2019 IL App (2d) 161041-U
No. 2-16-1041
Order filed January 11, 2019

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellee, v. MORGAN D. HAKE, Defendant-Appellant.	))))))))))	Appeal from the Circuit Court of Carroll County. No. 15-CF-80 Honorable Val Gunnarsson, Judge, Presiding.

JUSTICE SPENCE delivered the judgment of the court.
Justices McLaren and Jorgensen concurred in the judgment.

ORDER

¶ 1 *Held*: The firearm enhancement statute was not unconstitutional, and the trial court acted within its discretion in sentencing defendant to life imprisonment. Therefore, we affirmed.

¶ 2 Following a jury trial, defendant, Morgan D. Hake, was convicted of the first-degree murder of his wife, Suzanne Hake, and sentenced to life imprisonment. On appeal, he argues that: (1) the 25-years-to-life firearm enhancement statute (730 ILCS 5/5-8-1(a)(1)(d)(iii) (West 2014)) is unconstitutionally vague, and (2) the trial court abused its discretion in imposing a life sentence. We affirm.

¶ 3 I. BACKGROUND

¶ 4 On August 29, 2016, defendant was charged by amended information with six counts of first-degree murder (720 ILCS 5/9-1(a) (West 2014)) and one count of unlawful possession of a weapon by a felon (720 ILCS 5/24-1.1(a) (West 2014)). The trial court granted defendant's motion to sever the last count.

¶ 5 Testimony in defendant's trial began on September 20, 2016. We summarize the evidence presented. Defendant and Suzanne had two daughters, Hannah and Abigail. The couple owned one home in Freeport and another one in Lanark. Their "family home" was in Freeport, but they bought the Lanark residence so that the girls could attend Lanark schools.

¶ 6 On December 3, 2015, Abigail had a high school basketball game in Galena, and her parents came to watch. Afterwards, she spent that night and the next night at a friend's house because defendant and Suzanne planned to stay at a hotel in Galena. Around 11 p.m. on December 4, 2015, defendant called Abigail and asked if she could pick him up in Galena. He said that he and Suzanne had a fight, and she left him there without a car. Abigail declined because she had basketball practice early the next morning. Defendant then called Hannah and asked her to pick him up. At the time, she was living on her own in Freeport. Hannah picked defendant up from the Galena hotel and dropped him off at the Freeport residence around 12:45 or 1 a.m. on December 5, 2015. They did not talk much during the drive, though defendant said that he and Suzanne had gotten into a minor dispute at a bar.

¶ 7 Around 1:30 a.m., defendant called Hannah and said that he had shot Suzanne three times. He asked whether he should kill himself or turn himself in to the police. Hannah told him to turn himself in because she did not want to lose both parents. Defendant also made several other phone calls. He called Abigail and said that he had killed Suzanne. He said that he could

not take being broken up from Suzanne anymore and could not spend another holiday alone. Defendant called one of his brothers and said that he had shot Suzanne three times. He also said that she had the gun loaded and waiting for him. Defendant further called his probation officer and left a voicemail for her, saying that he had killed Suzanne.

¶ 8 Hannah called 911 and reported what defendant had told her. Defendant also called 911, saying that he had just shot Suzanne and wanted to turn himself in to the police. At one point in the call, he said that he was mentally ill because "[n]obody in their right mind shoots their wife that they love."

¶ 9 Police responding to the Lanark residence found Suzanne dead, face-down on a landing near the bottom on the stairs. There were four cartridge casings and two bullets in the general vicinity. Suzanne had four stab wounds, including one of which went all the way through her left arm and another in her left shoulder which was 4½ inches deep. Suzanne also had two gunshot wounds to her back and one gunshot wound to her head. The forensic pathologist opined that any one of the gunshot wounds could have been the fatal wound.

¶ 10 In an upstairs bedroom, there was a large amount of blood on the bed and on the floor around the bed. An empty plastic gun box was located partially underneath the bed. Blood stains were also present near the doorway, in the hall, and near and on the stairs. A knife with blood on it was found on top of a chair in the living room. A purse on the chair contained a wallet with Suzanne's firearm owner's identification card and concealed carry permit. All of the blood tested from the various locations matched Suzanne's DNA.

