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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST DISTRICT

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THE PEOPLE OF THE STATE OF	)	Appeal from the
ILLINOIS,	)	Circuit Court of
	)	Cook County.
Plaintiff-Appellee,	)	
	)	No. 09 CR 14743-01
v.	)	
	)	Honorable
DEREK GRIB,	)	Frank Zelezinski,
	)	Judge, presiding.
Defendant-Appellant.	)	

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JUSTICE COBBS delivered the judgment of the court.  
Presiding Justice Fitzgerald Smith and Justice Pucinski concurred in the judgment.

**ORDER**

- ¶ 1 *Held:* The State presented sufficient evidence to prove defendant guilty of second-degree murder where defendant used a knife on his unarmed victim and multiple witnesses testified that defendant was the initial aggressor and struck victim after the initial fight had ended. The evidence also supported defendant's conviction for aggravated battery, despite defendant not knowing the identity of the person he struck with a knife. The sentences for both convictions were not excessive where they were within statutory guidelines.
- ¶ 2 Following a bench trial, defendant Derek Grib was convicted of the second-degree murder of Felix Jimenez and the aggravated battery of Demetri Castillo and sentenced to consecutive terms of 11 and 2 years in prison respectively. On appeal, defendant contends

that the State failed to prove him guilty of both offenses beyond a reasonable doubt and that his sentence is excessive. We affirm.

¶ 3

### I. BACKGROUND

¶ 4

On the evening of July 12, 2009, defendant attended a birthday party with numerous other teenagers. At the party, a fight broke out between 16-year-old defendant and 18-year-old Felix. Following the fight, defendant fled and Felix and defendant's friend Demetri were taken to the hospital with knife wounds. Felix died from his injuries.

¶ 5

At defendant's trial, Craig Williams testified that he was with defendant prior to the party on the afternoon of July 12, 2009. Craig, defendant, and several other individuals drove around in defendant's vehicle. Defendant sat in the front passenger seat, flicking a knife open and closed, and talked about "not being afraid to kill somebody with it." He also drew lines on the seats with the knife and stabbed the vehicle's visor. For about an hour as the teenagers drove around, defendant handled the knife, tracing the seats and running the blade along them. Eventually, they dropped the vehicle off at defendant's house and began to walk to the party. Defendant showed his knife to his friend Demetri, and continued to flick the knife open and closed. Before their arrival at the party defendant placed the knife in his back pocket. Craig left the party prior to the fight.

¶ 6

Michael Severino testified that he was also with defendant prior to the party. Severino also saw defendant handling his knife while they drove together, including stabbing the ceiling of the car. Defendant eventually put the knife in his back pocket. After dropping the vehicle off at defendant's home, they walked to the party. When they arrived, the sun had set and most of the guests were sitting around a bonfire in the backyard. Defendant sat with his girlfriend, Lauren Pikor, a couple of seats away from Michael. At around 11 p.m., Felix

arrived with his cousin, Angel Colon, and Felix began to greet people around the bonfire. Michael heard swearing and turned to see defendant approach Felix from behind and begin to punch him in the head. Felix and defendant then fought while Demetri and Angel attempted to pull them apart. The fight moved to the ground and the two teenagers rolled around. At one point, defendant was on top of Felix and Demetri tried to pull defendant backwards. Defendant appeared to "push" Demetri away, but when Demetri turned away he had "a very large laceration on his side with innards, intestines hanging out." Michael then ran away. He further testified that he did not see a knife in the hands of defendant or Felix.

¶ 7 Angel Colon testified that he and Felix began to greet people near the bonfire when they arrived at the party. As Angel hugged another partygoer, he heard footsteps and then a slap or punch. Angel felt Felix fall into him. He turned around and saw Felix and defendant fighting with their fists. Although defendant was initially on top of Felix, Felix eventually flipped defendant over and placed him in a headlock. He asked defendant, "Are you done yet?" He hit defendant in the face twice and again asked if he was done. Angel then pulled the two men apart. Defendant then ran back at Felix and punched him in the stomach. The two began fighting and again fell to the ground with defendant on top of Felix. Demetri attempted to help Angel break up the fight by pulling defendant off of Felix. Demetri grabbed defendant's shoulder and told him to calm down. Defendant glanced back and saw Angel. He swung back towards Angel, but missed and hit Demetri. After Demetri was struck, Angel saw lots of blood coming from his chest. Angel turned to Felix and saw that he was panting heavily. Felix lifted up his shirt to reveal a large gash on his right side. Angel and another partygoer attempted to assist Felix until an ambulance arrived.

