2018 IL App (2d) 150727-U
No. 2-15-0727
Order filed July 19, 2018



IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

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| THE PEOPLE OF THE STATE OF ILLINOIS,<br><br>Plaintiff-Appellee,<br><br>v.<br><br>PEDRO IBARRA-LANDA,<br><br>Defendant-Appellant. | )<br>)<br>)<br>)<br>)<br>)<br>)<br>)<br>)<br>) | Appeal from the Circuit Court of Lake County.<br><br><br><br>No. 12-CF-293<br><br>Honorable George D. Strickland, Judge, Presiding. |

JUSTICE McLAREN delivered the judgment of the court.
Justices Hutchinson and Spence concurred in the judgment.

**ORDER**

¶ 1 *Held*: Defendant's claim of prosecutorial misconduct during closing argument fails the plain error analysis and is therefore forfeited; defendant's sentence of natural life imprisonment is not unconstitutional as applied to him.

¶ 2 A jury found defendant, Pedro Ibarra-Landa, guilty of ten counts of predatory criminal sexual assault of a child (720 ILCS 5/12-14.1(a)(1) (West 2006)), and the trial court sentenced defendant to a mandatory term of natural life imprisonment (720 ILCS 5/12-14.1(b)(2) (West 2006).[1] Defendant committed the offenses against his nieces, A.I. and J.I.

[1] Section 12-14.1 was renumbered as section 11-1.40, effective July 1, 2011. We utilize

¶ 3 On appeal, defendant argues that he is entitled to a new trial or new sentencing hearing. First, defendant contends that the prosecutor made improper rebuttal argument in that he (1) used photographs of the victims to inflame the passions of the jury, and (2) bolstered the testimony of the victims and the detective assigned to the case. Second, defendant asserts that the imposition of a mandatory life sentence was unconstitutional as applied to him. For the reasons that follow, we affirm.

¶ 4 I. BACKGROUND

¶ 5 Defendant was charged with ten counts of predatory criminal sexual assault of a child occurring between January 1, 2006, and December 31, 2007. A person commits predatory criminal sexual assault of a child if he is 17 years of age or older and commits an act of sexual contact with a victim who is under 13 years of age. 720 ILCS 5/12-14.1(a)(1) (West 2006). According to the victims' testimony and defendant's voluntary statement, defendant repeatedly placed his penis in the vaginas and anuses of his nieces, A.I. and J.I. Defendant was 22 years of age in 2006; A.I. and J.I. were five and four years old, respectively.

¶ 6 Prior to the trial, in October 2013, the court heard evidence about defendant's mental fitness to stand trial, including psychiatric and psychological evaluations that indicated religious preoccupation such that defendant "disregard[ed] legal advice in favor of reported divine advice" and the beginning of grandiose thought processes after a car accident in 2005 left defendant with impaired judgment. The court found defendant unfit for trial and remanded him to the Elgin Mental Health Center for treatment "so he can be restored to fitness." In July 2014, after considering the testimony of defendant's Elgin treatment providers, a forensic social worker and a psychiatrist, the court found defendant fit for trial.

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the old statutory number throughout this order.

¶ 7 The trial began in May 2015. The evidence showed that in 2006 and 2007, A.I. and J.I. lived with their mother and father and their father's brother, defendant, who had moved here from Mexico. Their mother worked as a cook at a restaurant; their father and uncle were at home with them.

¶ 8 Interviews of the victims were conducted by a Waukegan police detective in January 2012, after their mother took them to the Lake County Children's Advocacy Center. The interviews were videotaped and played for the jury. The victims described numerous instances of anal and vaginal penetration, during which defendant sometimes taped a victim's mouth or tied a victim to a chair. J.I. testified that the abuse occurred at least ten times over the course of two years. A.I. testified that she and her sister were abused "every single day." The abuse occurred in the victims' bedroom, defendant's bedroom, the mother's bedroom when she was taking a shower, and the kitchen. Defendant told A.I. and J.I. not to tell anyone.

¶ 9 The victims also testified at trial, again detailing the repeated sexual abuse that occurred between 2006 and 2007. To keep them quiet, defendant would cover their mouths with his hands or tape; one time he put a sock in J.I.'s mouth because she was trying to scream. Sometimes he put one of the victims on his bed and the other on top of his stereo speakers, once telling J.I., "Watch what I'm going to do to your sister." Defendant would stop the abuse when he heard the victims' father approaching or heard their mother's keys in the door. He told them not to say anything to anyone.

