First Division
February 14, 2017

No. 1-14-3419

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. 13 CR 17351
	)	
FREDERICK THOMAS,	)	Honorable
	)	Stanley Sacks,
Defendant-Appellant.	)	Judge Presiding.

JUSTICE SIMON delivered the judgment of the court.
Justices Harris and Mikva concurred in the judgment.

ORDER

¶ 1 *Held*: Sentence affirmed where the trial court properly considered all mitigating factors and did not improperly consider evidence outside the record or its personal beliefs. We affirm the trial court's finding following a sufficient inquiry into defendant's posttrial *pro se* allegation of ineffective assistance of counsel that no further hearing was necessary.

¶ 2 Following a bench trial, defendant Frederick Thomas was convicted of (1) armed habitual criminal (720 ILCS 5/24-1.7(a) (West 2012)), (2) unlawful use of weapon by a felon (UUWF) (720 ILCS 5/24-1.1(a) (West 2012), and (3) three counts of aggravated unlawful use of a weapon (AUUW) (720 ILCS 24-1.6(a)(1)/(3)(A) (West 2012)). After merging the convictions into the

armed habitual criminal count, the court sentenced defendant to nine years' imprisonment. On appeal, defendant contends his sentence is excessive as the trial court considered improper factors and failed to consider mitigating factors. Defendant further contends that the trial court failed to conduct a proper preliminary inquiry into his posttrial *pro se* allegations of ineffective assistance of trial counsel pursuant to *People v. Krankel*, 102 Ill. 2d 181 (1984). We affirm.

¶ 3 At trial, Officer Christopher Cannata testified that, on August 27, 2013, he and his partner pulled over a vehicle after it failed to come to a full stop at a stop sign. The officers approached the vehicle and Cannata observed the driver, identified in court as defendant, reach towards the floorboards. Cannata spoke to defendant, who could not provide a driver's license or proof of insurance and told Cannata he was "suspended." Cannata placed him in custody for traffic violations. Once in the police car, defendant volunteered that he had a gun in the vehicle for protection "because it was hot out there." Defendant further stated that a passenger in the vehicle knew nothing of the gun. Cannata's partner returned to the police car with a "Ruger stainless steel revolver with a black handle, six shooter" that he had recovered from under the driver's seat of the vehicle. At the police station, after being read his Miranda rights, defendant again stated that he owned the gun for protection, and had purchased it two weeks prior.

¶ 4 Officer Manjarrez testified that he and Cannata pulled over the vehicle driven by defendant for a "minor traffic violation." Defendant made a statement in the presence of both Manjarrez and his partner that there was a gun in the vehicle. Shortly thereafter, Manjarrez recovered a loaded firearm from underneath the driver's seat where defendant had been seated.

¶ 5 The court admitted into evidence certified copies of conviction against defendant for two previous felonies under case numbers 05 CR 14128 and 07 CR 6108 as qualifying prior convictions for the armed habitual criminal and the UUWF. The State rested.

¶ 6 Defendant testified that, on the day of his arrest, he was driving his girlfriend's car when the police pulled him over after he stopped at a stop sign. He was unable to provide a license or registration and was asked to step out of the vehicle. The police asked defendant about his background and he stated that he had prior convictions. Defendant denied mentioning a firearm in the vehicle. As he was being detained, defendant heard the officer searching his car yell "bingo." Defendant looked up and saw that officer with a gun in his hand. Defendant denied having previously seen a gun in the car. Defendant denied making any statements at the police station about the gun. During cross-examination, defendant denied ever having been read his Miranda rights. Following defendant's testimony, the State entered another of defendant's prior felony convictions as impeachment.

¶ 7 The trial court found defendant guilty of armed habitual criminal, UUWF, and three counts of AUUW. The court denied defendant's motion for a new trial. The court merged the convictions and the case proceeded to sentencing on the armed habitual criminal conviction.

¶ 8 A presentence investigation report (PSI) set forth defendant's criminal history. Defendant had a 2009 Class 2 conviction for possession of a controlled substance for which he was sentenced to two years in the IDOC. He also had three manufacture/delivery of a controlled substance convictions, a Class 2 in 2007, Class 1 in 2006, and Class 2 in 2005, for which he was sentenced to three years IDOC, two years intensive probation, and CCDOC Boot Camp, respectively. The PSI reported that defendant used alcohol on a daily basis and had smoked cannabis daily since he was 15 years old. He had not been evaluated for drug or alcohol addiction and did not feel the need for treatment. Defendant had held a few jobs for months at a time and expressed a desire to earn his GED.

