2020 IL App (1st) 181611-U

No. 1-18-1611

Order filed November 24, 2020

Second Division

IN THE

APPELLATE COURT OF ILLINOIS

FIRST DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 12 CR 419
	)	
EARL ROBERTS,	)	Honorable
	)	Angela Munari Petrone,
Defendant-Appellant.	)	Judge, presiding.

PRESIDING JUSTICE FITZGERALD SMITH delivered the judgment of the court. Justices Lavin and Pucinski concurred in the judgment.

ORDER

¶ 1 *Held*: Defendant's sentence of 90 years' imprisonment for committing first degree murder and personally discharging the firearm that proximately caused death is not excessive.

¶ 2 Following a jury trial, defendant Earl Roberts was convicted of first degree murder (720 ILCS 5/9-1(a)(1) (West 2010)) and sentenced to 90 years in prison. On appeal, defendant contends that his sentence completely forecloses any possibility of restoring him to useful citizenship and

is excessive given his non-violent background, mental health issues, and rehabilitative potential. For the reasons that follow, we affirm.

¶ 3 Defendant's conviction arose from the November 24, 2011, shooting death of his estranged wife, Angela Bonds. Following his arrest, defendant was charged by indictment with six counts of first degree murder. Prior to trial, defense counsel informed the court that it had come to his attention that defendant had been treated for mental health issues in the past. However, counsel stated he would not be obtaining an independent expert to evaluate defendant because defendant could not afford it. Eventually, the Assistant State's Attorney (ASA) indicated that defense counsel had requested a behavioral clinical examination (BCX) to determine defendant's fitness to stand trial.

¶ 4 Thereafter, employees of Cook County forensic services examined defendant. A psychologist examined him on July 10, 2013, and prepared a letter stating his conclusion that defendant was fit to stand trial. A staff psychiatrist examined defendant on July 30, 2013, and prepared a letter stating his conclusion that although defendant was currently prescribed Prozac and Trazodone, he was fit to stand trial and did not require psychotropic medications in order to maintain his fitness or functioning. The psychiatrist stated that there was "no evidence that the defendant suffers from major mental illness, or cognitive impairment that would preclude him from" participating in his defense.

¶ 5 Trial commenced on May 17, 2016. On the second day of trial, the State nol-prossed all counts except count V, which alleged that defendant intentionally or knowingly shot and killed Bonds and personally discharged a firearm that proximately caused her death.

¶ 6 At trial, Jimmy Lockett testified that on the date in question, he lived with and was engaged to Bonds, with whom he worked in building maintenance at the University of Illinois at Chicago (UIC) Hospital. Bonds had told Lockett that her divorce from defendant, with whom they also worked, had been finalized. Lockett learned later that Bonds was still married to defendant at the time of her death.

¶ 7 On November 24, 2011, Lockett and Bonds commuted together to UIC for their shift, which began at 3 p.m. About 6 p.m., Lockett was cleaning the room of a patient who had been discharged when defendant walked past the doorway and said, "[I]t's a good day to die." Lockett responded, "Move away from me." Defendant kept walking. At the end of his shift at 11:30 p.m., Lockett went to the employee locker room to punch out. After other employees in the locker room left and Lockett thought he was alone, defendant "walked out," said, "[I]t's going to be your last day working at UIC," and ran out of the locker room. Shortly thereafter, Lockett met Bonds. He took three or four bags from her and they proceeded toward the parking structure. While they were walking, they encountered another coworker, Donzell Lampkins, who joined them.

¶ 8 As the group approached the doors to the parking structure, defendant "jumped out" wearing a black hoodie and gloves. Lockett described the gloves as rubber and stated they were not the thin, latex variety used for their work. Defendant was holding a gun, which he pointed at the group. Lockett ran through the door into the parking structure and heard three gunshots. He ran toward the upper level, fell, went down a stairwell, and hid in some bushes. As Lockett was running, he noticed defendant chasing him and heard defendant say, "[R]un, you fat a*** motherf***." Eventually, Lockett heard the UIC police and came out of his hiding place with his hands up.

