



2016)) and one count of first degree murder (720 ILCS 5/9-1(a)(3) (West 2016)) predicated on the commission of a forcible felony, mob action. As to the count of mob action, the State alleged: “[T]he defendant Ronald Pettis on or about the 30th day of May[ ] 2017, being two or more persons acting together and without authority of law, used force or violence disturbing the public peace[.]”

¶ 6

#### B. Jury Trial

¶ 7 In June 2018, the trial court held a jury trial. The following is gleaned from the evidence presented.

¶ 8 In May 2017, Lew-Shawn Clark and her children, Chauncey and Chauntel Clark, lived at the Fair Oaks Housing Complex in Danville (Fair Oaks). Lew-Shawn’s boyfriend, Luther Tate, also lived with Lew-Shawn and her children.

¶ 9 On May 26, 2017, Chauntel came home with her eye swollen shut after Ronesha Pettis, defendant’s sister, allegedly hit her in the face at a graduation party. The police were called but Chauntel did not want to press charges. Lew-Shawn then went and spoke with defendant’s parents. The next day, Lew-Shawn saw defendant’s father and defendant’s sister, Malika Anthony, walking to the store. Malika rolled her eyes at Lew-Shawn.

¶ 10 On the evening of May 29, 2017, Lew-Shawn went to a party just outside Fair Oaks. Upon leaving the party, Lew-Shawn encountered Malika and a physical altercation transpired between them. Lew-Shawn sustained injuries, including a cut on her lip and scrapes on her knees. Lew-Shawn then returned to her home in Fair Oaks.

¶ 11 At approximately 12:16 a.m. on May 30, 2017, Lew-Shawn was outside in a courtyard at Fair Oaks. Chauncey, Chauntel, Tate, and Lew-Shawn’s ex-boyfriend, Kuron Kimmons were also outside. Chauntel testified she saw a group of people “power walking, like fast,” toward them. Chauntel demonstrated for the jury how the group was approaching. The group

included defendant, Ronesha, Malika, defendant's other sister, Audriana Robinson, and Marcus Jefferson. Chauntel testified she observed the three girls were in the front of the group and the two men were behind them. Chauntel then observed the group "spread out" as they approached. Lew-Shawn, who had her back to the group, did not see them coming. Chauntel and Chauncey observed Malika holding a knife. Chauntel also observed Malika holding a lock. Chauncey observed defendant removing his jacket as he was approaching.

¶ 12 Lew-Shawn testified she was attacked from behind by Ronesha, who had run up, grabbed her by the neck, and threw her to the ground. Chauncey then approached and hit Ronesha, who was on top of Lew-Shawn. Chauncey testified Malika tried to stab him but she only cut his arm. Kimmons dragged Ronesha off Lew-Shawn. At that point, defendant hit Kimmons and then squared up to fight with Chauncey. Chauntel testified her brother and defendant went around the corner of the building and started fighting. Chauncey testified both he and defendant swung at each other and "nipped" one another. Chauncey testified defendant and Anderson slammed Kimmons on the ground. Lew-Shawn, Chauncey, and Chauntel all testified to seeing defendant striking Kimmons while he was on the ground, either by stomping on his face or punching him. Chauncey testified he saw Malika stab Kimmons with a knife while Kimmons was on the ground. Lew-Shawn testified defendant and the others fled after it was discovered Kimmons had been stabbed. She then went to Kimmons's aid.

¶ 13 A surveillance camera at Fair Oaks captured video footage of the fight. The video footage shows the initial encounter up until when the fight moves around the corner of the building. The following transpires within about 15 to 20 seconds. The group with defendant walks towards Lew-Shawn and her group. Defendant and Ronesha appear near the front of their group. As defendant approaches, he starts to remove his jacket. Ronesha then runs towards Lew-Shawn, who

has her back turned. After Ronesha reaches Lew-Shawn, defendant begins to run towards the group and drops his jacket. Ronesha pulls Lew-Shawn to the ground. While Ronesha is standing over Lew-Shawn, defendant stops and appears to take a fighting stance in front of Tate. Tate does not engage. Chauncey knocks Ronesha away from Lew-Shawn and then moves away. At that point, Kimmons runs toward Ronesha, who is on the ground, and grabs her feet. Defendant runs up to Kimmons as he is dragging Ronesha and hits him twice. Malika then runs towards Kimmons and strikes him in the back. It is not clear in the video whether Malika is holding anything when she strikes Kimmons. Chauncey then swings at defendant, and the two appear to take a fighting stance and then move out of view around the corner of the building. Kimmons, who fell to the ground, stood up and moved around the corner of the building.