¶ 9 The State argued in aggravation that defendant was "a [recidivist]" and asked for "a significant term in the Department of Corrections." In mitigation, defense counsel pointed out that defendant's criminal history consisted only of non-violent drug offenses and that addiction runs in his family. Counsel pointed out defendant's 8th grade education but informed the court of defendant's ambition to obtain his GED. He further noted defendant's employment history and lack of gang affiliation. Counsel stated that the sentencing range for this offense was 6 to 30 years' imprisonment and asked for a sentence "at the bottom end of the range permitted under law."

¶ 10 During allocution, defendant stated he "would like to file a claim for ineffective assistance of Counsel." As he had not completed his motion, the court continued the sentencing hearing. Defendant subsequently presented the court with a written "motion for ineffective assistance of counsel." In the motion, he alleged that he made his attorney aware of footage from three surveillance cameras that would have supported his version of events. Defendant further alluded to several "conflicts of interest" that defense counsel failed to argue at trial. The court continued the case in order to consider the motion prior to the hearing.

¶ 11 At the hearing on the motion, defendant argued that defense counsel indicated he could not, and therefore did not, subpoena surveillance tapes from the arresting officer's dashboard camera and a CPD pod camera located at the intersection of the traffic stop. Defendant argued that the pod camera surveillance tapes would have shown he did not roll through the stop sign. The court inquired:

> "THE COURT (to defendant): How do you know there were tapes that would be fruitful for the Defense as of 9/24 of last year?

DEFENDANT: Because none of what the officer said happened and the tape will show it.

THE COURT: How do you know the tape will show it? Have you ever seen the tape?

DEFENDANT: No.

THE COURT: How do you know what they would show, if they show anything at all or if they were in existence at all?

DEFENDANT: I don't know that."

¶ 12 Defendant further contended that "there's a camera in every squad car" and the tape from the arresting officer's squad car camera would have verified his account that he did not roll through a stop sign. Defendant also argued counsel was ineffective for failing to subpoena surveillance footage from the police station where he confessed to purchasing and owning the firearm. The court inquired:

"THE COURT: What surveillance tape? They have those tapes in murder cases, not in cases where a guy is charged with a gun or something. Who [*sic*] do you think there was a videotape of your conversation with the police?

DEFENDANT: I assume it should have been.

THE COURT: Why? You're making allegations which there's no basis to make. There are no videos conducted other than murder cases."

¶ 13 Defendant lastly argued defense counsel should have elicited more testimony from Officer Cannata about how he proceeded after witnessing defendant reach down inside the car and should have challenged the officer’s testimony regarding seeing the gun. The court told

defendant he could not reargue the evidence in the case. It called defense counsel to respond to the allegations regarding the cameras and videotape.

¶ 14 Defense counsel stated that he "never received any information that there was any pod camera or a dashboard camera taken by the officer's vehicle." He stated he made two unsuccessful attempts to subpoena the pod camera surveillance video, and tendered the subpoenas to the court for review.

¶ 15 The court stated: "Mr. Thomas, your lawyer said he did the best [he] could. There weren't any pod cameras, any pod videos." The court concluded "[t]he motion that Mr. Thomas has filed merely shows the lawyer did the best he could with what he had to deal with." The court found defense counsel "did the best he could as far as getting the tapes, if any existed" and defendant's motion regarding the alleged exculpatory tapes was "pure speculation as to what some type [*sic*] would have shown and never seen." It told defendant it heard the testimony and had found "defendant made those statements to police." The court found defense counsel "was effective as opposed to ineffective" and denied defendant's motion. The case again proceeded to sentencing.

¶ 16 The trial court having merged the convictions into the armed habitual criminal count, sentenced defendant as a Class X offender to nine years' imprisonment. It reviewed defendant's criminal history, noting the prior conviction for possession of a controlled substance and three manufacture/delivery of a controlled substance convictions. The court then inquired of defendant whether he was aware of the murder statistics as reported in the newspaper, explaining the many murders were due to "[g]uns out there." The court stated, "[t]hat's why the law says somebody is charged, it carries a significant sentence to try and deter others not to carry guns around." It told defendant there was no purpose in possessing a firearm. The court then informed defendant of

the 6 to 30 year statutory sentencing range and reiterated that defendant, a "twice convicted felon," had no "legitimate" reason to carry a gun.