¶ 9 Donzell Lampkins testified that around 11:28 p.m. on the day in question, he was on his way to his car when he saw Lockett and Bonds ahead of him in a hallway. Lampkins caught up with the pair and they walked together toward the parking structure. When they were about 25 to 30 feet from the doors to the structure, Lampkins saw defendant approaching from behind. Defendant, who was wearing a black coat with the hood up, put a finger to his lips. Lampkins believed this gesture meant defendant wanted him to be quiet. Lampkins, Bonds, and Lockett all turned toward defendant, who pulled out a gun. Lampkins, Bonds, and Lockett ran. Lockett went through the doors into the parking structure and up a ramp. Lampkins started to follow, but stopped when he noticed Bonds was not behind them.

¶ 10 Defendant came through the doors, looked at Lampkins, looked in Lockett's direction, and turned and went back inside the building. After the doors closed, Lampkins heard two gunshots. Defendant then came back through the doors into the parking structure and ran up the ramp after Lockett. Lampkins called the police using an emergency call button in the parking structure. He then returned to the hallway and saw Bonds lying in a pool of blood. In court, Lampkins identified himself, defendant, Lockett, and Bonds in several surveillance video clips.

¶ 11 The State played and entered into evidence video clips from three surveillance cameras located in the hallway leading from the hospital to the parking structure. The first clip, time stamped starting at 11:40 p.m., depicts two men and a woman walking together down the hallway away from the camera. At 11:41 p.m., a man wearing a dark coat with its hood up enters the camera's view, walking behind the group in the same direction. The second clip, time stamped starting at 11:41 p.m., depicts another section of the hallway. A group of three people walk into view from the bottom of the screen and walk down the hallway. About 25 seconds later, a man in

a dark coat with the hood up walks into view from the bottom of the screen and follows the group. After about 12 seconds, all four figures are blurry silhouettes against an illuminated doorway at the end of the hallway. One figure appears to fall to the ground. The third video clip, time stamped starting at 11:42 p.m., depicts two men and one woman walking together in the hallway toward the camera, with a man in a dark coat with his hood up approaching them from behind. When one of the men in the group looks back, the man in the hood momentarily puts his hand to his face. Then, the woman in the group looks back twice before her group walks out of view of the camera. The man in the dark coat pulls down his hood and runs toward the group while retrieving a gun from his coat pocket. The man, who is wearing a black knit cap and yellow gloves, points the gun in the direction where the group was walking, appears to fire once, and runs off camera.

¶ 12 UIC police officer Warren Faulkner testified that shortly after 11:30 p.m. on November 24, 2011, while he was on patrol, a woman ran to his car and reported there was a shooting in the parking structure. At the same time, he received a radio transmission dispatching him to shots fired on the third floor of the structure. Faulkner took the elevator to the third floor, where he found Lampkins, who was jittery and shaking, and Bonds, who was motionless on the ground, face-down in a puddle of blood. Lampkins told Faulkner that "Earl" shot Bonds and ran up to the fourth floor of the structure. Faulkner ran up the ramp to the fourth floor but did not see anything, so he returned to the third floor. He checked for Bonds's pulse but did not find one. Faulkner radioed the description of defendant that Lampkins gave him.

¶ 13 UIC police officer Lee Neubauer testified that at 6 a.m. on November 25, 2011, she was assigned to patrol for a suspect in Bonds's murder. She was given defendant's name and photo and a description of his clothing, which included a dark hooded jacket with fur around the collar.

Around 6:30 a.m., Neubauer saw a man wearing a dark jacket with fur around the hood emerge from the shadows near the Lighthouse for the Blind at Roosevelt Road and Wood Street. The man entered a minivan that was stopped at a red light. She notified dispatch and attempted to pull over the minivan. The minivan drove erratically for a while but eventually pulled over by the Children's Advocacy Center at 2014 13th Street. As Neubauer approached the driver's side of the minivan on foot, she saw the man she had observed earlier running westbound on 13th Street. He was no longer wearing a jacket. Neubauer got back in her car and pursued the man into the grounds of the neighboring FBI complex, where he eventually gave himself up. When Neubauer asked him what he did with the gun, he stated he threw it by the parking lot. In court, Neubauer identified defendant as the man she took into custody.