¶ 10 After defendant had been arrested, in January 2012, he was interrogated by a detective, who testified at trial that defendant told him the sexual contact had started when one of the victims "grabbed his penis"; he then removed their pants and underwear and put his penis inside A.I.'s vagina. The next day, when he realized nobody would say anything about it, he felt

confident that the girls were not going to tell on him, which was something he had been very nervous about. Since the girls were the ones touching him first, he continued penetrating their anuses and vaginas on a daily basis, sometimes twice a day. He usually ejaculated on the side of the bed but sometimes inside the victims. He seemed to blame A.I. and J.I. because he thought they approached him and touched his penis, and then did not say anything about it. He told the detective he was being "honest" about what he had done mostly because he wanted his brother to forgive him.

¶ 11 Defendant agreed to provide a written statement in Spanish describing what he had told the detective in the interview. He also agreed to be videotaped while reading his statement. The written statement was translated into English and, along with the videotape, was provided to the jury. The statement substantially corroborated the detective's testimony about what defendant had told him during the interrogation, although defendant wrote in the statement that the abuse occurred "two to three times a week."

¶ 12 During closing argument, the State's attorney referred to J.I.'s "bravery" in testifying against defendant, stating "[t]hat's the bravery of a young lady who, quite frankly, no one would blame her if she wanted to put all this away and forget about it."

¶ 13 Defense counsel began his closing argument by referencing one of five photographs of the victims, taken at their combined birthday parties in 2006 and 2007 and admitted into evidence over defendant's objection that they were cumulative. Noting that the prosecutor had described a "world of abuse and exploitation" in his opening statement at the beginning of the trial, defense counsel stated:

"This is a picture of the family in 2006, 2007 during this world of abuse and exploitation. Ladies and gentlemen, things like this do not happen in a vacuum. A world of exploitation cannot exist without putting off signs to other people."

¶ 14 In his rebuttal argument, the prosecutor stated:

"Ladies and gentlemen, you heard [defense counsel] at the start of his argument mention that in a case like this we would expect to see some kind of signal. There would have been some signal, some indication something was going on, something afoul much sooner than we did here. And he actually referenced this photograph, People's Exhibit 19, to suggest everything looks innocent. Everything looks beautiful and normal in the lives of these kids. What [defense counsel] failed to recognize I will point out to you.

* * *

Look at this photograph, ladies and gentlemen. There is a signal here. Do you see so much as a glimmer of a smile on [J.I.] or [A.I.] at their birthday party? Do you see a smile on their face? Do these look like the faces of a normal child enjoying the frivolity and the laughter and the joy that should come at their birthday when they're five and six years old? Not a smile on their face."

¶ 15 The prosecutor then pointed out that about a week before the picture was taken, defendant began his abuse of the victims and "started to rob their childhood from them." He proceeded to draw similar inferences from the other birthday photographs.

¶ 16 Defense counsel also stressed in his closing argument inconsistencies in the testimony given by the victims in their 2012 interviews and at trial, and discrepancies between one another's testimony and between their testimony and defendant's written statement. In particular, counsel focused on J.I.'s testimony, suggesting that she "made up" the "very serious

allegations" in order to gain attention from adults. Defense counsel also challenged the credibility of the victims' mother, both her conduct at the time of the abuse and her testimony at trial.

¶ 17 Finally, defense counsel questioned both the dependability of defendant's voluntary statement and the credibility of the detective who took it. In particular defense counsel concentrated on the detective's testimony that he did not have to use his training when interviewing defendant because as soon as he mentioned the victims' names, defendant voluntarily began to relate what he had done to the victims and to blame them for it. Calling the detective "slippery," defense counsel labeled his testimony "just unbelievable" and advised the jury, "what [the detective told] you about how [the confession] happened is not how it happened. Was that by design? Of course it was."

¶ 18 In rebuttal, the prosecutor remarked:

> "[The detective] is a committed detective. You heard that. That was evident from the witness stand. Was he here today watching these proceedings? Yes. Is it because he has a dog in the fight? Well, he wants justice to be done, like the rest of us. Does that mean that he has some kind of personal stake where he's trying to validate something in some kind of inappropriate professional way? Absolutely not."

The prosecutor further commented that neither the Waukegan Police Department nor the victims' mother was on trial, only the defendant was on trial.