¶ 11 Defendant surrendered peacefully to the police in a gas station parking lot. He had blood stains on his hands and clothing that matched Suzanne's DNA. Defendant did not have any injuries to his body. He told the police that he put the gun on top of his car, and it was later

determined to have fired the bullets and casings that were found at the home. While being transported to the police station, defendant said that he shot Suzanne. When walking into the building, he said that he was "mentally all right" and that "[p]eople don't just shoot their wives." Defendant made some additional incriminating statements during a brief interview. He then said that he was confused and was not going to talk more.

¶ 12 When Hannah met with a detective, she said that defendant said that he had shot Suzanne because "he couldn't handle it any more." She also told the detective that defendant had always had anger issues and that her parents separated in January 2015 for four or five months. Afterwards, they reconciled. Defendant did not own a gun, but Suzanne kept one at the Lanark house because she was often there without defendant. Hannah testified that as far back as she could remember, Suzanne always slept with a knife under her pillow. Abigail also told the police that defendant had anger issues. She further stated that there was a cycle in which things would be going well between her parents, something would "snap," and then they would have to start over again.

¶ 13 The police obtained a letter defendant wrote to Suzanne's parents from jail. In it, he stated that he "never set out to kill" Suzanne, did not "know what [his] intentions were," and that Suzanne "did nothing to deserve to lose her life."

¶ 14 Defendant provided the following testimony. He and Suzanne had been married for about 25 years. On December 4, 2015, they spent the day in Galena and consumed several alcoholic drinks. At night, they went to a bar where a band was playing and each had eight to ten drinks over the course of four hours. A woman who was dancing in the bar attracted defendant's attention. Suzanne became upset and told defendant, "[Y]ou ruin everything." She left the bar, and defendant followed her to his car. Suzanne drove. She stopped at the hotel, told defendant

to get out, and then drove away. Defendant called Suzanne a couple of times, but she did not answer. He then called Abigail and Hannah, and Hannah came to get him. She dropped him off at the Freeport home. Defendant saw that his car was there, but Suzanne's car was gone. Defendant then drove to the Lanark home because he wanted to resolve the fight, and he was concerned about Suzanne driving in her intoxicated condition.

¶ 15 He arrived at about 1 a.m. and saw that an upstairs light was on. The enclosed porch was latched from the inside, but Suzanne did not respond to defendant's knocking. He therefore broke open the patio door and used a key from the outside lockbox to open the front door. He went up to the bedroom that they used when they stayed at that house and turned on the light. Suzanne appeared to be sleeping, but as defendant went to sit down on the bed, she sprang up with a knife and swung it at him. Defendant grabbed her arms and tried to get ahold of the knife handle. They struggled, and Suzanne went limp and fell back on the bed, not moving. He realized that she was bleeding, and he moved towards his phone to call 911. Suzanne then reached for a blue case from under the bed, which had her gun on top of it. She grabbed the gun and pointed it at defendant. She pulled the trigger, and it made a clicking sound. Suzanne then pulled the slide back, and defendant grabbed the gun from her. Defendant aimed the gun at Suzanne and screamed at her, trying to communicate. She then picked up the knife and began swinging it at him again. They struggled, ending up in the hallway. Defendant shoved Suzanne into the banister and fired the gun at her twice, at close range. She slid down the stairs. When defendant came down the stairs, Suzanne lifted up her head, and he shot her in the head. The knife was near her, and defendant picked it up and put it on a nearby chair.

¶ 16 Defendant then got into his car and drove away. He called his daughters because he wanted to tell them what had happened, and ask if he should kill himself. Defendant also called

his brother, a friend, and his probation officer. Defendant did not recall telling the 911 operator that he was mentally ill, but he was very emotional at the time and thinking of killing himself. Defendant drove to a gas station parking lot, put the gun on top of the car, and waited for the police to arrive.

¶ 17 The jury found defendant guilty of first-degree murder, and it further found that he personally discharged a firearm that proximately caused Suzanne's death.

¶ 18 Thereafter, defendant filed a motion for a new trial or judgment *n.o.v.*, which the trial court denied on November 4, 2016. It then proceeded to the sentencing hearing. The State presented victim impact statements from Suzanne's mother and another daughter of Suzanne's. The defense presented victim impact statements from Abigail and Hannah in which they asked for leniency for defendant, saying that he had made a terrible mistake but was not a vicious person.

