider the entire record, "rather than focusing on a few words or statements by the trial court." *Dowding*, 388 Ill. App. 3d at 943. Where it is clear from the record that the trial court's consideration of an improper factor did not lead to a greater sentence, remand and resentencing are unnecessary. *People v. Glenn*, 363 Ill. App. 3d 170, 178 (2006). Where the appellate court cannot ascertain the weight attributed to an improper factor, remand is required. *Id.*

¶ 35 We find that defendant has failed to affirmatively show that the trial court relied on Dazaray's death in aggravation. The trial court's comments regarding Dazaray's death are limited to an indication that it was sentencing defendant for an offense where someone had died and a subsequent description of the circumstances of defendant's offense. The trial court at no point indicated that it was considering Dazaray's death as a factor in aggravation. Moreover, its references to the death are not so numerous or so extensive that they support an inference that the trial court considered the death as an aggravating factor. As this court has previously noted, "it is unrealistic to suggest that the judge in sentencing the defendant must avoid mentioning the fact that someone has died or risk committing reversible error." *People v. Green*, 209 Ill. App. 3d 233, 248 (1991). Here, the trial court merely described the offense for which it was sentencing defendant. Defendant has failed to establish that the trial court considered an improper fact in

aggravation. As we find no error occurred, there can be no plain error. See *People v. Lopez*, 2012 IL App (1st) 101395, ¶ 64.

¶ 36 Defendant also argues that his trial counsel was ineffective for failing to contemporaneously object and for failing to include this issue in his motion to reconsider sentence. When claiming ineffective assistance of counsel, a defendant must demonstrate (1) that counsel's performance fell below an objective standard of reasonableness and (2) a reasonable probability exists that the result of the proceeding would have been different without counsel's deficient representation. *Strickland v. Washington*, 466 U.S. 668, 687 (1984); see also *People v. Ramsey*, 239 Ill. 2d 342, 433 (2010). As already discussed, we find defendant has not shown that the trial court considered the death in aggravation. Therefore, defendant was not prejudiced by trial counsel's failure to object or include the meritless issue in his motion to reconsider sentence. Because defendant was not prejudiced, we need not determine the reasonableness of trial counsel's actions. See *People v. Rucker*, 346 Ill. App. 3d 873, 885 (2003).

¶ 37 Defendant finally contends that his 14-year sentence is excessive because the mitigating factors in his case outweighed the aggravating factors. He notes that he had steady employment prior to his conviction, had graduated from high school, planned to seek further education, lacked a significant criminal history, and expressed remorse for his crime. He further argues that he is unlikely to face similar circumstances leading to a repetition of his crime. He asserts that the sole aggravating factor present was the trial court's finding that incarceration was necessary to deter others from committing the same crime. The State responds that the court considered all factors in mitigation and aggravation and the sentence was within statutory guidelines. It argues that the sentence is therefore entitled to deference.

¶ 38 All sentences must reflect the seriousness of the offense committed and the objective of rehabilitating offenders to useful citizenship. *People v. Cooper*, 283 Ill. App. 3d 86, 95 (1996). A reviewing court may only reduce a sentence when the record shows that the trial court has abused its discretion. *People v. Streit*, 142 Ill. 2d 13, 19 (1991); *People v. Martin*, 2012 IL App (1st) 093506, ¶ 47. The reviewing court may not reverse the sentencing court just because it could have weighed the factors differently. *Streit*, 142 Ill. 2d at 19

¶ 39 The sentencing court must consider all factors of mitigation and aggravation. *People v. Quintana*, 332 Ill. App. 3d 96, 109 (2002). But the court need not explicitly indicate each mitigating factor that it has considered. *People v. Halerewicz*, 2013 IL App (4th) 120388, ¶ 43. We presume that a trial court considered all relevant factors in fashioning a sentence, a presumption that cannot be overcome without affirmative evidence in the record that the trial court failed to consider mitigating factors. *Id.*

¶ 40 Second-degree murder is punishable by 4 to 20 years' imprisonment. 730 ILCS 5/5-4.5-30 (West 2010). Defendant was also eligible for probation. See 730 ILCS 5.5-5-3 (West 2010). A sentencing decision that falls within the statutory range is entitled to great deference. *People v. Hill*, 408 Ill. App. 3d 23, 29 (2011). Such a sentence will not be overturned unless it is "greatly at variance with the spirit and purpose of the law or manifestly disproportionate to the nature of the offense." *People v. Fern*, 189 Ill. 2d 48, 54 (1999).

¶ 41 We cannot find that the trial court abused its discretion. Defendant's sentence was within the statutory range. The trial court explicitly mentioned that it had considered all factors in mitigation and aggravation. It specifically noted that it was considering defendant's criminal history, employment, and rehabilitative potential. It also noted that defendant had accepted some

responsibility for his actions. It also noted that it was considering the impact on the victim's family and that a heavier sentence was necessary for deterrence purposes. The trial court's sentence is entitled to great deference, and we find that it did not greatly vary from the spirit and purpose of the law nor was it manifestly disproportionate to the nature of the offense.

¶ 42 Additionally, we note that defendant does not argue that trial court refused to consider the mitigating factors in defendant's case; rather, he argues that the court "failed to place the proper weight" upon them. We will not reverse the sentencing court just because the factors could have been weighed differently. *Streit*, 142 Ill. 2d at 19. We find that the trial court did not abuse its discretion in sentencing defendant to 14 years' imprisonment.

¶ 43 For the foregoing reasons, we find that the State sufficiently proved beyond a reasonable doubt that defendant's killing of Dazaray Brent was not justified by self-defense or defense of another. We also find that the trial court did not improperly rely on Dazaray's death as a factor in aggravation at sentencing and it did not abuse its discretion in sentencing defendant to 14 years' imprisonment. We affirm the judgment of the circuit court.

¶ 44 Affirmed.