¶ 8 Demetri testified that defendant was sitting near the bonfire with Lauren on his lap during the party. A guest stated that Felix would also be attending and Lauren looked worried. She and defendant were "talking like \*\*\* yelling at each other, not loud." Felix and Angel subsequently arrived and began greeting people. Demetri heard a "ruckus" and people say "They're fighting." He looked over and saw defendant fighting someone, although he could not identify the other individual at that time. Demetri ran and grabbed defendant in a "bear hug" from behind. He said, "Derek, what are you doing? It's me, Demetri." Defendant suddenly swung back at him. Demetri felt pain in his left side and could not breathe. He looked down and saw a puddle of blood, and upon lifting his shirt saw his intestines fall out and hit the ground. When he looked back up, defendant had fled. Demetri suffered a 12-inch wound and was hospitalized for two weeks.

¶ 9 Patrick Hauser was also present at the birthday party. He testified that when Felix arrived at the party he passed by defendant. Defendant then punched Felix in the head and he fell to the ground with defendant on top of him. The two rolled around, frequently changing positions as to who was in control. When Felix was on top, he stated, "I don't want to fight you," but then defendant got back on top of him. While defendant was on top of Felix, Demetri tried to pull defendant off of him. Defendant turned and hit Demetri on the side. Demetri stumbled down and lifted his shirt to reveal a large open wound. Felix then stated, "I got stabbed, too." When Felix lifted his shirt, two wounds were visible on his chest. At this point, defendant was no longer present.

¶ 10 Jordan Parel testified that defendant approached Felix from behind as he was greeting people and punched him in the side of the head. As Felix turned towards defendant, defendant continued to strike him. Felix began to block the blows and strike back. The two

fell to the ground and continued to fight. Felix told defendant that he did not want to fight and tried to restrain him by holding him in a headlock. Defendant remained on top of Felix and continued to punch him. When Angel tried to pull Felix away and Demetri tried to pull defendant, defendant reached back and struck Demetri in the stomach. Jordan went to tend to Demetri, who was bleeding heavily and had internal organs visible. Felix had a pool of blood on his chest.

¶ 11 Justin Parel similarly testified that defendant approached Felix and struck him in the back of the head. Defendant landed several more blows to Felix's face before he was able to turn around and "retaliate." Felix began to fight back and the two ended up on the ground with Felix in "a dominant position," pinning defendant's head, and striking him in the face. Felix said something like "Are you done? Stop." The two then returned to their feet, but the fight started again and they ended up on the ground with defendant in the dominant position. Demetri and Angel then attempted to break the fight up. When the fight appeared over, and defendant and Felix were once again standing, defendant reached over and struck Felix in the stomach.

¶ 12 Alexis Olinger testified that as Felix was shaking hands with people, defendant approached him from behind and started a fight. Defendant was on top of Felix, punching him in the face. Demetri tried to pull the two apart and got up holding his stomach area, stating that he had been stabbed.

¶ 13 Lauren testified that she was defendant's girlfriend and at the time of the party on July 12, 2009, they had been dating for about eight months, although the relationship was "on and off a lot." A week prior to the party, defendant and Lauren had broken up. Over the course of that week, Lauren and Felix began communicating over social media and exchanged phone

numbers. They sent text messages back and forth. On either the day of or the day before the party, defendant and Lauren decided to resume their relationship. Following the reconciliation, Lauren informed defendant that she had been texting Felix. Defendant used Lauren's phone to call Felix on speakerphone. Defendant informed Felix that he and Lauren had gotten back together and indicated that Felix should no longer communicate with her. Felix agreed.

