

No. 1-14-2943

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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. 12 CR 20284
)	
STEVEN GALLEGOS,)	Honorable
)	James B. Linn,
Defendant-Appellant.)	Judge Presiding.

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

O R D E R

- ¶ 1 *Held:* Judgment on defendant's conviction for aggravated battery with a firearm affirmed over his challenge that consecutive sentences were erroneously imposed and that his sentence is excessive.
- ¶ 2 Following a bench trial, defendant Steven Gallegos was convicted of aggravated battery with a firearm and sentenced to 18 years' imprisonment. The trial court found that defendant's sentence in this case had to be served consecutively to the three-year sentence imposed in case number 12 CR 20281. On appeal, defendant does not challenge his conviction, but contends that

the trial court abused its discretion when it determined that he was required to serve mandatory consecutive sentences because he did not inflict severe bodily injury on the victim in this case. Defendant also contends that his 18-year sentence in this case is excessive in light of his youth, minimal criminal history and potential for rehabilitation. We affirm.

¶ 3 Prior to the trial in this case, in case number 12 CR 20281, defendant was convicted of robbery, aggravated battery and unlawful restraint. The trial court postponed sentencing in that case until the conclusion of this case, at which time it sentenced defendant in both cases.

¶ 4 In the case at bar, defendant and his brother, codefendant Oscar Soto, were jointly tried on charges of attempted first degree murder and aggravated battery with a firearm. At trial, Jason Stewart testified that about 1:40 a.m. on September 22, 2012, he was on his way home from work and was walking on 52nd Street towards Marshfield Avenue. When he reached Wood Street, he came across a group of more than 20 members of the Satan Disciples street gang, some of whom he knew. Stewart knew the defendants for about four years, and knew defendant by his nicknames "Tank" and "Little Wood," and codefendant Soto as "Little Shadow." The defendants knew Stewart by his nicknames "Chuck" and "Chuckie." Stewart was a former member of the Gangster Disciples gang, but ended his gang affiliation in April 2007 when his son was born.

¶ 5 As Stewart approached the group, someone asked "who's that?" and Stewart replied "[i]t's me, Chuck." Defendant then asked Stewart when he was going to "flip" and join their gang, and Stewart replied "[n]o, I'm Larry's finest." Stewart explained that he was referring to Larry Hoover, the chief of the Gangster Disciples. Stewart also testified that the Satan Disciples and Gangster Disciples had a good relationship, like cousins, and he never had any trouble with defendant or codefendant.

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¶ 6 Stewart testified that Soto repeatedly told him that he had marijuana for sale. Stewart replied that he did not want any, but Soto persisted to the point that he was "forcing" it on Stewart. Stewart finally acquiesced, said "go get me one," and handed \$5 to defendant. Soto went inside a house across the street and did not return for 30 minutes. During that time, Stewart talked with defendant, and several other men asked Stewart when he was going to "flip" to their gang.

¶ 7 When Soto returned with the marijuana, defendant told Stewart that they had to go into the gangway across the street to complete the transaction because the police were around, and the three of them walked there. Soto then handed a bag of marijuana to Stewart, and defendant handed the \$5 to Soto. Defendant and Soto repeatedly told Stewart that they needed to speak with him, and Stewart repeatedly asked them "what's up, G," but they did not respond. Soto then drew a small revolver from his hoodie pocket, said "[f]uck you Bitch" and fired a gunshot at Stewart's face. Stewart turned his face quickly and the bullet flew past his face. When Stewart looked back at them, he saw that defendant also had a gun. Soto then said "GD killer" and both defendant and Soto repeatedly fired their guns at Stewart. Stewart spun around and ran to the alley, then felt something hit his back. He then ran from the alley and observed that Soto was chasing him. Stewart testified that defendant and codefendant fired more than seven gunshots at him.

¶ 8 Stewart ran to his mother's house and was beating on the front door. When Stewart's brother opened the door and saw Stewart, he started yelling and screaming. Stewart ran upstairs and his younger siblings also started screaming and crying. Stewart then felt the blood on his face and knew that he had been shot. An ambulance arrived at his mother's house about 45 minutes later and took Stewart to Stroger Hospital where he was treated for his injuries. While

Stewart was in the ambulance, he felt "stinging" in his back and yelled at the paramedic that there was something in his back. It was then that Stewart realized that he had also been shot in his back. Medical personnel at the hospital conducted a CAT scan and confirmed that Stewart had been shot in the back.