¶ 14 UIC police sergeant Jason Huertas testified that around 7:10 a.m. on November 25, 2011, he recovered a revolver, a black knit cap, and a black jacket from outside the Children's Advocacy Center. The revolver contained three spent casings and three live rounds. Huertas also found a rubber glove in one of the jacket's pockets.

¶ 15 UIC police detective Armando Juarez testified that on November 28, 2011, he and several other officers canvassed the area near the Lighthouse for the Blind. Next to a bush and a brick wall they found a pair of yellow dishwashing gloves, a pair of latex gloves, and a set of keys with a car key fob. Two days later, Juarez and another officer used the recovered key fob to open defendant's car, which had been impounded.

¶ 16 A medical examiner testified that Bonds's autopsy revealed she had suffered one gunshot wound to her back and one to the top of her forehead. The characteristics of the wounds were consistent with Bonds being shot in the back while standing and then shot in the head while lying

down. Bonds had a bruise on her forehead that would be consistent with her falling on her face after being shot in the back. Bonds also had stippling on the back of her hands, which would be consistent with her trying to cover her head while being shot in the head at close range. The medical examiner opined that the cause of death was multiple gunshot wounds and the manner of death was homicide.

¶ 17 The State presented evidence that an officer who processed the crime scene recovered a fired bullet from the ground near Bonds's right hip and a bullet jacket fragment from a nearby "pedestrian walkway ledge." An expert in firearms identification testified that the bullet and the fragment were fired from the recovered revolver.

¶ 18 Defendant's motion for a directed verdict was denied.

¶ 19 As the defense began its case, defendant was called to testify. Defense counsel began his questioning by asking defendant whether he was taking any medication. The State objected and a sidebar was held. Defense counsel stated he had brought up the issue of medication so that the jury could "asses his answers in light of what he describes the effects of the medication he is on," including Prozac and medications for sleep, cholesterol, and high blood pressure. The trial court recessed the proceedings in order to have a doctor from forensic clinical services assess defendant's fitness to stand trial and participate in his defense. In chambers, defense counsel reported that defendant's personality had changed during the course of the trial, that he was not being responsive and was talking about God, and that he had an "outburst" in the lockup during the lunch break. The court stated it had not observed any changes in defendant; that the arguments it had heard between defendant and defense counsel involved defendant's not wanting to plead guilty; that while defendant had been "loud" one time, it was not uncommon for defendants to "get

a little anxious" on the eve of trial and have a different trial strategy in mind than the one advised by counsel; and that it did not "see anything that was out of the ordinary or aberrant about his behavior in any manner."

¶ 20 The psychologist who had examined defendant in 2013, Dr. Christofer Cooper, appeared in court. Cooper indicated that a fitness evaluation could be done quickly if defendant was cooperative, but that an examination for sanity at the time of the offense would take longer. Defendant had reported to Cooper in 2013 that he had been diagnosed with schizophrenia in the past and had been hospitalized three times in the mid-1990s. As such, Cooper stated he would have to review defendant's medical records in order to address the sanity issue. Defense counsel indicated that the defense would not be raising any issues as to defendant's mental state at the time of the shooting, and the trial court noted the defense had not asserted insanity at the time of the offense in any of its answers to discovery. The court determined Cooper would evaluate only whether defendant was fit to stand trial and participate in his own defense.

¶ 21 The trial court held a fitness hearing outside the presence of the jury. Cooper testified that he had interviewed defendant and found him calm, cooperative, and responsive. Defendant reported that he was currently prescribed Prozac and Trazodone, was compliant with his medication, and had not experienced any recent side effects. Cooper explained that Prozac is an antidepressant and Trazodone is most commonly prescribed as a sleep aid. Defendant was able to describe the roles of defense counsel, the prosecutor, the judge, and the witnesses. He understood that he was charged with first degree murder, the difference between a bench trial and jury trial, and the difference between a guilty plea and a trial. Based on the examination, Cooper opined that defendant was fit to stand trial.

¶ 22 Defendant testified that he and Bonds married in 2000. He stated that he was "always going to be married to her," as he "chose her," and that he never would have filed for a divorce. Although he and Bonds stopped living together in 2008, they maintained a relationship. Defendant explained, "[N]o matter if we staying apart, if she need me for anything, that's my wife, I chose that job to take care of her for the rest of her life, that's my wife." Defendant supported Bonds financially until 2010, when he learned that Bonds was involved in a relationship with Lockett. Despite Bonds's relationship with Lockett, defendant stated he believed his marriage still could have had viability "if I put my foot down."

