MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Zachary L. Lewis,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

April 13, 2023

Court of Appeals Case No. 22A-CR-2239

Appeal from the Sullivan Superior Court

The Honorable Hugh R. Hunt, Judge

Trial Court Cause No. 77D01-1911-F4-771

Memorandum Decision by Judge Tavitas
Judges Vaidik and Foley concur.

Tavitas, Judge.

Case Summary

[1] Following a jury trial, Zachary Lewis was convicted of possession of a deadly weapon by an inmate, a Level 4 felony, and sentenced to ten years in the Department of Correction ("DOC"). Lewis appeals and claims that the trial court: (1) abused its discretion by excluding the testimony of several defense witnesses; (2) erred by refusing to allow Lewis to proceed with "hybrid representation"; (3) abused its discretion by overlooking certain alleged mitigating factors; and (4) imposed a sentence that is constitutionally disproportionate to the offense. We find none of these claims to be meritorious and, accordingly, affirm Lewis's conviction and sentence.

Issues

[2] Lewis presents four issues, which we restate as:

I. Whether the trial court abused its discretion when it excluded the testimony of several witnesses Lewis wished to call to testify regarding the prison conditions.

II. Whether the trial court erred by denying Lewis's request for "hybrid representation."

III. Whether the trial court abused its discretion by overlooking certain alleged mitigating factors when sentencing Lewis.

IV. Whether Lewis's ten-year sentence is constitutionally disproportionate to the offense for which Lewis was convicted.

Facts

[3] In 2020, Lewis was an inmate at the Wabash Correctional Facility ("WCF"). In the fall of 2020, Lewis was housed in the Special Confinement Unit ("SCU")—a separate area of the facility where certain inmates are kept separated from the general prison population. Inmates in the SCU are confined in single-person cells, and no more than one SCU inmate can be out of his cell at any given time. Each SCU inmate is escorted by corrections officers to a recreational area once per day, where the inmate can exercise alone.

[4] On September 12, 2020, while Lewis was in the recreational area, Correctional Sergeant Katie Watts noticed that Lewis had a water bottle with him, which was not permitted. Sergeant Watts confiscated Lewis's bottle and observed feces in the bottle. Inmates often use bottles to throw fecal matter on other inmates or prison staff. Due to this violation, Sergeant Watts placed Lewis on "strip cell status," during which the inmate is placed in a holding cell while the inmate's personal cell is thoroughly inspected.[1] Tr. Vol. II. p. 110. Sergeant Watts inspected Lewis's cell with the help of Nelson Santiago, an inmate who was assigned to work in the SCU and assist correctional officers there. Sergeant Watts continually watched Santiago, and he never left her sight during the inspection of Lewis's cell. During the inspection, Sergeant Watts found two shanks—homemade knives—located in the track above the door of Lewis's cell.

[1] Once an inmate is placed in strip cell status, the status is reviewed every twelve hours, and an inmate can be placed on strip cell status for up to seventy-two hours at a time.

The shanks were constructed from toothbrush handles, plastic wrap, and blades from a disposable razor. Sergeant Watts testified that it would not have been possible for Santiago to have placed the shanks in Lewis's cell because she was watching Santiago at all times. Due to the nature of their construction, the shanks were capable of causing serious injury or death.

[5] On November 8, 2019, the State charged Lewis with possession by an inmate of material capable of causing bodily injury, specifically a deadly weapon, a Level 4 felony. The trial court appointed attorney James Hanner to represent Lewis. Attorney Hanner later filed a motion requesting the trial court to appoint attorney Douglas Followell to act as co-counsel. At Lewis's request, Attorney Hanner also filed a motion asking the court to permit Lewis to proceed with "hybrid representation," in which Lewis would represent himself with the assistance of attorneys Hanner and Followell. The trial court denied the request for hybrid representation but did appoint Attorney Followell to act as Attorney Hanner's co-counsel.

[6] At a pretrial conference, Lewis complained that there was "too much conflict of interest between" Lewis and Attorney Followell. Tr. Vol. II p. 28. Lewis requested a replacement attorney for Attorney Followell, which the trial court denied.