¶ 9 Stewart testified that he was shot twice in the head and once in the back. Stewart showed the court two bullet holes in his head above his right ear and a bullet hole in the middle of his back. Stewart testified that the bullet that entered his back traveled through his body while he was running, lodged in his neck, and cannot be removed. After being in the hospital for one day, Stewart walked out without being discharged because he "couldn't sit in there." Stewart subsequently identified defendant and codefendant in photo arrays and lineups.

¶ 10 The trial court found that the offense in this case was "an unprovoked unjustified shooting." The court also found that Stewart's identification of defendants as the men who shot him was "credible and compelling beyond a reasonable doubt," and that Stewart was "persuasive in court beyond a reasonable doubt as well." The court found, however, that the evidence was not sufficient to establish the element of intent to kill, and therefore, acquitted both defendants of all counts of attempted first degree murder. The court then found both defendants guilty of one count of aggravated battery with a firearm.

¶ 11 At sentencing, in aggravation, the State initially noted that in case number 12 CR 20281, defendant had been convicted of robbery and other offenses for chasing a victim and punching and kicking him. The State pointed out that there was evidence that defendant possessed a handgun during that offense, but the trial court did not find that allegation proven beyond a reasonable doubt.

¶ 12 The State then noted that as to the current case, the trial court found Stewart's testimony credible. The State pointed out that one factor the court could consider in aggravation was that defendant's conduct caused or threatened serious harm. The State argued that defendant and codefendant shot Stewart several times in an attempt to convince him to change his gang affiliation, and that the record was replete with evidence that the entire incident was motivated by the defendants' gang affiliation and activity. The State noted that a bullet remained lodged in Stewart's body, and remarked that he was fortunate to be alive. The State also argued that the sentence imposed should deter the defendants and others from committing similar crimes with handguns. In addition, the State argued that the public needed to be protected from the defendants and others who commit similar crimes, and that the maximum sentence should be imposed as a lesser sentence would deprecate the seriousness of the offense in this case.

¶ 13 The State then asserted that defendant could be sentenced to a consecutive prison term for the robbery in the other case. The court replied:

"When the legislature is talking about triggering offenses for mandatory consecutive terms, I think they are talking about things that happen during the course of what would be dealt with in one indictment, one particular course of conduct, and these were unrelated matters.

I'm not sure that that provision of the statute applies in this scenario."

The State then asked the court to consider imposing discretionary consecutive sentences.

¶ 14 In mitigation, defense counsel noted that defendant was 22 years old, had only one prior misdemeanor conviction for reckless conduct, and no other involvement with the criminal justice system. Counsel then presented testimony from Brother James Fogarty who testified that he heads a nonprofit organization that works with people in the neighborhoods where there is

violence. Brother Fogarty became familiar with defendant and codefendant when their cousin was murdered five years earlier. Brother Fogarty stated that he liked defendant very much and encouraged him to work. He noted that defendant had a job in St. Louis doing roofing work shortly before this incident. Brother Fogarty further testified that he is close with the family, and that defendant and codefendant have always been very respectful to him.

¶ 15 Defendant's mother, Angelina Gallegos, testified that she is a single mother with six children and that it is very hard for her children "to be in this place." She testified that her children are good boys, they have always worked and gone to school, they help her pay the bills and help with the younger children at home, and they have never given her any problems. Gallegos asked the court to impose the minimum punishment.

¶ 16 In allocution, defendant stated that he had learned a lot from this experience, that he realized that the life he had been living was not good, and that he had changed his way of thinking. He further stated that he was grateful for being where he was because if it was not for this case, he would probably be in a worse spot or dead. Defendant stated that the Lord placed him and codefendant in this situation to open their eyes. He also stated that he could not accept being there because he did something, and he and codefendant were in the wrong place at the wrong time. Defendant stated that he learned that family is the most important thing, and his mother depended on him and his brother to do many things. Defendant acknowledged that as the years passed, he and codefendant had become "more and more reckless," but noted that he had never before been in trouble. Defendant told the court that he wanted to return home because his mother needed them, and asked the court for forgiveness and mercy.

¶ 17 The State then asserted that the court was required to sentence defendant to mandatory consecutive sentences for his two cases pursuant to section 5-8-4(d)(1) of the Unified Code of

Corrections (Code) (730 ILCS 5/5-8-4(d)(1) (West 2012)), because aggravated battery with a firearm is a Class X offense and defendant inflicted injury to the victim. The court then asked to speak with the lawyers in chambers.