¶ 14 Kimmons died from a single stab wound to his back which penetrated his aorta. The forensic pathologist who conducted the autopsy on Kimmons's body opined the wound would have been caused from a single-edged knife. The police discovered a serrated single-edged kitchen steak knife in a nearby dumpster. Kimmons's body did not show any recent scrapes, cuts, or bruises. The forensic pathologist testified it was unlikely Kimmons's body would have shown any bruising as the penetration of the aorta would have resulted in a drop in blood pressure. The forensic pathologist also testified the stab wound would have likely resulted in Kimmons losing consciousness within a few minutes of sustaining the injury.

¶ 15 Defendant was interviewed by the police about the fight. Defendant initially reported he did not strike anyone during the fight but, after being shown the video footage, said he "guess[ed]" he hit Kimmons. Defendant reported Chauncey hit him before he hit Kimmons. He also stated he saw Malika chasing after Chauncey with a knife, which was the first time he saw the knife.

¶ 16 In closing, the State argued, in part, defendant and his sisters went to the Clarks's home with the common purpose to do violence to Lew-Shawn's family to get revenge for the fight that happened earlier between Lew-Shawn and Malika. In support, the State highlighted the video footage showing defendant arriving in the group with his sisters, taking off his jacket, and getting into a fighting stance with Tate. In response, the defense argued, in part, the evidence showed defendant was simply walking with the group and then acted in defense of his sister Ronesha and not as any part of a concerted effort.

¶ 17 The trial court instructed the jury, consistent with defendant's assertion that he was acting in defense of another, "A person is justified in the use of force when and to the extent that he reasonable [*sic*] believes that such conduct is necessary to defend another against the imminent use of unlawful force."

¶ 18 During its deliberations, the jury requested to see the video footage in slow motion. The court, over no objection, permitted the jury to do so inside the courtroom. After further deliberations, the jury found defendant guilty of mob action but not guilty of first degree murder.

¶ 19 C. Posttrial Proceedings

¶ 20 In July 2018, defendant filed a posttrial motion, arguing the State failed to prove him guilty beyond a reasonable doubt of mob action. The trial court denied defendant's motion and then proceeded to sentencing. The court received a presentence investigation report (PSI) and heard testimony from defendant's mother. The following is gleaned from the PSI and testimony presented.

¶ 21 Defendant, who was 24 years old at the time of sentencing, had a history of delinquency and criminal activity. Defendant's history of delinquency included multiple retail thefts, a battery, an aggravated battery, and an aggravated robbery. Defendant's history of criminal

activity included a 2011 theft, two 2012 thefts, a 2013 robbery, a 2014 residential burglary, and a 2016 resisting or obstructing a peace officer. For one of the 2012 thefts, defendant was sentenced to one year imprisonment. For the 2013 robbery, defendant was sentenced to three years' imprisonment. For the 2014 residential burglary, defendant was sentenced to four years' imprisonment. While on mandatory supervised release (MSR) for the 2013 robbery and 2014 residential burglary, defendant committed the mob action in this case.

¶ 22 Defendant was unemployed. He reported previously being employed with various employers between March and November 2016, earning between \$8.50 and \$10 per hour. Defendant reported receiving a General Education Diploma and some college credits.

¶ 23 Prior to his incarceration, defendant resided with his mother, his mother's husband, and his nine-year-old brother. His mother's husband had scoliosis and was unable to care for his brother. Defendant assisted with caring for his brother. He also assisted with household bills when he was working.

¶ 24 At one point, defendant was taken away from his mother as a child and placed with an aunt. He was then later placed in a transitional living program.

¶ 25 Defendant was evaluated with the Level of Service Inventory-Revised (LSI-R) and found to need the maximum level of supervision and service.

¶ 26 Based on the above, the State recommended defendant be sentenced to an extended term of six years' imprisonment. In support, the State highlighted the nature and circumstances of the offense, defendant's history of delinquency and criminal activity, the fact defendant was on MSR when he committed the offense, the fact defendant's last sentence was for four years' imprisonment, and the fact the LSI-R recommended the maximum level of supervision and service.

¶ 27 Conversely, the defense recommended defendant be sentenced to probation or,

alternatively, a minimum prison sentence. In support, the defense highlighted defendant's difficult childhood and the fact any term of imprisonment would cause a hardship on defendant's family given the support he provided. The defense also maintained defendant was not acting together with anyone and only became involved in the fight to defend his sister Ronesha.

¶ 28 In the oral pronouncement of its decision, the trial court began by commenting on the nature and circumstances of the offense:

“You were on [MSR] when the offense was committed. Violence ensued; maybe not as a direct result of what you were doing but it ensued. You entered yourself into the commotion; maybe, yes, on behalf of your sister, but you still entered yourself into the commotion which ended in somebody's death. I'm not saying you're responsible for that person's death, but I am respecting the jury's verdict regarding the mob action. I think that was proved beyond a reasonable doubt; and I think your actions contributed to the entire situation, which was a very tragic situation.”