¶ 17 The court stated it "reviewed the PSI, considered the defendant's prior record, all these things set forth in the PSI about his background, social history, educational background, employment history." It stated it "considered the arguments of the lawyers" at the previously suspended sentencing hearing. The court told defendant "[y]ou never done any significant time before. One, two, three years at the most. No more guns, no more crime. Hopefully this will get you on the road to learning." The court imposed sentence and defendant timely appealed.

¶ 18 On appeal, defendant first challenges his nine year sentence, claiming the trial court improperly considered evidence outside the record when it asked defendant, "[w]hat do you see in the paper [every] Monday? 15 people to death, four people murdered." Defendant also contends that the trial court let its personal opinion about guns influence its sentence, pointing to the court's comments that "[y]ou don't need them. There's no course purpose of having a gun whatsoever."

¶ 19 The State responds that defendant forfeited these claims as they are sentencing issues and defendant failed to object at sentencing or raise the issues in his posttrial motions. The State further argues that, forfeiture aside, the trial court's comments regarding the murder statistics reported in the newspaper were rhetorical and, in context, demonstrative of the trial court's proper reliance on the seriousness of the offense and the need to deter others. It also contends that the trial court's statement that it was unnecessary for defendant to have a gun was a proper characterization of defendant's crime. Alternatively, the State argues that any weight placed on the trial court's consideration of murder statistics as reported in the newspaper, even if improper, was insignificant.

¶ 20 As a threshold matter, defendant concedes that he failed to properly preserve these issues for review because he did not object at the sentencing hearing and did not raise them in his motion to reconsider sentence or his motion to reduce sentence. See *People v. Hillier*, 237 Ill. 2d 539, 544 (2010). His argument is therefore forfeited. *Hillier*, 237 Ill. 2d at 544-45.

¶ 21 However, defendant urges review under the plain-error doctrine, which allows review of unpreserved issues where (1) the error was so egregious as to deny the defendant a fair sentencing hearing, or (2) the evidence at sentencing was closely balanced. *Hillier*, 237 Ill. 2d at 545. The burden to prove plain error rests with the defendant. *People v. Thompson*, 238 Ill. 2d 598, 613 (2010). Absent "clear and obvious" error, there can be no plain error and defendant's claim is forfeited. *People v. Piatkowski*, 225 Ill. 2d 551, 565 (2007); *People v. McGee*, Ill. App. 3d 789, 794 (2010). We begin by determining whether any error occurred. *People v. Walker*, 232 Ill. 2d 113, 124-25 (2009).

¶ 22 Imposition of a sentence is normally within a trial court's discretion (*People v. Jones*, 168 Ill. 2d 367, 373 (1995)), and there is a strong presumption that the trial court based its sentencing determination on proper legal reasoning, such that the trial court's sentencing decision is reviewed with great deference. *People v. Dowding*, 388 Ill. App. 3d 936, 942-43 (2009). That said, the question of whether the trial court relied on improper factors in imposing a sentence is a question of law that we review *de novo*. *People v. Chaney*, 379 Ill. App. 3d 524, 527 (2008). It is defendant's burden to affirmatively establish that the sentence was based on improper considerations. *Dowding*, 388 Ill. App. 3d at 943.

¶ 23 Defendant contends the trial court erred in improperly considering "what he read in the newspaper and how he feels about a person's right to carry a gun in imposing sentence," arguing those factors are improper evidence not in the record (*People v. Dameron*, 196 Ill. 2d 156, 179

(2001), and personal opinions (*People v. Miller*, 2014 IL App (2d) 120873, ¶ 36), respectively. Defendant is correct that it is improper for the court to consider as factors at sentencing evidence not contained in the record and personal opinions. However, we agree with the State that, when taken in context, the trial court's statements regarding newspaper reporting of murder rates and the needlessness of defendant carrying a firearm were directed toward the nature of the offense and the need for deterrence and not considered as evidence or indicative of personal beliefs.

¶ 24 The court's full comment was as follows:

> "Mr. Thomas, do you ever read the paper on Monday? Do you get the paper over at county jail? What do you see in the paper [every] Monday? 15 people to death, four people murdered. Why? Guns out there. That's why people get shot like in your case, a gun in the car. That's why the law says somebody is charged, it carries a significant sentence to try and deter others not to carry guns around. You don't need them. There's no course purpose of having a gun whatsoever. If you have a problem in the street, call 911."