¶ 19 Pursuant to the jury's guilty verdict on all counts, the trial court sentenced defendant to a term of natural life imprisonment, as mandated under 720 ILCS 5/12-14.1(b)(2) (West 2006) ("A person who has attained the age of 18 years at the time of the offense and who is convicted of a second or subsequent offense of predatory criminal sexual assault of a child *** shall be

sentenced to a term of natural life imprisonment."). Defendant filed a motion to reconsider sentence and argued, as he had at the sentencing hearing, that given his mental illness, a life sentence constituted cruel and unusual punishment and violated Illinois' proportionate penalties clause (Ill. Const. 1970, art. I, ¶ 11). At the hearing on the motion, the trial court indicated that while it had found defendant had "mental deficits" in the past, it did not find that defendant was mentally ill. Further, it did not believe that mental illness caused the crimes. The court denied the motion to reconsider, and this appeal ensued.

¶ 20 II. ANALYSIS

¶ 21 A. Propriety of the State's Closing Argument

¶ 22 Defendant argues that the prosecutor's conduct during closing argument, specifically his comments on the victims' birthday party photographs and on the credibility of State witnesses, requires a new trial. Defendant acknowledges that he has forfeited review of this issue because he did not object to all of the comments at trial nor raise all of the claims in his motion for a new trial. See *People v. Herron*, 215 Ill. 2d 167, 175 (2005) (a defendant who fails to make a timely trial objection or include the issue in a posttrial motion forfeits the review of the issue). However, the plain error doctrine allows a reviewing court to consider unpreserved issues when either: (1) the evidence is close, regardless of the seriousness of the error, so that the jury's guilty verdict may have resulted from the error and not the evidence; or (2) the error is so serious, regardless of the closeness of the evidence, so as to affect the fairness of the defendant's trial and challenge the integrity of the judicial process. *Id*. at 178–79; *People v. Piatkowski*, 225 Ill. 2d 551, 556 (2007). The first step in a plain error analysis is to determine whether an error occurred at all. *People v. Hudson*, 228 Ill. 2d 181, 191 (2008).

¶ 23 It is well settled that prosecutors are afforded wide latitude in closing argument. *People v. Wheeler*, 226 Ill. 2d 92, 123 (2007). A prosecutor may comment upon the evidence presented and upon reasonable inferences arising from the evidence, even if the inferences are unfavorable to the defendant, and may respond to comments made by defense counsel that clearly invite response. *People v. Hudson*, 157 Ill. 2d 401, 441 (1993). A prosecutor may also comment on credibility. *People v. Anderson*, 407 Ill. App. 3d 662, 677 (2011). "Nonetheless, it is improper for the prosecutor to do or say anything in argument the only effect of which will be to inflame the passion or arouse the prejudice of the jury against the defendant, without throwing any light on the question for decision." [Internal quotation marks omitted.] *Id.* " 'If the jury could have reached a contrary verdict had the improper remarks not been made, or the reviewing court cannot say that the prosecutor's improper remarks did not contribute to the defendant's conviction, a new trial should be granted.' " *Id.* (quoting *People v. Wheeler*, 226 Ill. 2d 92, 123 (2007)).

¶ 24 In this case, defendant argues that the prosecutor improperly implied, based upon the victims' birthday-party photographs, that defendant had robbed them of their childhood joy. As noted above, a prosecutor may comment upon the evidence presented and upon reasonable inferences arising from that evidence, and may respond to comments made by defense counsel that clearly invite a response. *People v. Hudson*, 157 Ill. 2d 401, 441 (1993).

¶ 25 We first reject defendant's argument that the prosecutor's comments were not based on evidence. The five photographs covered the time period from March 2006 to August 2007 and were properly admitted into evidence to show the jury what the victims looked like during the time frame of the charges against defendant, January 1, 2006, to December 31, 2007. Moreover, it is not disputed that the sexual abuse of the victims with which defendant was charged had

begun before the photographs were taken and continued until the end of 2007. The photographs upon which the prosecutor based his comments were evidence, and his comments were reasonable inferences arising from the photographs. We note that the jury was instructed "to consider all evidence in the light of your own observations and experiences in life." Given that enjoying a birthday party is generally a common life experience, the prosecutor's inference that defendant's abuse caused the appearance of an absence of enjoyment in the victims' photographs was not unreasonable.