¶ 19 Defendant stated as follows in allocution. He was a drug addict in 1990 and went to jail for selling cocaine. He and Suzanne married while he was in jail because they loved each other, and he promised to change. He left jail in 1993, and over the next decades, he had a successful hardwood flooring company, and they owned about 20 rental homes. They raised their children, and life was going well. However, the businesses failed in 2012, and defendant began selling drugs again and became addicted. He was caught in Tennessee in 2014 but managed to avoid prison time. He and Suzanne shared a "special love" for over 10,000 days, and he could not comprehend how things went so wrong in a moment and how he ended up taking her life. Defendant apologized to Suzanne's family and said that he had been forgiven by his children and by Suzanne. Defendant said that he was ready to accept his sentence.

¶ 20 The trial court stated that the sentencing range for the first-degree murder conviction was 20 to 60 years, and that there was a mandatory enhancement of 25 years to life for personally discharging a firearm resulting in death. "It yields not a separate sentence, but one sentence on the [m]urder conviction." Defendant had multiple misdemeanor convictions in the late 1980's. In 1988, he was convicted of felony possession of cannabis and sentenced to probation. In 1990, he was convicted of delivery of drugs and home invasion and sentenced to six years' imprisonment. He had additional convictions in 2003, 2006, and 2010. In 2014, he was convicted in Tennessee of a drug offense and received a suspended six-year sentence.

¶ 21 The trial court believed that the couple had gone to Galena to reconcile and enjoy each other's company, but that they had an argument and Suzanne went to the Lanark house to get away from defendant. The trial court did not believe that Suzanne's murder was premeditated, but it also did not believe that defendant was acting in self-defense. Suzanne's stab wounds were not consistent with defendant's version of what happened. Also, the evidence showed that after the stabbings, Suzanne fled downstairs, at which point defendant shot her twice in the back. Defendant then stood over her, and when she moved her head, he shot her in the head to kill her. He murdered Suzanne because he was angry that she had rejected him. Defendant's violent outburst, although brief, was not mere "moments."

¶ 22 The trial court found that no mitigating factors applied. In aggravation, it stated that defendant had a history of criminality, including crimes of violence, and that the sentence was necessary to deter others. It also considered the circumstances of the offense. The trial court sentenced defendant to life imprisonment.

¶ 23 Defendant filed a motion to reconsider the sentence on November 22, 2016, in which he argued that the sentence was excessive because the trial court failed to consider various

mitigating factors, and because it improperly relied on factors inherent in the offense. Defendant further argued that the sentence constituted cruel and unusual punishment as applied to his case.

¶ 24 The trial court denied the motion on November 30, 2016. It stated, among other things, that defendant had a long criminal history with many instances of violence, meaning that it was impossible to say that the murder was a result of circumstances unlikely to reoccur. To the contrary, defendant was on probation for a felony offense at the time he murdered Suzanne. Defendant expressed remorse for killing her, but that remorse was somewhat reduced by his claim, which the trial court believed was false, that Suzanne had assaulted him. The trial court took into account the nature of the offense, which included several stab wounds, one of which went through Suzanne's arm and another which was 4½ inches deep. She also suffered three gunshot wounds, one of which was to her head. The injuries belied defendant's claim that he acted in self defense and made clear that Suzanne did not die in a moment, but rather had tried to escape.

¶ 25 Defendant timely appealed.

¶ 26 II. ANALYSIS

¶ 27 A. Constitutionality of Firearms Enhancement Statute

¶ 28 Defendant first argues that the provisions of the firearm enhancement statute are unconstitutionally vague on their face and as applied to him. Defendant points out that the trial court was required to sentence him to 20 to 60 years' imprisonment for first-degree murder, based on statutory factors in aggravation and mitigation. See 730 ILCS 5/5-4.5-20(a) (West 2014)); 730 ILCS 5/5-5-3.1, 5-5-3.2 (West 2014). Further, because of the jury's finding that defendant personally discharged a firearm that caused Suzanne's death, the trial court was required to impose a firearm enhancement of 25 years' to natural life imprisonment, consecutive

to the base sentence. 730 ILCS 5/5-8-1(a)(1)(d)(iii)(West 2014). The enhancement statute states:

> "[I]f, during the commission of the offense [of first-degree murder], the person personally discharged a firearm that proximately caused great bodily harm, permanent disability, permanent disfigurement, or death to another person, 25 years or up to a term of natural life shall be added to the term of imprisonment imposed by the court." *Id.*

Accordingly, defendant faced a total sentence of 45 years to life imprisonment.