[7] A jury trial was held on July 20, 2022. At the conclusion of the State's case-in-chief, Lewis's counsel indicated that he intended to call as witnesses several

prison inmates and corrections officers to testify regarding the conditions at WCF and the dangers present in the prison. Attorney Hanner stated:

> Yes, Judge, pursuant to your earlier directive, which is not of record, you indicated to me and co-counsel, that you would not allow me to call on my client's behalf, inmates or correctional officers, familiar with [WCF] to testify as to its conditions, their personal perceptions concerning the safety and the dangers present unless they had personal knowledge of my client's situation. [W]e would have called such witnesses and Bryce Taylor Detro, Tyrus Bryant, and Drew Dickman, Henry Gibson, Frank Vanihell, Xavier Miller, and Dillon Orman, and Steven Hanna, would all [have] testified as to the horrific conditions of [WCF] and their perceived need to protect themselves by any means necessary. And, we feel that your failure to allow us to present that evidence has effectively gutted our defense in this case, leaving us only with the Defendant to testify. . . .

Tr. Vol. II p. 158-59.[2] The State responded by arguing that its own witnesses had testified regarding the violence in WCF and that Lewis's proposed evidence was cumulative. The trial court affirmed its earlier off-the-record ruling and excluded these witnesses.

[8] Lewis then testified on his own behalf and stated that WCF was "violent, brutal, savage," and that he had seen horrible crimes committed by inmates on other inmates, including murder and rape. *Id*. at 163. Lewis testified that he fashioned the shanks for protection and insisted that he had a constitutional

[2] We have removed verbal hesitation markers such as "uh" and "um" from the quoted portion of the transcript. *See Milo v. State*, 137 N.E.3d 995, 998 n.2 (Ind. Ct. App. 2019) (doing the same), *trans. denied*.

right to bear arms.[3] Lewis's counsel did not request that the jury be instructed regarding the defenses of self-defense or necessity. Instead, he effectively argued for jury nullification—for the jury to ignore the law and the undisputed facts and acquit Lewis despite the law. The jury was unpersuaded and found Lewis guilty as charged.

[9] At the sentencing hearing on August 24, 2022, Lewis's counsel admitted that he could see no statutory mitigating factors but noted that Lewis claimed to have had meningitis and suffered from concussions in the past. This, counsel argued, resulted in brain damage, which impaired Lewis's ability to control his aggressive behavior. The trial court found no significant mitigating factors and found as aggravating factors that Lewis showed no remorse for his actions and demonstrated an unwillingness to abide by prison rules. The trial court sentenced Lewis to ten years, all executed, to be served consecutively to the sentence Lewis was serving at the time he committed the instant offense. Lewis now appeals.

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[3] Lewis was incorrect. *See District of Columbia v. Heller*, 554 U.S. 570, 626-28, 128 S. Ct. 2783, 2816-17 (2008) (holding that Second Amendment rights do not prohibit "longstanding prohibitions on the possession of firearms by **felons** and the mentally ill, or laws forbidding the carrying of firearms in sensitive places such as schools and **government buildings**.") (emphases added); *Berron v. Ill. Concealed Carry Licensing Rev. Bd.*, 825 F.3d 843, 847 (7th Cir. 2016) (noting that "**only law-abiding persons** enjoy [Second Amendment] rights") (emphasis added); *Wilder v. State*, 91 N.E.3d 1016, 1026 (Ind. Ct. App. 2018) (citing *Heller* and *Berron* in holding that condition of probation that probationer not possess firearms did not violate probationer's Second Amendment rights).

Discussion and Decision

I. Exclusion of Witnesses

[10] Lewis first contends that the trial court abused its discretion by excluding the testimony of the prison inmates and correctional officers he intended to call to testify regarding the dangerous conditions in the prison and the need to protect himself from harm by other prisoners. The trial court concluded that the testimony of Lewis's proffered witnesses would be "repetitive," "cumulative," and irrelevant. Tr. Vol. II. p. 161.