¶ 26 Finally, the prosecutor's remarks were made in response to defense counsel's prior comment that "a world of exploitation cannot exist without putting off signs to other people" and to counsel's implicit inference that because the victims did not appear distressed in the photograph he showed the jury, there must have been nothing amiss in the household, and the victims, therefore, were lying about the abuse. Defense counsel's comment clearly invited the prosecutor's response.

¶ 27 Defendant argues that the prosecutor's response, which included discussing photographs defense counsel had not referenced, was disproportionate to defense counsel's comment. We remind defense counsel that the prosecutor was entitled to comment on all of the evidence presented and reasonable inferences arising from it. However, even if we were to find that the prosecutor's extension of his remarks to each of the photographs was excessive, we would also find that any error attributed to the prosecutor's remarks was not so serious as to deprive the defendant of a fair trial. *Wheeler*, 226 Ill. 2d at 123.

¶ 28 Defendant next contends that the prosecutor's comment that it took "bravery" for J.I. to testify was an improper attempt to bolster her credibility. In support, defendant cites *People v. McKinney*, 117 Ill. App. 3d 591, 598 (1983), in which the court found improper the prosecution's

statement that a witness showed courage in testifying due to the possibility of reprisal from the defendant's family. *Id*. The *McKinney* court concluded, however, "we cannot say that the remarks complained of influenced the jury in a manner that resulted in substantial prejudice to the accused and we therefore find the error created by the comments to be harmless beyond a reasonable doubt." We are similarly unable to say that the remark complained of in this case, which was made in the context of J.I.'s personal exposure in front of defendant and strangers in the courtroom, resulted in substantial prejudice to defendant. Moreover, we note that defense counsel had the opportunity to respond in his closing argument and did so by detailing numerous inconsistencies and gaps in J.I.'s testimony and suggesting that she had fabricated her allegations in order to gain attention from adults.

¶ 29 Defendant also contends that the prosecutor "improperly vouched for the credibility" of the detective in the case by commenting about the detective's "commitment to justice" and suggesting that he would not behave in an "inappropriate professional way" and "wants justice to be done like the rest of us." Even if these remarks were improper, they did not amount to plain error. See, e.g., *People v. Adams*, 2012 IL 111168, ¶¶ 20-24 (prosecutor's comment that police officers should be believed because they would not risk their jobs by lying on the witness stand did not rise to the level of affecting the fairness of defendant's trial and the integrity of the judicial process where the evidence was not closely balanced and the jurors had been properly instructed that counsels' arguments were not evidence and that they were the judges of the witnesses' credibility.) Our review of the evidence in this case shows that it was not closely balanced, and the record establishes that the jurors were properly instructed.

¶ 30 Moreover, it was defendant's strategy to make the detective's credibility a dispositive issue; since the prosecution's arguments "were focused upon credibility they did not distract the

jurors from confronting the appropriate question of credibility in this case." *People v. Gorosteata*, 374 Ill. App. 3d 203, 226–27 (2007), *overruled on other grounds by People v. Chambers*, 2016 IL 117911, ¶ 63. Indeed, this principle applies equally to all of defendant's claims of improper witness bolstering. Defense counsel attacked the credibility of the prosecution's witnesses throughout the trial, and a central and recurring theme in his closing argument was that the State's case lacked physical evidence and instead was based solely upon "statements." Since defense counsel made the credibility of those statements the primary issue in the case, it cannot be said that the only effect of the prosecution's responding remarks was "to inflame the passion or arouse the prejudice of the jury against the defendant, without throwing any light on the question for decision." [Internal quotation marks omitted.] *People v. Anderson*, 407 Ill. App. 3d 662, 677 (2011).

¶ 31 Finally, defendant challenges the prosecutor's comment that "the Waukegan Police Department is not on trial in this case. [The victims' mother] is not on trial. The defendant *** is on trial." We find no logic, and therefore no merit, in defendant's single-sentence argument that this comment inappropriately suggested to the jury that the mother's and the detective's testimony "was beyond reproach because, unlike [defendant], they were not accused of doing anything wrong."