¶ 29 Defendant contends that the enhancement statute is unconstitutionally vague because it does nothing to prevent arbitrary and discriminatory sentencing. Defendant maintains that unlike the statutory guidelines for imposing the sentence for the underlying offense, the legislature offered no guidance or objective criteria for imposing the firearm enhancement. He maintains that, under the statute, anyone who discharges a firearm causing death in a first-degree murder may be sentenced to life imprisonment, without the trial court having explicit guidance as to what factors must be present to warrant such a sentence.

¶ 30 Defendant argues that, therefore, the trial court will rely on the same aggravating factors to determine the sentence for both the underlying murder and for the firearm add-on, amounting to an improper double enhancement at sentencing. See *People v. Hall*, 2014 IL App (1st) 122868, ¶ 12 (improper double enhancement occurs where a single factor is used as both an element of an offense and a basis for imposing a harsher sentence, or the same factor is use twice to elevate the severity of the offense); *People v. Del Percio*, 105 Ill. 2d 372, 378 (1985) (improper double enhancement where the same factor was used to enhance the predicate felony and as an element of another charge).

¶ 31 Defendant points out that in imposing his sentence, the trial court noted the aggravating factors of his criminal history, the offense's circumstances, the extent of Suzanne's injuries, the deterrence factor, and the need to protect the public. Defendant argues that the trial court never stated what base sentence of between 20 and 60 years it was imposing for the murder conviction, and how it then jumped to giving him a life sentence. Defendant argues that considering that the trial court stated that the crime was not a premeditated murder, there would not have been any extenuating factors other than the circumstances of the murder itself to justify imposing an enhanced sentence of life imprisonment.

¶ 32 Defendant acknowledges that in *People v. Butler*, 2013 IL App (1st) 120923, the First District Appellate Court upheld the 25-years-to-life firearm enhancement when challenged on vagueness grounds. Several cases have followed *Butler*'s holding. See *People v. Brown*, 2017 IL App (1st) 142197, ¶ 80; *People v. Sharp*, 2015 IL App (1st) 130438, ¶¶ 141-42; *People v. Thompson*, 2013 IL App (1st) 113105, ¶ 121. Defendant argues that, however, the First District misinterpreted the statute.

¶ 33 In *Butler*, the defendant likewise argued that the firearm enhancement statute was unconstitutionally vague on its face and as applied to him. *Butler*, 2013 IL App (1st) 120923, ¶ 35. As in this case, the defendant argued that the statute did not offer guidance or objective criteria regarding what factors should be considered in determining where within the 25-years-to-life range the enhancement should fall. *Id.* The defendant argued that the statute therefore encouraged arbitrary and discriminatory sentencing based entirely upon opinions and whims. *Id.* He also maintained that the trial court could not consider the same aggravating factors used in determining the base sentence. *Id.*

¶ 34 The appellate court concluded that the statute provided sufficiently definite standards (*id.* ¶ 41); we summarize its reasoning. The trial court had no discretion as to whether to impose the enhancement once it was triggered, and the scope of the sentencing range was definite, in that it was from 25 years to life. *Id.* The standards for imposing the enhancement were also clear, as the statute had to be applied when a defendant committed first-degree murder and discharged a firearm that proximately caused great bodily harm, permanent disability, permanent disfigurement, or death. *Id.* The trial court had the discretion to impose a sentence within the enhancement range depending on the injury caused by the firearm, allowing the trial court to engage in fact-based determinations based upon the case's unique circumstances. *Id.* "By defining the types of injuries that trigger the sentence enhancement, the legislature ha[d] provided the trier of fact with guidelines to apply when determining what sentence to impose within the boundaries of the statute." *Id.*

¶ 35 The defendant argued that the type of injuries listed did not provide guidance because all defendants who were guilty of first-degree murder would have caused death. *Id.* ¶ 42. The appellate court responded that the defendant failed to contemplate situations where the firearm was not the proximate cause of the victim's death, such as where a defendant discharged a firearm that caused an injury, but then took another action that lead to the victim's death. *Id.* The appellate court stated that the sentencing enhancement would apply in both cases, but the trial court could impose a different enhanced term for each situation. *Id.* The appellate court stated, "[a]lthough confusion could be avoided if the legislature provided more explicit guidance regarding the imposition of the 25-years-to-life sentence enhancement, we cannot say that it is unconstitutionally vague." *Id.*

¶ 36 The appellate court further rejected the defendant's "double enhancement" argument. *Id.* ¶ 43. It cited *People v. Sharpe*, 2016 Ill. 2d 481, 530 (2005), where our supreme court stated that the general prohibition against double enhancement was a rule of construction established by the court, but that double enhancement was permissible if the legislature clearly intended to enhance the penalty for a crime. *Butler*, 2013 IL App (1st) 120923, ¶ 43.