¶ 18 When the sentencing hearing resumed, the trial court stated that it considered all of the evidence presented at trial, the information contained in the presentence investigation report, and the evidence and arguments presented at the hearing. The court then stated that "[o]n reflection and review of the statute," it was required to impose mandatory consecutive sentences on defendant. The court then made the following findings:

"I am particularly mindful of the fact that this was a gang related, brazen bit of urban violence that is of the type [that] has been terrorizing our community. And I don't mean to say that these two young men should bear the responsible [*sic*] for all the difficulties that are going on in Cook County. Particularly the streets of Chicago.

It's not all their fault. But they surely were part of the responsible [*sic*] and not part of the solution. On this one this is an aggressive act of violence. And for no good reason other than something to do with gang pride and gang rivalry one over the other.

I will note from all of the people here that there is tremendous stress that has been caused to the family and perhaps have done more manage [*sic*] to the family than it did to the person that was shot in this case. There is a difference between Mr. Soto Mr. Gallegos so far as what has been presented to me. Mr. Gallegos obviously has two cases he's been convicted of both violent crimes. Mr. Soto one.

I see from the submissions made that there is quite a bit of things going on in Mr. Soto's life that make this particular case that brought him here more of an aberration as

opposed to something more regular let's say with Gallegos with his two cases. Both of them violent crimes. Is in a different set all together.

I am also mindful that these men have minimal if any criminal history at all. They come here not having been experienced in the criminal justice system not in and out of court. And I do have an obligation to [be] mindful of that.

I also have an obligation to protect the public as well from young men that are prone to this type of brazen violence."

¶ 19 The court sentenced defendant to 18 years' imprisonment for the aggravated battery with a firearm conviction, and in the other case, to 3 years' imprisonment each for his robbery, aggravated battery and unlawful restraint convictions. The court stated that the 3-year sentences in case number 12 CR 20281 would run concurrent with each other, and consecutive to the 18-year sentence in this case, for an aggregate sentence of 21 years' imprisonment.

¶ 20 After the court admonished defendant of his appeal rights, defense counsel stated that he would not be filing a notice of appeal that day, but requested that the State Appellate Defender be appointed to represent defendant for appeal. The court asked counsel "[a]re you making a motion to reconsider sentences?" and counsel replied "[y]es, Judge." The court stated that the motion was timely made and denied, and advised counsel to "fill out the paperwork."

¶ 21 On appeal, defendant first contends that the trial court abused its discretion when it determined that he was required to serve mandatory consecutive sentences because he did not inflict severe bodily injury on Stewart. Defendant argues that the court did not exercise any discretion to determine whether the statute applied. He further argues that the court failed to determine the severity of Stewart's injuries, and that the record is devoid of evidence establishing that Stewart suffered severe bodily injury. Defendant argues that Stewart did not sustain severe

bodily injury because the evidence showed that he ran from defendants and did not know that he had been shot until he arrived at his mother's house, he only felt a stinging pain in his back while in the ambulance, and he was hospitalized for only one day and walked out before being discharged.

¶ 22 Defendant acknowledges that he failed to preserve this issue for appeal because he did not object to the consecutive sentences at the sentencing hearing, and counsel only made a general oral motion to reconsider the sentence and did not file a written motion raising the specific issue. Defendant argues, however, that his issue is reviewable under both prongs of the plain error doctrine because the evidence at the sentencing hearing was closely balanced and the improper imposition of consecutive sentences constitutes second-prong plain error.

Alternatively, defendant argues that trial counsel rendered ineffective assistance because he failed to object to the consecutive sentences and should have argued that Stewart's injuries were not severe.

¶ 23 The State responds that defendant has forfeited the issue and that the plain error doctrine does not apply because no error occurred. The State argues that the evidence overwhelmingly established that defendant inflicted severe bodily injury on Stewart who was shot twice in the head and once in the back, and has a bullet lodged in his neck that cannot be removed. The State also argues that counsel did not render ineffective assistance because defendant was not prejudiced where any challenge to the consecutive sentences would have been futile.