¶ 25 It is clear that the court was explaining to defendant why the armed habitual criminal offense carries a "significant" sentencing range. Defendant's contention that the trial court relied on newspaper statistics is explicitly disproven by the record, where the court explained that it is, in fact, the legislature who considered the murder statistics when determining the appropriate sentencing range for gun offenses. The rhetorical inquiry into defendant's awareness of the gun-crimes plaguing Chicago does not, as defendant argues, show that the court improperly considered that at sentencing. Rather it was an appropriate explanation to defendant of the reason his conviction carried a Class X sentence.

¶ 26 Turning to defendant's contention that the court relied on its personal beliefs about guns, defendant challenges the following statement by the court:

> "A whole bunch of time for really I'm not sure why, carrying a gun for what reason. They're not good for hunting. You can't shoot a deer with a pistol unless you're right up on top of him. There's no real reason to carry a gun, no reason that's legitimate. I should say, for carrying a gun, especially someone that's a twice convicted felon before."

¶ 27 Again, we agree with the State that these comments are not indicative of the court's personal beliefs but of the serious nature of the offense. The evidence established that defendant told police he had the gun for protection "because it was hot out there." Defendant, a multiple felon, had no right to own, possess, or carry a gun. 720 ILCS 5/24-1.7(a) (West 2012); see *People v. Montgomery*, 2016 IL App (1st) 142143, ¶ 15-16 (citing cases demonstrating armed habitual criminal statute's felon-based firearm ban is constitutional). It is clear, then, that the court's comments were directed towards explaining the illegitimacy of defendant's excuse for carrying the gun, as reinforced by the court previous admonition to defendant that "[i]f you have a problem in the street, call 911."

¶ 28 To warrant review under the plain-error doctrine, it is defendant's burden to establish that the trial court erred. *Thompson*, 238 Ill. 2d at 613. Defendant has failed to do so here. Nothing in the court's pronouncements demonstrates that its statement regarding gun murders as reported in the newspaper or the needlessness of defendant possessing a firearm were anything more than an explanation to defendant of why he was subject to the penalties of law and the sentence he received. As the trial court did not err, there can be no plain error. *People v. Nicholas*, 218 Ill. 2d 104, 121 (2006). Defendant's argument is therefore forfeited. *People v. Johnson*, 238 Ill. 2d 478, 483 (2010).

¶ 29 We next consider defendant's preserved contentions that the trial court improperly relied on a sentencing factor inherent in the offense, i.e. possessing a firearm, and failed to consider or assign enough weight to the non-violent nature of the offense and defendant's rehabilitative potential.

¶ 30 The offense of armed habitual criminal is a Class X felony (720 ILCS 5/24-1.7(b) (West 2012)) with a sentencing range of 6 to 30 years' imprisonment (730 ILCS 5/5-4.5-25(a) (West 2012)). Defendant's nine year sentence was well within the statutory range and therefore presumably proper. *People v. Knox*, 2014 IL App (1st) 120349, ¶ 46.

¶ 31 We review a sentence under the abuse of discretion standard, and alter the sentence only when it varies greatly from the spirit and purpose of the law or is manifestly disproportionate to the nature of the offense. *People v. Snyder*, 2011 IL 111382, ¶ 36. We cannot substitute our judgment for that of the trial court simply because we may weigh the sentencing factors differently. *People v. Alexander*, 239 Ill. 2d 205, 213 (2010).

¶ 32 The trial court is responsible for balancing the mitigating and aggravating factors before imposing sentence. *People v. Shaw*, 351 Ill. App. 3d 1087, 1095 (2004). In imposing a sentence, the trial court balances the relevant factors including the nature of the offense, the protection of the public, and the defendant's rehabilitative potential. *People v. Jones*, 2014 IL App (1st) 120927, ¶ 55. The trial court has a superior opportunity to evaluate and weigh a defendant's credibility, demeanor, character, mental capacity, social environment, and habits. *Snyder*, 2011 IL 111382, ¶ 36. The court does not need to expressly outline its reasoning for sentencing, and we presume that the court considered all mitigating factors on the record absent an affirmative indication to the contrary other than the sentence itself. *People v. Abrams*, 2015 IL App (1st) 133746, ¶¶ 32-33.