¶ 32 In sum, considering the State's closing argument in its entirety in the context of all the evidence as well as the closing argument by defense counsel, we find no misconduct by the prosecutor regarding the allegedly improper inferences highlighted for the jury. Nor do we find that any error, if it occurred at all, was so serious that it affected the fairness and the outcome of the trial. Based upon our review of the prosecutor's closing argument, we cannot say that the jury could have reached a contrary verdict without the remarks in question, nor can we conclude

that the remarks constituted a material factor in the defendant's conviction. See *Wheeler*, 226 Ill. 2d at 123. Moreover, the jury was properly instructed that closing arguments are not to be considered evidence and that any statement that was not supported by the evidence should be disregarded. The jury, as fact finders, had the opportunity to observe the victims, assess their credibility and resolve any inconsistencies in their testimony. Thus, we find that any error attributed to the prosecutor's remarks was not so serious as to deprive the defendant of a fair trial. Accordingly, we find that the plain error doctrine is inapplicable to reach this forfeited issue. See *People v. Johnson*, 208 Ill. 2d 53, 64 (2003) (the procedural default must be honored if plain error as contemplated by Rule 615(a) is not found).

¶ 33 B. Constitutionality of the Sentence

¶ 34 Defendant contends that his sentence of natural life imprisonment is unconstitutional as applied to him. Defendant acknowledges that, based on his being over 18 years of age and his commission of multiple acts of sexual assault against multiple child victims, his natural-life sentence is mandatory under 720 ILCS 5/12-14.1(b)(2) (West 2006). Defendant argues, however, that as applied to him, the sentence violates Illinois' proportionate penalties clause. See Ill. Const. 1970, art. I, ¶ 11 ("[a]ll penalties shall be determined both according to the seriousness of the offense and with the objective of restoring the offender to useful citizenship").

¶ 35 Statutes are presumed constitutional, and a party challenging a statute bears the burden of demonstrating its invalidity. *People v. Huddleston*, 212 Ill. 2d 107, 128-29 (2004); *People v. Hernandez*, 382 Ill. App. 3d 726, 727 (2008). Courts have a duty to construe a statute in a manner that upholds its validity whenever reasonably possible. *Huddleston*, 212 Ill. 2d at 129. A penalty may be deemed to violate the proportionate penalties clause "if it is cruel, degrading, or so wholly disproportionate to the offense committed as to shock the moral sense of the

community." *Id.* at 130. The constitutionality of a statute is reviewed *de novo*. *People v. McCarty*, 223 Ill. 2d 109, 135 (2006).

¶ 36 "A holding that a statute is unconstitutional as applied does not broadly declare a statute unconstitutional but narrowly finds the statute unconstitutional under the specific facts of the case." *Huddleston*, 212 Ill. 2d at 131. Here, defendant points specifically to his mental health history, "relative youth," and potential for useful citizenship as factual grounds for finding section 12-14.1(b)(2) unconstitutional as applied to him.

¶ 37 Defendant claims that his mental condition contributed to the commission of his crimes. Defendant, however, cites no evidence in the record to support this claim beyond the happenstance that the car accident that apparently gave rise to his mental symptoms occurred in 2005, prior to his committing the sexual abuse. All of the reports and testimony cited by defendant, including from his medical treatment providers, a forensic social worker, and an activity therapist, are directed solely toward the question of defendant's fitness to stand trial and do not address whether a link exists between defendant's mental condition and his sexual abuse of the victims. The only association between the defendant's mental condition and the commission of the crimes cited by defendant came from the trial court, which stated, "The court *** does not find that [defendant's past mental illness] was what contributed to sexual [*sic*] assaulting the children in this case, short of the diagnosis that he is—suffers from pedophilia, in essence, which the court does not find in any way mitigates his guilt."

¶ 38 Defendant further contends that because his reported mental symptoms included "impulsivity," he was particularly prone to committing the crimes. Again, defendant cites no evidence in the record linking defendant's lack of impulse control to the commission of his crimes. Moreover, we disagree with defendant's characterization of his behavior as "impulsive."

The sexual abuse of his victims occurred frequently and repeatedly over a two-year period. The episodes of abuse were undertaken in a methodical, even calculated way, initiated when he was alone with the victims or their parents were preoccupied, brought to an end when he heard the approach or arrival of a parent, often included a hand or a sock to keep the victims quiet, and were accompanied by warnings not to tell anyone. Moreover, the abuse lasted for two years, providing plenty "of time during which defendant could have reflected upon the gross impropriety of his actions and refrained from further violations of [the] children." *Huddleston*, 212 Ill. 2d at 142 (teacher sexually assaulted three grade school students over a one month period). We detect no difference between defendant's inability to control his impulses and the same inability of others who are convicted of violent crimes.