¶ 14 At the party, Lauren was sitting with defendant when Felix arrived. Defendant appeared angry and then ran at Felix. He punched Felix in the face and the two began to fight. At first they stood and fought with their fists, but they fell and wrestled on the ground. Felix ended up on top of defendant. Eventually, the host's parents came out and the fight ended. Defendant left the area and Lauren saw Demetri bleeding heavily and Felix lying on the ground. Shortly thereafter, defendant called Lauren on her cell phone. At trial she testified that she could not remember what he said; however, the State introduced her prior written statement and her grand jury statements in which Lauren stated that defendant said he had done it "because he loved her."

¶ 15 Oak Forest police officer Jason Doornkaat testified that he responded to a call of a stabbing at the party and began to patrol the area. He saw defendant running away from the scene of the stabbing and wearing clothes matching the description the officer had received. There was blood on defendant's face and arms. When the officer told defendant to stop, defendant continued to move away from the officer. Doornkaat drove after defendant, exited his vehicle, and ordered defendant to the ground with his gun drawn. Dropping to his knees, defendant yelled, "Okay, okay, you got me. I did it. I stabbed them. My name is Grib." The

officer arrested him. Two other officers testified that a bloody knife was found and recovered from the party. Craig and Michael identified the knife as defendant's.

¶ 16 The parties stipulated that a post-mortem examination revealed that Felix died as a result of multiple stab wounds.

¶ 17 Defendant testified that he did not know that Felix would be present at the party on July 12, 2009. He was standing with Lauren when Felix and Angel got to the party. Felix walked within five feet of defendant and mouthed, "B\*\*\*\*, you f\*\*\*ed up." Taking the statement as a threat, defendant approached Felix and punched him in the head twice. After about 10 to 15 seconds they fell to the ground with Felix on top of defendant. Felix choked and punched defendant. When defendant tried to punch back he felt someone kicking him in the back of the head. Defendant told Felix to get off, but he continued to punch and choke defendant. Defendant then saw a knife in Felix's hand. He slapped the knife out of Felix's hand, cutting his own left hand in the process. Because Felix was still on top of him, defendant felt around for the knife. He again told Felix to get off of him. When Felix did not comply, defendant stabbed Felix in the "butt" because he "was in fear for [his] life." Following the stab, Felix began to punch defendant harder. He grabbed defendant by the neck and defendant tried to push him off. Defendant indicated that he pushed "with a closed fist coming from his chest outward." He pushed twice, but did not realize that he still held the knife in his hand. He finally pushed Felix off and rolled on top of him. He held Felix down and neither of them continued to punch. Defendant felt someone "yanking" him away from Felix and he "just swung [his] arm back just to get, just to get whoever off" of him. He did not look where he swung. Defendant admitted that the knife was in his hand when he swung. He looked back

and saw that Demetri "was cut." He did not do it purposefully. Defendant then fled because he was frightened.

¶ 18 Defendant also testified regarding several encounters with Felix that occurred in the years prior to the party. On June 6, 2007, Felix called defendant and stated, "I wanna f\*\*\* you up." Defendant replied, "Come over. You know where I live." Less than an hour later Felix and three other individuals arrived outside of defendant's house. The teenagers hurled expletives at defendant and told him to come down from the porch. Defendant's mother yelled "Call the police," and the three other individuals fled. Felix charged defendant and threw him onto a parked car. They both then fell to the ground with Felix punching defendant, choking him, and bashing his head into the concrete. Defendant also threw punches. His mother then told one of defendant's friends to hit Felix, and Felix fled. Defendant did not file a police report because he did not want trouble at school. He admitted that he told police that he had told Felix to come to his house and fight him. Defendant further testified that the next day, Felix drove past defendant's house. He laughed, said "f\*\*\* you," and formed a gang sign.

¶ 19 Defendant also testified that in September 2007, Felix and several other teenagers approached defendant in his high school bathroom. Felix said, "You know what? This s\*\*\* isn't over. I'm gonna catch you out of school. I'm gonna f\*\*\* you up out of school. Let me catch you out of school. I'm not dumb enough to do it in school." Defendant never told anyone of this incident prior to trial. Finally, defendant testified that he was at a party in December 2008, where Felix came up to him and informed him that all of his family members were in a gang and "they had [Felix's] back."