[11] "We review challenges to the exclusion of evidence for an abuse of the trial court's discretion." *Dunn v. State*, 202 N.E.3d 1158, 1162 (Ind. Ct. App. 2023) (citing *Clark v. State*, 994 N.E.2d 252, 259-60 (Ind. 2013)). On appeal, we will reverse only if the trial court has abused its discretion. *Id*. A trial court abuses its discretion when its decision is clearly against the logic and effect of the facts and circumstances, and the error affects a party's substantial rights. *Id*. We may affirm the trial court's evidentiary decision on any basis supported by the record. *Means v. State*, 201 N.E.3d 1158, 1162-63 (Ind. 2023) (citing *Ramirez v. State*, 174 N.E.3d 181, 190 n.2 (Ind. 2021)).[4]

[4] The State argues that Lewis failed to preserve his evidentiary claim by failing to make a proper offer of proof. "'It is well settled that an offer of proof is required to preserve an error in the exclusion of a witness' testimony.'" *Stewart v. State*, 167 N.E.3d 367, 374 (Ind. Ct. App. 2021) (quoting *Heckard v. State*, 118 N.E.3d 823, 827-28 (Ind. Ct. App. 2019)), *trans. denied*. An offer of proof allows both the trial and appellate courts to determine the admissibility of the testimony and the potential for prejudice if it is excluded. *Id*. (citing Ind. Evid. R. 103(a)(2)). An offer of proof must be certain, must definitely state the facts sought to be proved, and must show the materiality, competency, and relevancy of the evidence offered. *Kirk v. State*, 797 N.E.2d 837, 840 (Ind. Ct. App. 2003). Although Lewis did not present the testimony of the excluded witnesses outside

[12] Here, we agree with the trial court that the testimony of the witnesses that Lewis wished to present would have been irrelevant. Indiana Evidence Rule 401 provides that evidence is relevant if "(a) it has any tendency to make a fact more or less probable than it would be without the evidence," and "(b) the fact is of consequence in determining the action." Under Evidence Rule 402, relevant evidence is admissible unless such admission is prohibited by: "(a) the United States Constitution; (b) the Indiana constitution; (c) a statute not in conflict with these rules; (d) these rules; or (e) other rules applicable in the courts of this state." Irrelevant evidence is inadmissible. *Id*.

[13] Lewis was charged with possession by an inmate of material capable of causing bodily injury, specifically a deadly weapon. This crime is defined by statute as follows:

> A person who knowingly or intentionally while incarcerated in a penal facility possesses a device, equipment, a chemical substance, or other material that:
>
> (1) is used; or
>
> (2) is intended to be used;
>
> in a manner that is readily capable of causing bodily injury commits a Level 5 felony. However, the offense is a Level 4

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the presence of the jury, his counsel stated on the record that the defense wished to call inmates and correctional officers from WCF, who were familiar with the conditions of the prison and would testify as to the "horrific conditions" of the facility and an inmates "perceived need to protect themselves by any means necessary." Tr. Vol. II p. 159. Because we are able to discern the content of the testimony Lewis sought to elicit from the excluded witnesses, we choose to address his claim on the merits. *See Pierce v. State*, 29 N.E.3d 1258, 1267 (Ind. 2015) (noting that appellate courts prefer to resolve cases on the merits instead of on procedural grounds like waiver).

> felony if the device, equipment, chemical substance, or other material is a deadly weapon.

Ind. Code § 35-44.1-3-7.

[14] Lewis did not request a jury instruction on self-defense[5] or the defense of necessity.[6] Thus, the only questions before the jury were: (1) whether Lewis was an inmate; (2) whether he knowingly or intentionally possessed; (3) a device that is used or is intended to be used in a manner capable of causing bodily injury; and (4) whether the device was a deadly weapon. Lewis's witnesses would have testified regarding facts that were not of consequence in determining the issues before the jury and were, therefore, irrelevant.