¶ 33 Defendant argues the trial court's previously quoted comments "indicate" that it considered the gun, a factor inherent in the offense, an aggravating factor, and thus improperly relied upon that factor when imposing sentence. The State counters that the trial court's comments were directed towards the nature and circumstance of the offense and were not relied upon as a form of double enhancement.

¶ 34 Defendant is correct that a factor inherent in the offense should not be considered as a factor in aggravation at sentencing because the legislature is presumed to have provided for such factors when it established the applicable penalty range. *Dowding*, 388 Ill. App. 3d at 942. He also correctly notes that possessing a firearm is inherent in the offense of armed habitual criminal. 720 ILCS 5/24-1.7(a) (West 2012). However, as discussed previously, it is clear that the trial court made its comments regarding the firearm to explain the severity of the offense and reason for the sentencing range. The court's declaration that there was no reason for defendant to have a gun properly rebutted defendant's justification for carrying the firearm because "it was hot out there" on the streets and he needed it for protection. As the court stated: should defendant "have a problem in the street, call 911." The court did not, as defendant contends, consider the gun itself an aggravating factor.

¶ 35 Further, when sentencing a defendant for being an armed habitual criminal based upon possession of a firearm after having been a twice convicted felon, a trial court commits no error by simply mentioning guns. See *People v. Sauseda*, 2016 IL App (1st) 140134, ¶ 15 ("A trial court is not required to refrain from any mention of sentencing factors that constitute elements of the offense."). The armed habitual criminal statute establishes that twice convicted felons cannot possess firearms. It was therefore not improper for the trial court to explain to defendant that his

justification for purchasing the firearm was illegitimate. Accordingly, we reject defendant's contention that the trial court relied on a factor inherent in the offense when imposing sentence.

¶ 36 Defendant's argument that the trial court failed to consider or properly weigh his rehabilitative potential and the seriousness of the offense also fails. He asserts the court did not consider his treatable drug and alcohol problem, employment history, and non-violent criminal history. The court is presumed to have considered all evidence before it. *People v. Andrews*, 2013 IL App (1st) 121623, ¶ 18. It is defendant's burden to show the court did not consider the mitigating factors before it. *People v. Burton*, 2015 IL App (1st) 131600, ¶ 38.

¶ 37 The court expressly stated it "reviewed the PSI, considered the defendant's prior record, all these things set forth in the PSI about his background, social history, educational background, employment history." The PSI set out defendant's drug and alcohol use but reported defendant felt he did not need treatment. The court stated it "considered the arguments of the lawyers," which included defense counsel's argument regarding defendant's non-violent criminal history, addiction problems, and future prospects. It told defendant "[y]ou never done any significant time before. One, two, three years at the most. No more guns, no more crime. Hopefully this will get you on the road to learning." Thus the court clearly considered all the mitigating evidence before it and defendant does not show otherwise.

¶ 38 The most important sentencing factor is the seriousness of the offense, and the court is not required to give greater weight to mitigating factors than to the seriousness of the offense, nor does the presence of mitigating factors either require a minimum sentence or preclude a maximum sentence. *Alexander,* 239 Ill. 2d at 214. Further, a sentencing court is not required to award a defendant's rehabilitative potential "greater weight than the seriousness of the offense." *Alexander*, 239 Ill. 2d at 214, quoting *People v. Coleman*, 166 Ill. 2d 247, 261 (1995). It is clear

from the court's comments that it assigned more weight to the serious nature of the armed habitual criminal offense than it did defendant's rehabilitative potential, given defendant's lack of rehabilitation after the previous lenient sentences he received. We see no reason to disturb that finding on review. Defendant essentially asks us to reweigh the sentencing factors, which is not the function of this court. *Alexander*, 239 Ill. 2d at 212-13.

¶ 39 Lastly, defendant contends that the trial court failed to conduct a proper inquiry into his posttrial *pro se* allegations of ineffective assistance of counsel for failure to investigate potentially exculpatory video surveillance footage from the arresting officer's dashboard camera and the POD camera at the intersection where the traffic stop occurred.