¶ 20 Defendant's mother, Kristin Grib, testified that on June 6, 2007, Felix and three other teenagers approached her front porch and that Felix eventually attacked defendant. Her



testimony was consistent with defendant's account of the incident on June 6, 2007. Grib also testified that following the birthday party, defendant had several injuries including a cut to his left hand. Defendant introduced several photographs indicating injuries to his face and body, including a cut on the palm of his hand.

¶ 21 Following arguments, the trial court found defendant guilty of the second-degree murder of Felix and the aggravated battery of Demetri. It found him not guilty of the attempted murder of Demetri. The court stated that it was convinced that defendant was the individual who stabbed both Felix and Demetri. The court explained that the issue before him was whether defendant's actions were justified. It stated:

"[Defendant] does bring in the fact that [Felix] at one point had the knife, but he knocked it away. Basically neutralizing the situation again. He goes and grabs it after he had been kicked in the head and stabbed [Felix] in the buttock. And as he indicated, he was scared and things were happening. And I do know that the fatal wounds occurred at some point, but I do know that when his own friend tried to pull him out from this fight, he stabbed his own friend. And he said he would not have done this to his own friend, and I do believe that he did not intend to do that to his own friend. Or the fact that he was, in fact, flailing his arm towards another human being, it does not justify what occurred there. He bears what occurred to [Demetri]. Even though he might not have wanted to do it specifically to [Demetri], he did it to another human being and we can't justify that in any way.

And regarding the fact of self-defense regarding [Felix], at the point Mr. Grib had knocked the knife away, even though he saw at one point [Felix] had it and the knife was loose, he grabbed it himself and continued onwards, it's not self-defense by this court.

But the court, looking at the actions and the testimony of what occurred, does feel that the actions and belief of it were very unreasonable by [defendant]."

¶ 22 At a hearing on post-trial motions, the court further explained that "in light of all circumstances that had occurred and were testified to that defendant acted unreasonable in believing he had to act in self-defense." In regards to the stabbing of Demetri, the court stated that defendant was "trying to free himself from anybody and anything," and that "he did intend to stab a human being." The trial court sentenced defendant to consecutive terms of 11 years for second-degree murder and 2 years for aggravated battery.

¶ 23

## II. ANALYSIS

¶ 24

### A. Second-degree Murder Conviction

¶ 25

Defendant's first contentions challenge the sufficiency of the evidence supporting his conviction of second-degree murder. He argues that the trial court erred in finding that his belief that self-defense was required was objectively unreasonable. He alternatively argues that the court erred in finding him guilty of second-degree murder instead of involuntary manslaughter because his actions were merely reckless, not intentional.

¶ 26

Initially, we note that defendant has argued that a plethora of different standards of review are applicable to his claims. However, the standard of review for sufficiency of the evidence claims is well settled. *People v. Zirko*, 2012 IL App (1st) 092158, ¶ 54. 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 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." *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). This court may not retry a defendant on appeal (*People v. Milka*, 211 Ill. 2d 150, 178 (2004)), and must resolve all reasonable inferences in favor of the prosecution (*Cunningham*, 212 Ill. 2d at 280).

¶ 27 A reviewing court must also give due consideration to the fact that a trier of fact is able to see and hear the witnesses. See *People v. Ortiz*, 196 Ill. 2d 236, 267 (2001). It is for the trier of fact to resolve any inconsistencies or contradictions in the testimony of the witnesses. *People v. Bull*, 185 Ill. 2d 179, 205 (1998). 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." *Cunningham*, 212 Ill. 2d at 279.

¶ 28 First-degree murder occurs when an offender (1) kills another individual (2) without lawful justification and (3) either intends to kill or do great bodily harm to that individual or another or knows that such acts will create a strong probability of death or great bodily harm. 720 ILCS 5/9-1 (West 2012). Second-degree murder occurs when an individual commits first-degree murder, but a mitigating factor is present. See *People v. Thompson*, 354 Ill. App. 3d 579, 587 (2004); see also 720 ILCS 5/9-2 (West 2012). One such factor, is if "at the time of the killing [defendant] believes the circumstances to be such that, if they existed, would justify or exonerate the killing under the principles stated in Article 7 of this Code, but his or her belief is unreasonable." 720 ILCS 5/9-2 (a)(2) (West 2012).