¶ 23 Defendant testified that on November 24, 2011, he arrived at work shortly before 3 p.m. The area of the UIC Hospital for which he usually provided housekeeping was closed, so he was assigned to clean floors on the seventh floor. Defendant saw Lockett on the seventh floor around 3:45 p.m., but they did not exchange any words. When defendant saw Lockett again around 6 p.m., Lockett threatened to kill him if he tried to get back together with Bonds. The threat did not scare defendant at the time. Around 8 p.m., defendant encountered Lockett a third time. Lockett "ruffled his shoulders up" and gave defendant a "stare down" look. Defendant did not pay any attention to Lockett. Just before 11 p.m., defendant was waiting for an elevator when he saw Lockett again. Lockett said, "[I]f you think I'm kidding I'll kick your a***, kick your a*** after work." Lockett also said he would kill defendant after work. Defendant got on the elevator. He felt "a little frightful" but mostly wondered why Lockett was trying to egg him on.

¶ 24 After defendant punched out at 11:30 p.m., he put on his coat. He had a gun in his coat pocket because he commuted through a dangerous neighborhood and the holidays were known as a "killing season." He put his hood up because it was windy and cold in the corridor leading to the

parking structure. As defendant walked toward the parking structure, he heard someone say his name. He looked up, moved the fur of his hood, and saw Lampkins, Lockett, and Bonds. Defendant denied making a shushing gesture toward Lampkins.

¶ 25 Defendant testified that Lockett "opened his coat up" and Lampkins said the word "gun." Defendant thought that Lockett was reaching for a gun because Lockett had been threatening him all day and had often talked about having a gun while in the locker room. Lampkins, Lockett, and Bonds started running and tried to squeeze through the doorway to the parking structure. Either Lampkins or Lockett pushed Bonds to the side. Defendant fired a warning shot over Bonds's head and told her, "[P]lease don't move." He explained that he fired because when Bonds was pushed to the side, Lockett had turned his body to the left with his hands at waist level, and defendant was scared. When asked why he proceeded forward toward the group, defendant answered, "Once I heard 'gun,' I was, you know it came to my mind real clear, everything was happening real quick that I thought he was—I said to myself if you're going to kill me, you going to kill me, 'cause I know I got my gun."

¶ 26 Despite defendant's warning not to move, Bonds ran to the middle of the doorway. Defendant fired a shot at Lockett, who was also in the doorway, but hit Bonds in the back. Defendant testified, "[S]he was like Superman, she went floating across. Boom." Defendant ran up to Bonds, who was lying on the ground face-down. He knelt beside her and said, "[W]hy did you move, all I ever asked you to do was listen to me through this whole thing, just listen to me. *** Why did you get in the way?" Defendant also pleaded with Bonds not to die.

¶ 27 Defendant noticed Lampkins motioning with his hands and calling or talking to someone. He thought Lockett could be coming back, so he started to get up. As he pushed himself upright from a kneeling position, the gun accidentally went off again, hitting Bonds.

¶ 28 Defendant saw Lockett in the stairwell and gave chase. After Lockett ran out of the front of the parking structure at ground level, defendant "caught [his] senses a little bit" and decided "enough is enough." Defendant left the structure through the back and hid all night in the area where his keys were later found. He thought about killing himself, but decided not to "because the Lord came to [him] and He said who is going to take care of your son and mother-in-law." While he was hiding, defendant took off his rubber gloves, which he had been wearing over his work gloves that day because he had been scrubbing the floors with caustic chemicals.

¶ 29 On cross-examination, defendant was asked whether he would have shot Lockett had he caught up to him. Defendant answered, "He might have been dead." He also agreed that Lockett "got away." Defendant acknowledged that while he was hiding in the bushes, he heard sirens. He denied calling anyone to come pick him up and denied knowing the driver of the minivan. Defendant stated he gave the minivan's driver $20 to drop him off on Damen Avenue.

¶ 30 On redirect, defendant stated that in the moment before he fired the first shot, he was in fear for his life.