The court next commented on the statutory factors in mitigation:

“I find that it may cause some hardship on your family to be [imprisoned]. And I certainly, as a mother myself, appreciate your mother's heartfelt feelings and the issues that she's enduring right now. But, frankly, I'm not sure you're such a good role model for your [nine]-year-old brother; and I don't find that it's an excessive hardship on the family.”

Finally, the court commented on the statutory factors in aggravation:

“I find that your conduct caused or threatened serious harm because you were in there throwing punches and involved in the totality of the circumstances. That you have a history of prior delinquency or criminal activity. That you were on parole during the commission of this offense and that the sentence is necessary to deter others from committing the same crime.”

After considering the above, the court sentenced defendant to five years’ imprisonment.

¶ 29 This appeal followed.

¶ 30 II. ANALYSIS

¶ 31 On appeal, defendant argues (1) the State failed to prove him guilty beyond a reasonable doubt of mob action and (2) the sentence imposed against him by the trial court is excessive. The State disagrees.

¶ 32 A. Sufficiency of the Evidence

¶ 33 Defendant argues the State failed to prove him guilty beyond a reasonable doubt of mob action. Specifically, defendant asserts the State failed to prove he acted together with at least one other person and failed to disprove he acted in defense of another.

¶ 34 When presented with a challenge to the sufficiency of the evidence, the question before this court is “whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.” (Emphasis and internal quotation marks omitted.) *People v. Harris*, 2018 IL 121932, ¶ 26, 120 N.E.3d 900. “All reasonable inferences from the evidence must be drawn in favor of the prosecution.” *People v. Hardman*, 2017 IL 121453, ¶ 37, 104 N.E.3d 372. Further, we must “not substitute [our] judgment for that of the trier of fact on questions involving the weight

of the evidence or the credibility of the witnesses.” *People v. Gray*, 2017 IL 120958, ¶ 35, 91 N.E.3d 876. “A criminal conviction will not be reversed for insufficient evidence unless the evidence is so unreasonable, improbable, or unsatisfactory that it justifies a reasonable doubt of the defendant’s guilt.” *Id.*

¶ 35 The State charged defendant with committing the offense of mob action as set forth in section 25-1(a)(1) of the Criminal Code of 2012 (720 ILCS 5/25-1(a)(1) (West 2016)). That section provides: “A person commits mob action when he or she engages in \*\*\* the knowing or reckless use of force or violence disturbing the public peace by [two] or more persons acting together and without authority of law.” *Id.* To prove defendant guilty of mob action as charged in this case, the State had to prove defendant, without authority of law and while acting with at least one other person, knowingly or recklessly used force or violence to disturb the public peace.

¶ 36 First, defendant asserts the State failed to prove he was acting together with at least one other person. According to defendant, Ronesha, alone, started the fight and he became involved only after Chauncey hit Ronesha and Kimmons dragged her by the legs.

¶ 37 The phrase “acting together” under section 25-1(a)(1) requires some concerted action—that is, a common purpose or agreed-upon course of action among the actors. *People v. Barnes*, 2017 IL App (1st) 142886, ¶ 68, 89 N.E.3d 969.

¶ 38 The jury heard testimony about recent, prior altercations between members of defendant’s family and the Clark family. The jury saw video footage showing defendant and Ronesha leading their group towards the other group, defendant removing his jacket as Ronesha was running towards Lew-Shawn, defendant getting into a fighting stance with Tate while Ronesha had Lew-Shawn on the ground, and Malika striking Kimmons shortly after defendant struck him. The jury also heard testimony about defendant and Anderson slamming Kimmons on the ground,

defendant striking Kimmons while he was on the ground, Malika stabbing Kimmons while he was on the ground, and defendant and his group fleeing after it was discovered Kimmons had been stabbed. We find this evidence, considered in its entirety, allowed for the reasonable inference defendant and members of his group engaged with the other group pursuant to a common purpose or agreed-upon course of action as an extension of, or in retaliation for, the earlier altercations.

¶ 39 Defendant's attempt to analogize his case with *People v. Kent*, 2016 IL App (2d) 140340, 64 N.E.3d 78, is unconvincing. In *Kent*, the defendant and his girlfriend arrived together at the home of the victim—the father of two of the girlfriend's children—to pick up the girlfriend's children. *Id.* ¶¶ 5-6. Both the defendant and his girlfriend had separate arguments with the victim. *Id.* As the girlfriend began to enter the victim's home, the defendant hit the victim from behind, and a fight ensued between the defendant and the victim. *Id.* ¶ 7. On review, the appellate court found these facts were insufficient to prove the acting together element for the offense of mob action. *Id.* ¶¶ 20-25. In so finding, the court noted, "The State could have established the 'acting together' element by showing that [the girlfriend] was forcefully attempting to enter the home and that [the defendant] struck [the victim] to assist [the girlfriend], but the [trier of fact] heard no such evidence." *Id.* ¶ 23. Unlike *Kent*, the jury here received evidence indicating defendant and members of his group together engaged the other group with force and violence.