¶ 37 Returning to the instant case, defendant argues that *Butler*'s analysis is flawed because the types of injuries identified in the statute merely trigger the enhancement in the first place, and the statute does not in any way suggest that the listed injuries should also be used to guide the trial court's discretion when imposing a sentence for the enhancement. Defendant further maintains that although great bodily harm, permanent disability, and permanent disfigurement have a range of severity of harm, the remaining trigger for the enhancement, being the death of the victim, does not. He argues that there is nothing in the statute that differentiates a sentencing for a death stemming from a premeditated murder from the death here, which occurring during "a struggle and sudden violent outburst." Defendant additionally argues that the statute does not state that a sentencing court may apply aggravating factors again after first applying them to the underlying murder sentence, or explain how a sentencing court should do so. According to defendant, the trial court's decision to impose a life sentence for his crime, without explanation, means that the trial court may have engaged in the improper double counting of aggravating factors to determine his ultimate sentence, and illustrates how the firearm enhancement statute encourages an arbitrary and discriminatory enforcement of the law.

¶ 38 The State urges us to follow *Butler* and its progeny, and it also cites *People v. Walsh*, 2016 IL App (2d) 140357. In *Walsh*, we examined what evidence a trial court could take into account when applying the firearm enhancement statute. *Id.* ¶ 22. We stated that the statute did

not indicate that the trial court could consider only the facts surrounding the murder, and that we would not read such a requirement into the statue. *Id.* ¶ 23. We further stated that "it would be absurd to conclude that, in imposing a sentence for first-degree murder, the trial court may consider any and all of the aggravating and mitigating sentencing factors ***, but that, in imposing the firearm add-on, the court may consider only the facts surrounding the offense." *Id.* ¶ 24. We looked at the purpose of the firearm-add-on-provisions, which was to promote public health and safety and impose severe penalties to deter the use of firearms in felonies. *Id.* We stated that the facts surrounding the offense would guide the trial court in selecting an appropriate term within the range for the enhancement, but that consideration of other facts, such as the defendant's use of firearms in the past, also would serve to meet the statute's objectives. *Id.* We elaborated that we were not suggesting that the defendant's prior use of weapons was the only fact that the trial court could consider, but instead that "the unique circumstances of each case and all of the applicable sentencing factors, both in mitigation and aggravation, should guide the court in determining what sentence to impose." *Id.* ¶ 25.

¶ 39 In *Walsh*, we also addressed the defendant's argument that considering his prior bad acts in assessing both the underlying sentence and the firearm add-on amounted to an improper double enhancement. *Id.* ¶ 29. We stated that no double enhancement occurred because the previous offenses did not affect which initial and enhanced sentencing ranges the defendant was subject to, but rather the trial court used the prior offenses only in exercising its discretion to choose appropriate terms within those ranges. *Id.* ¶ 30. We further quoted *People v. Thomas*, 171 Ill. 2d 207, 224-25 (1996), for the proposition that " 'second use of defendant's prior [offenses] does not constitute an enhancement, because the discretionary act of a sentencing court in fashioning a particular sentence tailored to the needs of society and the defendant, within

the available parameters, is a requisite part of every individualized sentencing determination.' " *Walsh*, 2016 IL App (2d) 140357, ¶ 30.