¶ 31 The jury was instructed on first degree murder and on second degree murder based on an unreasonable belief that circumstances existed which would justify the use of deadly force. The jury found defendant guilty of first degree murder. The trial court denied defendant's motion for a new trial or judgment notwithstanding the verdict.

¶ 32 At sentencing, the trial court stated that the presentence investigation (PSI) report had been distributed. The PSI report reflects that defendant had a prior misdemeanor conviction in 2008 for reckless conduct and possession of an unregistered firearm and a prior misdemeanor conviction in 2010 for possession of cannabis, which was followed by a violation of probation. Defendant reported to the probation officer who prepared the PSI report that he had a "normal childhood," had graduated from high school, and had worked in the maintenance department at UIC for 23 years. Defendant also related that he was under the care of a psychiatrist and was taking Prozac for depression. He denied using alcohol or illegal drugs.

¶ 33 The State presented victim impact statements from Bonds's son, mother, brother, and sister, who each detailed the impact Bonds's death had on them. The State noted that defendant's criminal history included a 2008 misdemeanor conviction for reckless conduct, possession of ammunition, and a "registered firearm charge," as well as a 2010 misdemeanor conviction for possession of cannabis, followed by a violation of probation. The State argued it was aggravating that defendant was married to Bonds, that his conduct caused serious harm, that the murder was premeditated, and that he had showed no remorse.

¶ 34 Defendant made a statement in allocution. He reiterated that he had considered suicide on the day of the shooting, but did not kill himself because the spirit of Jesus Christ told him he would have to "explain" to his son and mother-in-law. He pointed at the ASA and said, "When you start talking about my family, then you got some rage coming out of me because it tells me to truly step up." He accused the ASA of "consistently lying." Defendant maintained that he killed Bonds accidentally and that he was sad and broken-hearted. He stated that Bonds slept with other men in

their apartment, but that he helped her pay for repairs to her car and he called her when her sister died. He offered prayers for "you all."

¶ 35 In response to questioning from defense counsel, defendant indicated that he had been involved in a number of programs at the Cook County jail. He had received certificates indicating he completed three Bible study courses, an ethics program, and an emotional literacy program, and had received several letters congratulating him on his progress in or completion of the programs. Defense counsel then presented mitigation testimony from defendant's aunt.

¶ 36 Defense counsel argued, among other things, that defendant had a history of "mental illness" and was taking Prozac and sleeping pills. Defense counsel also argued that defendant was involved in his church and had been continuing his religious studies, had a high school education, had maintained steady employment for 20 years, and had the support of his family.

¶ 37 The trial court sentenced defendant to 60 years for first degree murder, with an additional 30 years for personally discharging the firearm that caused Bonds's death, for a total sentence of 90 years in prison. In the course of pronouncing sentence, the court noted defendant had been found fit to stand trial after two evaluations by Dr. Cooper and one evaluation by a psychiatrist, Dr. Nishad Nadkarni. The court highlighted that Dr. Nadkarni wrote in his report that there was no evidence defendant suffered from major mental illness or cognitive impairment that would preclude him from participating in his defense and that defendant did not require psychotropic medications in order to maintain his fitness or functioning.

¶ 38 The court noted defendant's testimony that after he shot Bonds in the back, he asked her why she moved and got in the way and implored her to listen to him, "As if her death was her fault." The court also observed that after the shooting, defendant ran after Lockett with the intent

to shoot him, and that as such, it was aggravating that "defendant wanted this to be a double murder." The court stated it had reviewed the information presented in the PSI report, including that defendant had a "very, very, minimal background," was employed, had graduated from high school, was taking Prozac for depression, and had no history of illegal drug use. The court noted all of the religious programs in which defendant had participated in jail, stating, "So it does show the defendant is capable of better when he wants to." The trial court concluded as follows:

> "The State already mentioned statutory factors in aggravation and mitigation. I'll touch on them briefly. The defendant's conduct did cause or threaten serious harm not only to Ms. Bonds, but to the second person that he intended to kill. By his own testimony he wanted to shoot the other person. In mitigation, the defendant does not have a prior history of delinquency or criminal activity. Not a substantial history. It's aggravating that the defendant was married to Ms. Bonds at the time even though they had not been living together for some years."