¶ 40 Our supreme court, beginning with *Krankel*, has instructed that when a defendant presents a *pro se* posttrial claim of ineffectiveness of counsel, the trial court should conduct an inquiry to examine the factual basis of the claim. *People v. Moore*, 207 Ill. 2d 68, 77-78 (2003). To invoke this rule, the defendant must make some allegation of ineffective assistance of counsel for the court to consider and provide some factual specificity of the reason for the allegation. *People v. Cunningham*, 376 Ill. App. 3d 298, 304, 314 (2007). If a defendant's *pro se* allegations of ineffective assistance of counsel show possible neglect, new counsel is appointed to represent the defendant in a full hearing on his claims. *Moore*, Ill. 2d at 78.

¶ 41 If a defendant does not make a valid ineffective assistance claim, he does not trigger the need for the trial court to conduct a *Krankel* hearing. *People v. Taylor*, 237 Ill. 2d 68, 75-76 (2010); *People v. Jocko*, 239 Ill. 2d 87, 93-94 (2010). While the pleading requirements for raising a *pro se* claim of ineffectiveness of counsel are "somewhat relaxed," a defendant must still satisfy minimum requirements to trigger a *Krankel* inquiry by the trial court. *People v. Washington*, 2015 IL App (1st) 131023, ¶ 11. The defendant must make some allegation of

ineffective assistance of counsel and "provide some factual specificity of the reason for the allegation." *Id.* "The operative concern for the reviewing court is whether the trial court conducted an adequate inquiry into the defendant's *pro se* allegations of ineffective assistance of counsel." *Moore*, 207 Ill. 2d at 78. Whether the court gave proper attention to a defendant's *pro se* motion claiming ineffective assistance of counsel is a legal question. *People v. Washington*, 2012 IL App (2d) 101287, ¶ 17. We review defendant's claim *de novo*. *Taylor*, 237 Ill. 2d at 75.

¶ 42 In the present case, when defendant indicated that he was dissatisfied with defense counsel's representation, the court granted defendant time to complete his written motion. It then continued the case again in order to consider the six-page motion in order to determine the factual basis of defendant's complaint. At the subsequent hearing, the court's inquiry revealed that defendant believed, as relevant here, counsel was ineffective because he did not obtain surveillance tapes from two alleged cameras that defendant claimed would have shown footage supporting defendant's version of events. Defendant could offer no evidence to support the existence of these tapes, let alone what they would have shown.

¶ 43 Defendant failed to make a sufficient ineffective assistance of counsel claim warranting appointment of new counsel to pursue the claim. Although he claimed his counsel was ineffective, "[a] bald allegation of ineffective assistance is insufficient; rather, the defendant should raise specific claims with supporting facts before the trial court is required to consider the allegations." *People v. Walker*, 2011 IL App (1st) 072889-B, ¶ 34 (citing *People v. Radford*, 359 Ill. App. 3d 411, 418 (2005)). Defendant's belief that defense counsel was ineffective was based solely on his speculation that surveillance videos existed and regarding what those videos would have shown.

¶ 44 The court's inquiry revealed defendant believed that dash-cam footage from the arresting officers' police vehicle existed only because he believed all police cars have operating dash cam video recorders. Similarly, he believed footage from the POD existed notwithstanding defense counsel's inability to secure such footage via multiple subpoenas. Defendant's belief is unsupported. Further, defense counsel told the court he "never received any information that there was any pod camera or a dashboard camera taken by the officer's vehicle." He nonetheless attempted to obtain any POD camera footage via multiple subpoenas, to no avail.

¶ 45 Defendant essentially argued defense counsel was ineffective because he was unable to locate footage that, to the best of anyone's knowledge, does not exist. The court's inquiry showed defendant was unable to establish a factual basis for his claim, and counsel attempted to acquire any POD camera video recordings. The court therefore found counsel "effective" and denied defendant's *pro se* motion. As defendant failed to bring to the court's attention a factually supported specific claim of ineffective assistance of counsel sufficient to trigger the duty to conduct further inquiry under *Krankel* (*People v. Walker*, 2011 IL App (1st) 072889-B, ¶ 37), we affirm the court's finding.

¶ 46 Having found that the court did not err when it made statements about murder statistics as reported in the newspaper or when it admonished defendant that he did not need a gun, and that it properly considered all relevant mitigating factors, we affirm defendant's nine year sentence. We further find that the trial court conducted a proper inquiry into defendant's posttrial *pro se* allegation of ineffective assistance of counsel and correctly determined that no further hearing was required.

¶ 47 Affirmed.