¶ 40 We note that statutes are presumed to be constitutional, and courts must construe legislative enactments to uphold their validity if reasonably possible. *People v. Chairez*, 2018 IL 121417, ¶ 15. Our primary objective in construing a statute is to ascertain and give effect to the legislature's intent (*People v. Relerford*, 2017 IL 121094, ¶ 30), which is best indicated by the statute's plain language (*People v. Rinehart*, 2012 IL 111719, ¶ 24). The party challenging the statute has the burden of rebutting that presumption and clearly demonstrating a constitutional violation. *Chairez*, 2018 IL 121417, ¶ 15. Due process requires that a criminal statute: (1) give a person of ordinary intelligence a reasonable opportunity to know what conduct is forbidden, and (2) provide sufficiently clear standards to avoid arbitrary or discriminatory enforcement and application by police officers, judges, and juries. *People Howard*, 2017 IL 120443, ¶ 25. Defendant challenges the second requirement. "A statute violates due process on the basis of vagueness only if its terms are so ill-defined that the ultimate decision as to its meaning rests on the opinion and whims of the trier of fact rather than any objective criteria or facts." (Internal citations omitted.) *Id.* Although defendant did not raise this issue in the trial court, a challenge to a statute's constitutionality may be raised at any time.[1] *People v. McCarty*, 223 Ill. 2d 109, 123 (2006). Whether a statute is constitutional is a question of law that we consider *de novo*. *Relerford*, 2017 IL 121094, ¶ 30

[1] Generally, an as-applied challenge must first be raised in the trial court to sufficiently develop the record for review, but an exception exists where the facts and circumstances necessary to decide the defendant's claim are already in the record. See *People v. Holman*, 2017 IL 120655, ¶ 32. This exception applies here.

¶ 41 We agree with the State that the issues that defendant raises have already been decided in other cases, and we find no reason to deviate from the established precedent. Specifically, *Butler* addressed the issue of whether the firearm enhancement statute was unconstitutionally vague on its face and as applied. *Butler*, 2013 IL App (1st) 120923, ¶ 35. It noted that the sentencing range of the enhancement was definite and that the trial court was required to impose the enhancement if the defendant used a firearm in a first-degree murder, and the firearm proximately caused great bodily harm, permanent disability, permanent disfigurement, or death. *Id.* The legislature had provided the trial court with guidelines for sentencing in that the trial court could consider the injury caused by the firearm in imposing the additional sentence. *Id.*; see also *Brown*, 2017 IL App (1st) 142197, ¶ 80 (following *Butler*); *Sharp*, 2015 IL App (1st) 130438, ¶¶ 141-42 (same); *Thompson*, 2013 IL App (1st) 113105, ¶ 121 (same).

¶ 42 Although defendant argues that the legislature did not explicitly instruct the trial court to consider the type of injury caused by the firearm, the very fact that the legislature delineated the types of injuries that trigger the enhancement indicates as much. See *Butler*, 2013 IL App (1st) 120923, ¶ 35. Further, *Walsh* instructs us that in imposing the firearm enhancement, the trial court may consider all of the aggravating and mitigating sentencing factors, in addition to the circumstances of the offense. *Walsh*, 2016 IL App (2d) 140357, ¶ 24. Therefore, there is a wide range of criteria that the trial court may consider in imposing the sentencing enhancement, just as with the underlying sentence, which refutes defendant's argument that the statute provides no means to differentiate various scenarios where the discharge of a firearm resulted in the victim's death.

¶ 43 Similarly, *Butler* rejected defendant's argument that in determining the sentence for the enhancement, a trial court could not consider the same aggravating factors it considered in

imposing the underlying sentence. *Butler* noted that our supreme court has held that a double enhancement is permissible if the legislature clearly intended to enhance the penalty for an offense. *Butler*, 2013 IL App (1st) 120923,¶ 43. We also addressed this argument in *Walsh*, stating that the trial court could consider prior offenses in sentencing for both the underlying offense and the firearm enhancement because it did not affect the sentencing ranges, but instead could be used for the trial court to exercise its discretion in choosing sentences within those ranges. *Walsh*, 2016 IL App (2d) 140357, ¶ 30.

¶ 44 B. Sentence

¶ 45 Defendant alternatively argues that the trial court abused its discretion in sentencing him to life imprisonment. He argues that his sentence was excessive considering that he had only misdemeanor batteries and a couple of drug-related non-violent felonies in his past. He acknowledges that he was sentenced to imprisonment for home invasion, but he argues that was 25 years before the instant offense. Defendant asserts that none of his prior convictions were anywhere near the seriousness of the murder, especially considering that none involved using a weapon against another person. Defendant argues that, in mitigation, the evidence showed that after the prior crimes, he had straightened out his life, was married to Suzanne for 25 years, owned several houses with her, and had his own business for a while. He argues that the couple raised their daughters in a loving home and made sure they obtained a good education, and that both children were attending college at the time of sentencing. Defendant further maintains that he had strong family ties and family support.