¶ 29 Self-defense is an affirmative defense. *People v. Lee*, 213 Ill. 2d 218, 224 (2004). In order to raise the defense, a defendant must provide some evidence that he or she (1) actually and subjectively believed that unlawful force was threatened against a person, the danger of harm was imminent, and the use of force was necessary; (2) that such a belief was objectively reasonable; and that (3) defendant was not the initial aggressor. See 720 ILCS 5/7-1 (West 2012); see also *Lee*, 213 Ill. 2d at 225. Once the defendant has met this burden, the burden of proof shifts to the State to prove beyond a reasonable doubt that the defendant did not act in self-defense. *People v. Hawkins*, 296 Ill. App. 3d 830, 837 (1998). The State carries its burden if it negates any one of the elements beyond a reasonable doubt. *People v. Jeffries*, 164 Ill. 2d 104, 128 (1995). Moreover, a defendant is justified in the use of force that is intended or likely to cause death or great bodily harm only if: he reasonably believes that such force is necessary to prevent (1) imminent death or great bodily harm to himself or another, or (2) the commission of a forcible felony. 720 ILCS 5/7-1 (West 2012); *People v. Nolan*, 214 Ill. App. 3d 488, 495 (1991).

¶ 30 Defendant does not contest that he caused Felix's death by stabbing him twice in the chest. Therefore the only questions before this court are whether the State proved beyond a reasonable doubt that (1) the stabbing was not justified by self-defense and (2) whether defendant either intended to kill or knew that his actions would create a strong probability of death or great bodily harm.

¶ 31 Whether a killing is justified under the doctrine of self-defense is inherently a question of fact reserved for the trier of fact. *People v. Young*, 347 Ill. App. 3d 909, 920 (2004). The State presented ample evidence that the killing of Felix was not justified. Every witness who saw the beginning of the fight testified that defendant threw the first punch or slap, including

defendant himself. Thus, a fact finder could clearly find that defendant was the initial aggressor. Although defendant describes Felix as dominant throughout the fight, and mercilessly choking and pummeling him, multiple other witnesses described the fight as a back and forth with each participant taking control at various times. Moreover, several witnesses testified that when Felix was in the dominant position he did not threaten defendant's life, but rather attempted to end the fight by asking defendant to stop and indicating his own desire not to fight. Taking this evidence in the light most favorable to the State, a rational fact finder could find that Felix did not threaten imminent, deadly force against defendant and consequently, defendant did not reasonably believe that lethal force was necessary to protect himself.

¶ 32 We note that the record is ambiguous as to whether the trial court accepted defendant's testimony that Felix held the knife at some point during the fight<sup>1</sup>. However, even if we accept, *arguendo*, that Felix held defendant's knife early in the fight it does not change our decision. As the trial court noted, defendant testified that Felix lost the knife and defendant himself recovered it. The trial court could reasonably conclude that any imminent danger caused by the knife ended when Felix lost the weapon or when defendant regained it. Moreover, multiple witnesses also testified that the fight had stopped and both participants got to their feet. Angel testified that defendant then attacked Felix again and the two went down to the ground. Both Angel and Justin testified that defendant struck Felix in the torso at the end of the fight, immediately prior to Felix's stab wounds being discovered. A fact-finder could reasonably infer that Felix's wounds came at the end of the fight, when any danger to defendant, and certainly any imminent danger of death, had passed.

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<sup>1</sup> Although the trial court referred to defendant raising the "fact" that Felix held the knife, in the context of the trial court's full remarks it appears that the court was merely accepting the fact for sake of argument, particularly where it noted that the "only evidence" corroborating the testimony was the cut on defendant's hand.