¶ 39 Defendant quotes a doctor's report noting his "impulsivity, impulsive decision-making, impaired social judgment, and inability to appreciate the effects of [his] own behavior on others." Defendant contends that because these are youthful characteristics, the provision of the statute mandating a life sentence for predatory sexual offenders who have "attained the age of 18 years at the time of the offense" should not be applied to him. As support for this contention, defendant cites cases that discuss recent research on brain development. See, e.g., *Alabama v. Miller*, 567 U.S. 460, 471-72, 480 (2012) (in reducing a 14-year-old's mandatory life-without parole sentence for capital murder, the Supreme Court noted scientific research on brain development in adolescents and required sentencers in homicide cases involving juveniles to "take into account how children are different"); *People v. Brown*, 2015 IL App (1st) 130048, ¶ 46 (reducing 16-year-old's sentence for attempted first degree-murder and noting "[n]euroscience research suggests that the human brain's ability to govern risk and reward is not fully developed until the age of 25"); *People v. Harris*, 2016 IL App (1st) 141744 (pet. for leave

to appeal allowed, No. 121932 (May 24, 2017)) (vacating aggregate sentence of 76 years for first degree murder and attempted first-degree murder committed shortly after the defendant turned 18 and remanding for new sentencing hearing); and *People v. House*, 2015 IL App (1st) 110580, ¶ 96 (vacating 19-year-old's sentence for 2 counts each of first-degree murder and aggravated kidnapping, remanding for new sentencing hearing, and noting other countries that allow young adults ages 18 to 21, and in one country up to 25, to be tried in juvenile court).

¶ 40 The above cases are all distinguishable, however, because defendant, at the time he committed the offenses for which he was sentenced, was not an adolescent or a child, as in *Miller;* a juvenile, as in *Brown*; an 18-year-old young adult, as in *Harris*; or a 19-year-old young adult, as in *House*. Rather, defendant was 22 years old when he began his predatory sexual abuse of the minor victims and 24 when he ended it.

¶ 41 We are not persuaded by defendant's assertion that his "relative youth reflected a greater potential for rehabilitation," citing *People v. Brown*, 243 Ill. App. 3d 170, 176 (1993) (reducing the defendant's sentence for murder from 45 years to 30 years). Defendant incorrectly states that he "was only 22 years old at the time of the offenses." In fact, he aged to 24 years old during the course of committing the offenses. The defendant in *Brown* was 20 years old at the time of his single offense. Nor do we find persuasive defendant's contention that his "potential for useful citizenship" is shown by his having worked at various jobs and his sister's statement to a probation officer that he "was the most active sibling in addressing their mother's financial needs." Such commonplace life endeavors, while positive, do not justify invalidating the sentencing statute on constitutional grounds.

¶ 42 Defendant notes our supreme court's observation that "as our society evolves, so too do our concepts of elemental decency and fairness which shape the 'moral sense' of the

community." *People v. Miller*, 202 Ill. 2d 328, 339 (2002). The defendant in *Miller*, however, was 15 years old and tried under an accountability theory. Here, defendant was 7 to 9 years older and the principal actor. See *Huddleston*, 212 Ill. 2d at 131 ("[t]he present case does not include the age and level of culpability concerns" that the supreme court found supported its applied unconstitutionality finding in *Miller*). Moreover, in *Huddleston*, which was decided two years after *Miller*, the supreme court reviewed at length the "devastating and long-lasting effects child abuse has on its young victims and noted its high rate of recidivism." *Hernandez*, 382 Ill. App. 3d at 729 (citing *Huddleston*, 212 Ill. 2d at 131-40). The *Huddleston* court notably also reminded us that "[a]s an institution, the legislature is better equipped than the judiciary to identify and remedy the evils confronting our society and is more capable of gauging the seriousness of an offense." [Internal quotation marks omitted.] *Huddleston*, 212 Ill. 2d at 130. See also *Harris*, 2016 IL App (1st) 141744, ¶ 80 (Mason, J., dissenting) ("it is for the legislature, and not the courts, to revisit the sentencing scheme and afford greater discretion to trial judges").

¶ 43 Defendant has not sustained his burden of establishing that the legislature's mandated sentence is unconstitutional as applied to him. *Huddleston* , 212 Ill. 2d at 129 (party challenging a statute bears the burden of demonstrating its invalidity).

¶ 44 III. CONCLUSION

¶ 45 For the reasons stated, we affirm defendant's convictions and sentence.

¶ 46 Affirmed.