¶ 40 Second, defendant asserts the State failed to disprove he acted in defense of another. According to defendant, he participated in the fight only to defend his sister.

¶ 41 "A person is justified in the use of force against another when and to the extent that he reasonably believes that such conduct is necessary to defend \*\*\* another against such other's imminent use of unlawful force." 720 ILCS 5/7-1 (West 2016). Again, the question before this court is whether, after viewing the evidence in the light most favorable to the prosecution, any

rational trier of fact could have found the defendant did not act in defense of another beyond a reasonable doubt. *Gray*, 2017 IL 120958, ¶ 51.

¶ 42 As discussed, the jury saw video footage showing defendant and Ronesha leading their group towards Lew-Shawn's group, defendant removing his jacket as Ronesha is running towards Lew-Shawn, and defendant getting into a fighting stance with Tate while Ronesha has Lew-Shawn on the ground. From this video footage, we find a rational trier of fact could have found defendant was not justified in the use of force against another as both he and Ronesha appeared to be the initial aggressors.

¶ 43 As a final matter, defendant, for the first time in his reply brief, takes issue with whether the State proved he was acting together with at least one other person in the use of force against the same person. The State was not, however, required to prove defendant acted with another in the use of force against the same person. Rather, the State only had to prove defendant, while acting with at least one other person, knowingly or recklessly used force or violence to disturb the public peace. 720 ILCS 5/25-1(a)(1) (West 2016).

¶ 44 After reviewing the evidence presented at trial, we find the State presented sufficient evidence to sustain defendant's conviction for mob action.

¶ 45 **B. Sentence Imposed**

¶ 46 Defendant argues the sentence imposed against him by the trial court is excessive. Specifically, defendant contends the sentence is excessive in light of his minimal involvement in the fight, the fact he joined the fight to protect his sister as acknowledged by the trial court, the significant hardship to his family, and his difficult childhood. Defendant acknowledges he forfeited his argument by failing to raise it before the trial court but asserts his forfeiture may be excused under the plain error doctrine or as a matter of ineffective assistance of counsel.

¶ 47 Forfeiture aside, it is undisputed defendant's five-year, extended-term prison sentence falls within the applicable statutory limits. See 720 ILCS 5/25-1(a)(1), (b)(1) (West 2016) (Class 4 felony); 730 ILCS 5/5-4.5-45(a) (West 2016) (providing an extended-term sentence for a Class 4 felony is three to six years). A sentence that falls within the applicable statutory limits is generally reviewed for an abuse of discretion. *People v. Price*, 2011 IL App (4th) 100311, ¶ 36, 958 N.E.2d 341. This is because a trial court is generally "in a better position than a court of review to determine an appropriate sentence based upon the particular facts and circumstances of each individual case." *Id.* (Internal quotation marks omitted.) "A sentence within statutory limits will not be deemed excessive and an abuse of the court's discretion unless it is 'greatly at variance with the spirit and purpose of the law or manifestly disproportionate to the nature of the offense.'" *People v. Pina*, 2019 IL App (4th) 170614, ¶ 20 (quoting *People v. Fern*, 189 Ill. 2d 48, 54, 723 N.E.2d 207, 210 (1999)).

¶ 48 First, defendant asserts his sentence is excessive as his involvement in the offense was minimal. We disagree. The video footage and the testimony presented at trial indicates defendant played a prominent role in the fight.

¶ 49 Second, defendant asserts his sentence is excessive given the fact, as acknowledged by the trial court, he joined the fight to protect his sister. We disagree. While the court entertained defendant's repeated argument suggesting he struck Kimmons to defend Ronesha, the court made clear the jury's verdict was supported by the evidence presented. We agree the evidence presented supported the jury's rejection of defendant's claim suggesting he joined the fight simply to protect his sister.

¶ 50 Third, defendant asserts his sentence is excessive given the significant hardship to his family. We disagree. The trial court recognized the help defendant provided to his family but

found his imprisonment would not cause an undue hardship. We cannot say the court abused its discretion in weighing and balancing any hardship from imprisonment.

¶ 51 Last, defendant asserts his sentence is excessive given his difficult childhood. We disagree. While the trial court did not explicitly address defendant's childhood, it indicated it considered the testimony from defendant's mother, testimony which provided the information about defendant's childhood. Again, we cannot say the court abused its discretion in weighing and balancing the impact of defendant's childhood when considering an appropriate sentence.

¶ 52 After reviewing the evidence and arguments at sentencing, we find the sentence imposed by the trial court was not excessive.

¶ 53 III. CONCLUSION

¶ 54 We affirm the trial court's judgment.

¶ 55 Affirmed.