¶ 33 Defendant argues that we must find his belief objectively reasonable as a matter of law because, he asserts, the trial court's finding of second-degree murder necessarily indicates that it accepted his testimony over that of the other witnesses. Defendant is incorrect. He generally cites *People v. Moore*, 343 Ill. App. 3d 331 (2003) and subsection 9-2(a)(2) of the Criminal Code of 2012 (720 ILCS 5/9-2(a)(2) (West 2012)) for the proposition that in order for the trial court to find a defendant guilty of second-degree murder based on an unreasonable belief regarding self-defense, it must have found that the evidence showed that force was threatened against defendant, the danger was imminent, the threatened force was unlawful, and that defendant subjectively believed that his actions were necessary to prevent the threatened force. Defendant's citations offer no support for this proposition. Indeed, defendant's proposition is inherently illogical; if the evidence showed that defendant was actually faced with a real threat of imminent and dangerous harm, it would be hard to understand how the trial court would then find that defendant's belief in that threat was unreasonable. *Moore* and subsection 9-2(a)(2) state that second-degree murder occurs where a defendant "believes" that the circumstances of self-defense are present, not where the circumstances are in fact present. See *Moore*, 343 Ill. App. 3d at 340; see also 720 ILCS 5/9-2(a)(2) (West 2012).

¶ 34 Defendant also argues that the State failed to prove that he had the requisite intent for second-degree murder, and the trial court should have therefore found him guilty of only involuntary manslaughter. The primary distinction between involuntary manslaughter and murder is the mental state that accompanies the conduct resulting in death. See *People v. DiVincenzo*, 183 Ill. 2d 239, 249 (1998). As already noted, second-degree murder requires that a defendant either intended to kill or do great bodily harm to an individual or another, or

knew that such acts would create a strong probability of death or great bodily harm. 720 ILCS 5/9-2 (West 2012); see also 720 ILCS 5/9-1 (West 2012). Involuntary manslaughter occurs when the defendant acts recklessly, in other words, with a conscious disregard for a substantial risk that death will follow from his or her actions. See *DiVincenzo*, 183 Ill. 2d at 250.

¶ 35 A fact finder may presume that an individual intended the natural and probable consequences of his or her actions. *People v. Dorsey*, 2016 IL App (4th) 140734, ¶ 34. Defendant stabbed Felix in the chest twice. The trial court could reasonably find that the natural and probable consequence of stabbing an individual in the chest is that individual's death, and thus presume defendant intended to kill Felix. Moreover, at the very least the court could reasonably assume that defendant knew that such actions would create a strong probability of death.

¶ 36 Defendant seeks to analogize his case to *DiVincenzo*, where our supreme court set forth a list of factors to consider "whether a defendant acted recklessly and whether an involuntary manslaughter instruction is appropriate." *DiVincenzo*, 183 Ill. 2d at 250-51. However, that case involved a victim dying from a "rare phenomenon" that occurred after a weaponless fight. *Id.* As a stabbing to the chest is significantly more likely to cause death than a weaponless fight, we find *DiVincenzo* inapposite.

¶ 37 Defendant also argues that we must accept his testimony that he did not purposefully stab Felix, but rather was attempting to push him away and did not realize he was still holding a knife, because his testimony was undisputed. First, it is not clear that defendant's testimony was undisputed. Even though no witness saw the knife in defendant's hands, several indicated punches or strikes by defendant that the trial court could reasonably infer were the killing

strikes. Regardless, a fact finder need not accept a defendant's exculpatory account, particularly where it is improbable or implausible. *Young*, 347 Ill. App. 3d at 920. The trial court was not unreasonable in rejecting defendant's claim that the two, distinct stabbings to Felix's chest occurred because he forgot he was holding his knife.

¶ 38 Taking all of the evidence in the light most favorable to the State, the trial court could rationally find beyond a reasonable doubt that defendant knowingly killed Felix and that his actions were not justified by self-defense. Accordingly, the State presented sufficient evidence to convict defendant of second-degree murder.

¶ 39 B. Aggravated Battery Conviction

¶ 40 Defendant next contends that the State failed to prove him guilty of the aggravated battery of Demetri beyond a reasonable doubt, because it failed to prove that he acted intentionally or knowingly towards Demetri. He further asserts that the trial court's comments indicate that it found that defendant did not have the requisite intent.