¶ 39 Defendant was sentenced on August 29, 2016. That same day, the trial court denied defense counsel's oral motion to reconsider sentence, allowed counsel to withdraw, and indicated it would have the Office of the State Appellate Defender appointed for appeal. It does not appear from the record that a notice of appeal was filed. Defendant filed a *pro se* motion to reconsider sentence on March 9, 2018. The trial court denied the motion on June 1, 2018, noting that counsel had already filed a motion to reconsider sentence and finding that defendant's motion was "frivolous, without merit, contradicted by the record, and untimely." Defendant filed a *pro se* notice of appeal on June 26, 2018. On August 15, 2019, the Illinois Supreme Court issued a supervisory order instructing this court to treat the June 26, 2018, notice of appeal as a properly

perfected notice of appeal from defendant's conviction and sentence. *Roberts v. Hyman*, No. 125119 (Ill. Aug. 15, 2019) (supervisory order).

¶ 40 On appeal, defendant contends that his 90-year sentence completely forecloses any possibility of restoring him to useful citizenship and that his sentence is excessive in light of mitigating factors.

¶ 41 A trial court has broad discretionary powers in imposing a sentence, and its sentencing decisions are entitled to great deference on review. *People v. Alexander*, 239 Ill. 2d 205, 212 (2010). Sentencing decisions are entitled to great deference on appeal because the trial court is in a superior position to fashion an appropriate sentence based on firsthand consideration of the relevant sentencing factors, including the defendant's credibility, demeanor, moral character, mentality, social environment, habits, and age. *People v. Fern*, 189 Ill. 2d 48, 53 (1999). Although the trial court's consideration of mitigating factors is required, it has no obligation to recite each factor and the weight it is given. *People v. Wilson*, 2016 IL App (1st) 141063, ¶ 11. Absent some indication to the contrary, other than the sentence itself, we presume the trial court properly considered all relevant mitigating factors presented. *People v. Sauseda*, 2016 IL App (1st) 140134, ¶ 19.

¶ 42 In reviewing a defendant's sentence, this court will not reweigh the aggravating and mitigating factors and substitute its judgment for that of the trial court merely because it would have weighed these factors differently. *People* v. *Busse*, 2016 IL App (1st) 142941, ¶ 20. A sentencing determination will not be disturbed absent an abuse of discretion. *People v. Stacey*, 193 Ill. 2d 203, 209-10 (2000). Sentences that fall within the permissible statutory range may be deemed to be the result of an abuse of discretion only where they are "greatly at variance with the

spirit and purpose of the law, or manifestly disproportionate to the nature of the offense." *Id.* at 210.

¶ 43 Here, we find that the trial court did not abuse its discretion in sentencing defendant to 90 years' imprisonment. Defendant was convicted of first degree murder, an offense with a sentencing range of 20 to 60 years. 730 ILCS 5/5-4.5-20(a) (West 2010). Where defendant personally discharged the firearm that proximately caused Bonds's death, he was subject to a 25-year to natural life enhancement. 730 ILCS 5/5-8-1(a)(1)(d)(iii) (West 2010)). Thus, the possible sentencing range in this case was 45 years to natural life. Because the 90-year sentence imposed in this case was within the statutory sentencing range, it is presumed proper. *People v. Knox*, 2014 IL App (1st) 120349, ¶ 46.

¶ 44 Defendant does not dispute that his sentence fell within the permissible sentencing range and is presumed proper. Rather, he argues that his sentence is excessive where, given his minor and non-violent criminal background, nothing in his past indicates he would be a continuing danger to society. As evidence of his rehabilitative potential, defendant highlights his long and stable work history, education, familial ties, and completion of bible study courses while in custody. Noting that he had been hospitalized in the past for schizophrenia and was prescribed psychotropic medication through trial, defendant further argues that the trial court "appears to have discounted any of [his] mental issues on grounds that he was found fit to stand trial," even though fitness for trial "does not mean that [defendant] did not suffer from any mitigating mental health issues." Finally, defendant argues that his conduct was the result of circumstances unlikely to recur, as the murder arose from the "unique dynamics" of his relationship with Bonds and his conduct "should not be generalized to assume that he would be a continuing threat to the public."