¶ 46 Defendant additionally argues that the trial court imposed a life sentence without any view towards rehabilitation. He cites *People v. Treadway*, 138 Ill. App. 3d 899, 905 (1994), where the reviewing court stated that it had to examine the defendant's potential for

rehabilitation. Defendant highlights that Hannah testified at sentencing that he was a good person who had made a terrible mistake and was not the equivalent of a "cold-blooded killer." Defendant contends that a sentence of life imprisonment is the most severe penalty that Illinois courts can impose and should be reserved for the worst offenders. Defendant argues that there was nothing in his background to indicate that he often resorted to violence to solve problems, and that the shooting of Suzanne arose out of a struggle and heated domestic dispute, as opposed to a premeditated murder. Defendant maintains that although the killing was a horrible tragedy, it was not one that was likely to recur or pose a danger to the general public. Defendant argues that the facts of this case, factors in mitigation, and his potential for rehabilitation indicate that a term of years is a more appropriate sentence.

¶ 47 A trial court has wide latitude in sentencing a defendant as long as it does not ignore relevant mitigating factors or consider improper aggravating factors. *People v. Higgins*, 2016 IL App (3d) 140112, ¶ 29. The weight to be given to these factors depends on the circumstances of each case. *People v. Chirchirillo*, 393 Ill. App. 3d 916, 927 (2009). A reviewing court gives substantial deference to the trial court's sentencing decision because the trial court has observed the defendant and the proceedings and is therefore in a much better position to consider the sentencing factors. *People v. Brown*, 2018 IL App (1st) 160924, ¶ 9. We therefore accord great deference to a sentence within the appropriate sentencing range. *People v. Colon*, 2018 IL App (1st) 160120, ¶ 66. We will not disturb the trial court's sentencing decision absent an abuse of discretion, which occurs only where the sentence is greatly at variance with the law's spirit and purpose, or manifestly disproportionate to the nature of the offense. *Brown*, 2018 IL App (1st) 160924, ¶ 9. We may not substitute our judgment for that of the trial court just because we would have weighed sentencing factors differently. *Colon*, 2018 IL App (1st) 160120, ¶ 66.

¶ 48 We find no basis to disturb the trial court's sentence of life imprisonment. Although defendant attempts to downplay his criminal history and portray himself as a peaceful person, his convictions spanned decades and included felony offenses, including that of home invasion. As the trial court pointed out, defendant was also on felony probation at the time he committed the instant offense. In addition to his criminal history, defendant was described as having anger issues.

¶ 49 The circumstances of the murder are also disturbing. After the fight at the Galena bar, Suzanne clearly sought to distance herself from defendant by leaving him at the hotel, driving to their Freeport home, and then switching cars and driving to the Lanark home, where she apparently latched the enclosed porch from the inside and did not respond to defendant's knocking. The jury did not accept defendant's explanation that he acted in self-defense, meaning that defendant stabbed Suzanne several times for no justifiable reason. One of the wounds went through her arm, and another wound went 4½ deep. The evidence indicated that when she attempted to flee, he shot her two times in her back, causing her to fall down the stairs. By defendant's own testimony, when she lifted her head up while lying on the stairs, he shot her a third time. As the trial court stated, although the entire episode may have been brief, the encounter did not last just moments, as defendant claimed.

¶ 50 To whatever extent defendant displayed a rehabilitative potential, a defendant's rehabilitative potential is not entitled to more weight than the seriousness of the offense. *People v. Alexander*, 239 Ill. 2d 205, 214 (2010). The record from the sentencing hearing and the hearing on defendant's motion to reconsider the sentence shows that the trial court carefully considered all potential mitigating and aggravating factors, and we conclude that it did not abuse its discretion in imposing a sentence of life imprisonment.

¶ 51 III. CONCLUSION

¶ 52 For the reasons stated, we affirm the judgment of the Carroll County circuit court. As part of our judgment, we grant the State's request that defendant be assessed $50 as costs for this appeal. 55 ILCS 5/4-2002(a) (West 2016); see also *People v. Nicholls*, 71 Ill. 2d 166, 179 (1978).

¶ 53 Affirmed.