¶ 41 A defendant commits aggravated battery as charged when he or she knowingly causes bodily harm to an individual without legal justification and, in doing so, knowingly causes great bodily harm. 720 ILCS 5/12-3.05 (West 2012); see also 720 ILCS 5/12-3(a)(1) (West 2012). In order to commit an aggravated battery as charged, a defendant need not intend or know that his or her conduct will harm a specific individual; it is enough that they intend or know that the conduct is targeted at any individual. See *People v. Valentin*, 347 Ill. App. 3d 946, 953 (2004) ("[D]octrine of 'transferred intent,' \*\*\* applies when a third person is injured as a result of a defendant's assault upon another person."); see also *People v. Dorn*, 378 Ill. App. 3d 693, 698 (2008) (applying transferred intent doctrine to aggravated battery). Under the doctrine of transferred intent, if an individual intentionally directs unlawful force at one



individual, that intent is deemed transferred to an unintended victim. See *People v. Conley*, 306 Ill. App. 3d 1, 7 (1999). Thus, a defendant is not absolved of liability for his or her crimes just because they failed to properly discern the identity of their victim. See *People v. Hill*, 315 Ill. App. 3d 1005, 1012 (2000).

¶ 42 In regards to his aggravated battery conviction, defendant challenges only the sufficiency of evidence proving his mental state. Defendant testified that he deliberately swung his arm back to try and stop whoever was pulling him off of Felix. He knew the knife was in his hand. Even without this testimony, multiple State witnesses saw defendant strike at Demetri as he tried to break up the fight. Immediately thereafter, Demetri displayed a 12-inch wound so serious that his internal organs fell from his body. Taking this evidence in the light most favorable to the State, the trial court could rationally conclude beyond a reasonable doubt that defendant knew his striking out at a human being while armed with a knife was substantially likely to cause great bodily harm, the natural and probable consequence of such an act.

¶ 43 Defendant's reliance on the trial court's statements that defendant "did not intend to do that to his own friend" and various witnesses' statements that he "accidentally" cut Demetri is misplaced. It is clear from the court's later comments that it found defendant did intend to stab a human being, though he did not know that the human being happened to be Demetri. Similarly, it is clear from the context of the witnesses' statements that the attack was not an accident in regards to the defendant's striking a human being, but rather that defendant regretted the person his previously unidentified victim turned out to be.

¶ 44

### C. Sentencing

¶ 45 Defendant finally contends that his consecutive 11-year sentence for second-degree murder and 2-year sentence for aggravated battery are excessive. He argues that he was only 16 years old at the time of the offense, had no prior history of criminal involvement, was engaged in a "vicious battle with a stronger, older boy," was unlikely to repeat his crime and was likely to comply with terms of probation.

¶ 46 At sentencing, the trial court explicitly explained that it "reviewed all matters in aggravation and mitigation." It noted that it had received many victim impact statements as well as letters on defendant's behalf. It also stated that it viewed defendant's connection to his family and his employment as factors in mitigation. The court also explained that the seriousness of the crime, particularly defendant's escalation of the fight by producing his knife, weighed in aggravation.

¶ 47 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). The trial court must consider all factors of mitigation and aggravation. *People v. Quintana*, 332 Ill. App. 3d 96, 109 (2002). 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.

¶ 48 Second-degree murder is a Class 1 felony with a sentencing range of 4 to 20 years. 720 ILCS 5/9-2(d) (West 2012); see also 720 ILCS 5/5-4.5-30(a) (West 2012). Aggravated battery is a Class 3 felony with a sentencing range of two to five years. 720 ILCS 5/12-3.05(h) (West 2012); see also 720 ILCS 5/5-4.5-40(a) (West 2012). 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).

¶ 49 Defendant's sentence for aggravated battery was at the minimum and his sentence for second-degree murder was also within the statutory range. The trial court explicitly stated that it reviewed all aggravating and mitigating factors. Defendant does not argue that trial court refused to consider mitigating factors; rather, he argues that the court incorrectly undervalued them. We will not reverse the sentencing court just because the factors could have been weighed differently. *Streit*, 142 Ill. 2d at 19. We cannot find that the trial court abused its discretion in sentencing defendant to consecutive terms of 11 years for second-degree murder and 2 years for aggravated battery.

¶ 50 III. CONCLUSION

¶ 51 For the foregoing reasons we find that the State presented sufficient evidence to prove defendant guilty of second-degree murder and aggravated battery beyond a reasonable doubt and that the trial court did not abuse its discretion in sentencing defendant. Accordingly the judgment of the circuit court of Cook County is affirmed.

¶ 52 Affirmed.