¶ 45 The record shows that the trial court was well aware of the mitigating factors identified by defendant on appeal. Almost all of these mitigating factors—defendant's minimal criminal background, work history, education, family ties, participation in Bible classes, and prescribed use of Prozac for depression—were included in the PSI report, which the trial court stated it had reviewed prior to imposing sentence. In addition, defense counsel further highlighted defendant's participation in programs while at Cook County jail, education, employment history, history of "mental illness," and use of Prozac and sleeping pills. Given that all of the mitigating factors defendant raises on appeal were discussed in defendant's PSI report or in arguments in mitigation, defendant essentially asks us to reweigh the sentencing factors and substitute our judgment for that of the trial court. As noted above, this we cannot do. See *Busse*, 2016 IL App (1st) 142941, ¶ 20 (a reviewing court must not substitute its judgment for that of the trial court merely because it would have weighed these factors differently). As the trial court is presumed to have considered all evidence in mitigation, and the evidence suggests that it did, we find that the trial court did not abuse its discretion in sentencing defendant to 90 years' imprisonment for first degree murder.

¶ 46 In reaching this conclusion, we are mindful of defendant's argument that the trial court incorrectly discounted his history of mental health issues—in particular, his past hospitalizations for schizophrenia and prescribed use of psychotropic medication—as a mitigating factor on grounds that he was fit to stand trial. However, our supreme court has held that information about a defendant's mental or psychological impairments is not inherently mitigating. *People v. Ballard*, 206 Ill. 2d 151, 190 (2002). In addition, mitigation evidence of a defendant's mental health does not preclude imposition of a severe sentence when that evidence is outweighed by aggravating evidence. *Id.* Here, the record includes numerous indications that defendant was taking Prozac for

depression. But the only evidence that defendant had been hospitalized for schizophrenia came through his self-reporting to Dr. Cooper in 2013. Based on this limited information, we find it reasonable that the trial court apparently gave defendant's mental health history of schizophrenia little weight as a mitigating factor when balanced against the pertinent aggravating factors, especially the seriousness of the crime. *People v. Lima*, 328 Ill. App. 3d 84, 101 (2002) ("[T]he seriousness of the crime committed is considered the most important factor in fashioning an appropriate sentence.").

¶ 47 Finally, we reject defendant's argument that it was mitigating that his conduct was the result of circumstances unlikely to recur. He asserts that the shooting arose out of the "unique dynamics" of his relationship with Bonds and that, as such, his conduct should not be generalized to assume that he would be a continuing threat to the public. The State points out that defendant had intended to kill not only Bonds, but Lockett as well. Defendant, in his reply brief, responds that his conflict with Lockett was based solely on the two men's relationship with Bonds and reiterates that, therefore, it cannot be generalized to assume he would continue to be a threat.

¶ 48 Assuming, *arguendo*, that defendant would no longer be a threat to Lockett, even where a crime is the product of circumstances unlikely to recur and a defendant is unlikely to reoffend, a trial court is not obligated to impose a minimum sentence based on this mitigating factor. *People v. Sullivan*, 2014 IL App (3d) 120312, ¶ 54 (murder victim was defendant's father). Additionally, a trial court is not required to give more weight to a defendant's rehabilitative potential than to pertinent factors in aggravation. *People v. Weiser*, 2013 IL App (5th) 120055, ¶ 32. This court has stated that "[i]n fashioning the appropriate sentence, the most important factor to consider is the seriousness of the crime." *Busse*, 2016 IL App (1st) 142941, ¶ 28. Here, the record shows that

defendant shot Bonds in the back, shot her again in the forehead at close range as she lay on the ground, and then ran after Lockett with the intent to shoot and kill him as well. Under these circumstances, we cannot say that defendant's sentence was an abuse of discretion.

¶ 49 Given the facts of this case, the interests of society, and the trial court's stated consideration of mitigating and aggravating factors, we cannot find that defendant's sentence is "greatly at variance with the spirit and purpose of the law, or manifestly disproportionate to the nature of the offense." *Stacey*, 193 Ill. 2d at 210. Accordingly, we find no abuse of discretion.

¶ 50 For the reasons explained above, we affirm the judgment of the circuit court.

¶ 51 Affirmed.