¶ 24 It is well settled that in order to preserve a sentencing error for review, both a contemporaneous objection during the sentencing hearing and a written postsentencing motion raising the issue are required. *People v. Hillier*, 237 Ill. 2d 539, 544 (2010). Here, the record shows that defendant made no objection during the sentencing hearing and failed to file a written

motion to reconsider his sentence. Consequently, we find that defendant failed to preserve his issue for appeal, and therefore, it is forfeited. *Id.* at 544-45.

¶ 25 Defendant argues, however, that his claim may be reviewed under both prongs of the plain error doctrine. The plain error doctrine is a limited and narrow exception to the forfeiture rule which can only be invoked after defendant first demonstrates that a clear or obvious error occurred. *Id.* at 545. Thereafter, defendant must show that the evidence at the sentencing hearing was closely balanced, or that the error was so egregious that he was denied a fair sentencing hearing. *Id.* The burden of persuasion is on defendant, and if he fails to meet that burden, the procedural default will be honored. *Id.*

¶ 26 Pursuant to section 5-8-4(d)(1) of the Code, the trial court is required to impose mandatory consecutive sentences where "[o]ne of the offenses for which the defendant was convicted was first degree murder or a Class X or Class 1 felony and the defendant inflicted severe bodily injury." 730 ILCS 5/5-8-4(d)(1) (West 2012), As charged in this case, aggravated battery based on use of a firearm is a Class X felony. 720 ILCS 5/12-3.05(e)(1), (h) (West 2012). Therefore, the dispositive issue here is whether the evidence supported the trial court's finding that defendant inflicted severe bodily injury on Stewart.

¶ 27 Our supreme court has held that "a trial court's determination that a bodily injury is 'severe' for purposes of consecutive sentencing may be reversed only if it is against the manifest weight of the evidence." *People v. Deleon*, 227 Ill. 2d 322, 332 (2008). A finding is against the manifest weight of the evidence only where the opposite conclusion is clearly evident, or where it is arbitrary, unreasonable, or not based on the evidence presented. *Id.* Under this standard of review, we defer to the trial court's factual findings because it is in the best position to observe the conduct and demeanor of the parties and witnesses. *Id.* On review, this court will not

substitute its judgment for that of the trial court on issues concerning the credibility of the witnesses, the weight given to the evidence, or the inferences to be drawn. *Id.*

¶ 28 Initially, we find that the record belies defendant's claim that the trial court did not exercise any discretion to determine whether the mandatory consecutive sentencing statute applied. The record shows that when the State first asserted that defendant could be sentenced to consecutive terms, the court opined that the statute referred to offenses that occur during one course of conduct, and because the offenses here were unrelated, it was not sure that the statute applied. Following defendant's statement of allocution, the State then asserted that the court was required to sentence defendant to mandatory consecutive sentences pursuant to section 5-8-4(d)(1) of the Code because aggravated battery with a firearm is a Class X offense and defendant inflicted injury to Stewart. The court then asked to speak with the lawyers in chambers. When the sentencing hearing resumed, the court expressly stated that "[o]n reflection and review of the statute," it was required to impose mandatory consecutive sentences on defendant. The record thus shows that the trial court reviewed the statute and found that it applied in this case.

¶ 29 Furthermore, we find no merit in defendant's claims that the trial court failed to determine the severity of Stewart's injuries, and that the record is devoid of evidence establishing that Stewart suffered severe bodily injury. As noted above, the court stated that it reviewed the statute, which provides that mandatory consecutive sentences must be imposed where one of the offenses is a Class X felony, and "the defendant inflicted severe bodily injury." 730 ILCS 5/5-8-4(d)(1). Consequently, the trial court was aware that the statute required "severe bodily injury" rather than mere "injury." Nothing in the record indicates or suggests that the trial court merely found that Stewart was injured, or that it found that Stewart's injuries were not severe.

¶ 30 Moreover, the record shows that the evidence presented at trial was sufficient for the trial court to conclude that defendant inflicted severe bodily injury on Stewart. Stewart testified that defendant and codefendant fired several gunshots at him, and as Stewart turned and fled, he was shot twice in the head above his right ear and once in the middle of his back. The evidence further established that the bullet that entered Stewart's back traveled through his body and lodged in his neck, where it remains because it cannot be removed. The record also shows that during his testimony, Stewart showed the trial court the two bullet holes on his head above his right ear and the bullet hole in the middle of his back.

¶ 31 Contrary to defendant's assertion, the fact that Stewart ran from defendants, did not realize that he had been shot until he reached his mother's house, only testified that he felt a stinging pain in his back, and walked out of the hospital after one day does not indicate that his injuries were not severe. A victim's postshooting behavior does not indicate the severity of the injury he sustained. *Deleon*, 227 Ill. 2d at 334-35 (victim's postshooting conduct of driving away from the scene, noticing an ice cream truck surrounded by children, getting himself to a nearby gas station, collecting the bullet from his sweater, entering the gas station, asking for help and waiting for police to arrive did not indicate that his through-and-through gunshot wound to the chest was not severe bodily injury). See also *id.* citing *People v. Johnson*, 149 Ill. 2d 118, 128-29, 159 (1992) (severe bodily injury sufficiently proven where, after being shot once in the shoulder, the victim walked out of the apartment where the shooting occurred, flagged down a passing motorist, told the driver that a robbery and shooting had occurred, and had the motorist drive him to the hospital). Consequently, irrespective of Stewart's postshooting behavior, we have no difficulty affirming the trial court's finding that the nature of his wounds constituted severe bodily injury. *Deleon*, 227 Ill. 2d at 334.

¶ 32 We also find unpersuasive defendant's claim that additional evidence should have been presented to establish the severity of Stewart's injuries. A lack of evidence concerning the nature of the victim's treatment, the intensity of his pain, and the length of his hospital stay does not preclude a court from finding that the victim's injury constituted severe bodily injury. *Deleon*, 227 Ill. 2d at 334. It was the trial court's responsibility to determine whether the evidence established that Stewart's injuries constituted severe bodily injury, and here, the court found that Stewart's testimony was "credible and compelling beyond a reasonable doubt," and that Stewart was "persuasive in court beyond a reasonable doubt as well." We find that the evidence overwhelmingly established that the injuries sustained by Stewart constituted "severe bodily injury," and the trial court's determination was not against the manifest weight of the evidence. Accordingly, pursuant to the statute, the trial court was required to impose mandatory consecutive sentences. Since no error occurred, we conclude that the plain error doctrine does not apply and we honor defendant's forfeiture of this issue. *Hillier*, 237 Ill. 2d at 545-46.

¶ 33 In addition, we find no merit in defendant's alternative argument that counsel rendered ineffective assistance when he failed to object to the consecutive sentences at trial and failed to argue that Stewart's injuries were not severe. Claims of ineffective assistance of counsel are evaluated under the two-prong test set forth by the United States Supreme Court in *Strickland v. Washington*, 466 U.S. 668 (1984). *People v. Graham*, 206 Ill. 2d 465, 476 (2003). To support a claim of ineffective assistance of counsel, defendant must demonstrate that counsel's representation was deficient, and as a result, he suffered prejudice. *Strickland*, 466 U.S. at 687. Specifically, defendant must show that counsel's performance was objectively unreasonable, and that there is a reasonable probability that the outcome of the proceeding would have been different if not for counsel's error. *People v. Henderson*, 2013 IL 114040, ¶ 11. If defendant

cannot prove that he suffered prejudice, this court need not determine whether counsel's performance was deficient. *Graham*, 206 Ill. 2d at 476.

¶ 34 As we have already determined above, defendant's challenge to the consecutive sentences is without merit. Consequently, counsel's failure to object and preserve the issue for appeal did not prejudice defendant, and thus, counsel did not render ineffective assistance. See *People v. Coleman*, 158 Ill. 2d 319, 349 (1994) (defendant was not denied effective assistance of counsel where the issues counsel failed to preserve for appeal were without merit and did not prejudice defendant).

¶ 35 Defendant next contends that his 18-year sentence for aggravated battery with a firearm is excessive in light of his youth, minimal criminal history and potential for rehabilitation. Defendant points out that he was only 20 years old at the time of the offense, and that he had only one prior misdemeanor conviction for reckless conduct. Defendant also argues that his statement in allocution demonstrates that he is remorseful and willing to make positive changes and contributions to society. Defendant acknowledges that defense counsel only made an oral motion to reconsider the sentence and never filed the required written motion. He again argues, however, that this court should consider his issue under the plain error doctrine because the evidence at the sentencing hearing was closely balanced.

¶ 36 The State responds that the issue is forfeited and that the plain error doctrine does not apply because no error occurred, and the evidence at the sentencing hearing was not closely balanced. The State argues that the trial court considered the relevant factors and imposed a sentence within the statutory range. The State also argues that defendant did not show any remorse during his allocution.

¶ 37 As stated above, defendant's failure to both object to the sentence and file a written postsentencing motion renders the issue forfeited. *Hillier*, 237 Ill. 2d at 544-45. If defendant fails to show that a clear or obvious error occurred, and that the evidence at the sentencing hearing was closely balanced, his procedural default will be honored. *Id.* at 545.

¶ 38 As charged in this case, aggravated battery based on use of a firearm is a Class X felony with a statutory sentencing range of 6 to 30 years' imprisonment. 720 ILCS 5/12-3.05(e)(1), (h) (West 2012); 730 ILCS 5/5-4.5-25(a) (West 2012). The trial court has broad discretion in imposing an appropriate sentence, and where, as here, that sentence falls within the statutory range, it will not be disturbed on review absent an abuse of discretion. *People v. Jones*, 168 Ill. 2d 367, 373-74 (1995). An abuse of discretion exists where a sentence is at great variance with the spirit and purpose of the law, or is manifestly disproportionate to the nature of the offense. *People v. Alexander*, 239 Ill. 2d 205, 212 (2010).

¶ 39 The Illinois Constitution mandates that criminal penalties be determined according to the seriousness of the offense, and with the objective of restoring the offender to useful citizenship. Ill. Const.1970, art. I, § 11; *People v. Ligon*, 2016 IL 118023, ¶ 10. In light of these objectives, "[t]he trial court is charged with fashioning a sentence based upon the particular circumstances of the individual case, including the nature of the offense and the character of the defendant." *People v. Fern*, 189 Ill. 2d 48, 55 (1999). The court's sentencing decision is entitled to great deference because, having observed the defendant and the proceedings, it had the opportunity to weigh defendant's demeanor, credibility, general moral character, mentality, habits, social environment and age. *Alexander*, 239 Ill. 2d at 213. "The sentencing judge is to consider 'all matters reflecting upon the defendant's personality, propensities, purposes, tendencies, and

indeed every aspect of his life relevant to the sentencing proceeding.' " *Fern*, 189 Ill. 2d at 55, quoting *People v Barrow*, 133 Ill. 2d 226, 281 (1989).

¶ 40 When the trial court determines that a severe sentence is warranted, defendant's age has little import. *People v. Rivera*, 212 Ill. App. 3d 519, 526 (1991). Moreover, the trial court need not give defendant's potential for rehabilitation greater weight than the seriousness of the offense. *People v. Anderson*, 325 Ill. App. 3d 624, 637 (2001).

¶ 41 Here, we find no error by the trial court in sentencing defendant to a term of 18 years' imprisonment, which falls within the statutory range. The record shows that in imposing the sentence, the trial court first stated that it considered all of the evidence presented at trial, the information contained in the presentence investigation report (PSI), and the evidence and arguments presented at the sentencing hearing. The court then emphasized that the shooting in this case was "an aggressive act of violence" which occurred "for no good reason other than something to do with gang pride and gang rivalry." The court also found it significant that defendant was convicted of violent crimes in both of his cases.

¶ 42 Contrary to defendant's claim that the court failed to give adequate consideration to his lack of criminal history, the record shows that the court specifically considered this factor, noting that defendant had "minimal if any criminal history at all," and expressly stated that it had "an obligation to [be] mindful of that." However, the court then stated that it had "an obligation to protect the public as well from young men that are prone to this type of brazen violence."

¶ 43 The record therefore shows that the trial court properly based defendant's sentence on its consideration of the seriousness of the offense, the factors in aggravation and mitigation, which included his young age and lack of criminal history, the information contained in the PSI, and the

evidence presented at the sentencing hearing. The court then determined that, based on the violence in this case, the 18-year sentence was appropriate.

¶ 44 This court will not reweigh the sentencing factors or substitute our judgment for that of the trial court (*Alexander*, 239 Ill. 2d at 213), and based on the record before us, we cannot say that the sentence imposed by the court is excessive, manifestly disproportionate to the nature of the offense, or that it departs significantly from the intent and purpose of the law. *Fern*, 189 Ill. 2d at 56. Since no error occurred, we conclude that the plain error doctrine does not apply and we honor defendant's forfeiture of this issue. *Hillier*, 237 Ill. 2d at 545-46.

¶ 45 For these reasons, we affirm the judgment of the circuit court of Cook County.

¶ 46 Affirmed.