[15] Instead, Lewis effectively argued that the jury should exercise its alleged right of jury nullification. Our Supreme Court has held, however, that "[n]otwithstanding Article 1, Section 19 of the Indiana Constitution, a jury has

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[5] To be entitled to an instruction on self-defense, Lewis would have had to present evidence that he had a reasonable fear of the **imminent** use of unlawful force. *See Dixson v. State*, 22 N.E.3d 836, 839 (Ind. Ct. App. 2014) (explaining that, in cases not involving the use of deadly force, "a defendant claiming self-defense must only show that he was protecting himself from what he 'reasonably believe[d] to be the imminent use of unlawful force.'" (quoting Ind. Code § 35-41-3-2(c))), *trans. denied*. Lewis presented no such evidence. To the contrary, the evidence showed that Lewis possessed shanks in an environment where he was isolated from other inmates.

[6] To be entitled to an instruction on the defense of necessity, there must be evidence that: (1) the act charged as criminal was the result of an emergency and was done to prevent a significant harm; (2) there was no adequate alternative to the commission of the act; (3) the harm caused by the act was not disproportionate to the harm avoided; (4) the Defendant had a good-faith belief that his act was necessary to prevent greater harm; (5) the Defendant's belief was objectively reasonable under all the circumstances of the case; and (6) the Defendant did not substantially contribute to the creation of the emergency. *Hernandez v. State*, 45 N.E.3d 373, 376-77 (Ind. 2015) (citing *Patton v. State*, 760 N.E.2d 672, 676 (Ind. Ct. App. 2002); *Toops v. State*, 643 N.E.2d 387, 389 (Ind. Ct. App. 1994)). Here, no evidence of an "emergency," nor of the absence of an adequate alternative to possessing multiple deadly weapons in prison, was presented.

no more right to ignore the law than it has to ignore the facts in a case." *Holden v. State*, 788 N.E.2d 1253, 1253-54 (Ind. 2003), *aff'd on reh'g*, 799 N.E.2d 538; *see also Walden v. State*, 895 N.E.2d 1182, 1884 (Ind. 2008) ("In *Holden*, we made clear that Indiana juries do not have a broad, general nullification power in criminal cases."). To the extent that Lewis's witnesses would have testified in support of his claim of jury nullification, their testimony would have been irrelevant and, therefore, inadmissible. *See* Evid. R. 402.

[16] We also observe that the evidence Lewis sought to admit would have been cumulative. Lewis sought to introduce the testimony of several witnesses who would, he claims, have testified regarding the horrific conditions inside WCF and the inmates' "perceived need to protect themselves by any means necessary." Tr. Vol. II p. 159. The State presented evidence regarding the violent conditions inside WCF. And Lewis himself testified that life in WCF was "violent, brutal, savage." *Id*. at 163. Lewis further testified that he was incarcerated with "murderers, rapists, child molesters, mentally ill, criminally insane," and that he had seen other crimes, including murder and rape, committed while in prison. *Id*. at 164. Lewis even testified that he was once targeted for rape but was able to defend himself. Thus, the jury was well aware of the horrific nature of prison life, and the testimony of Lewis's proffered witnesses would have been merely cumulative. *See Sterling v. State*, 199 N.E.3d 377, 386 (Ind. Ct. App. 2022) (noting that, where wrongfully-excluded evidence is merely cumulative of other evidence presented, its exclusion is harmless

error) (citing *Pierce v. State*, 29 N.E.3d 1258, 1268 (Ind. 2015)). The trial court did not abuse its discretion by excluding the testimony of Lewis's witnesses.

II. Hybrid Representation

[17] Lewis next argues that the trial court erred by refusing his request for "hybrid representation." *See Lockhart v. State*, 671 N.E.2d 893, 898 (Ind. Ct. App. 1996) (defining hybrid representation as a defendant representing himself while also benefitting from the assistance of court-appointed counsel) (citing *Myers v. State*, 510 N.E.2d 1360, 1363 (Ind. 1987)). It is well settled, however, that there is no right to hybrid representation under either the Sixth Amendment to the United States Constitution or Article 1, Section 13 of the Indiana Constitution. *Henley v. State*, 881 N.E.2d 639, 647-48 (Ind. 2008) (citing *Sherwood v. State*, 717 N.E.2d 131, 135 (Ind. 1999); *Myers*, 510 N.E.2d at 1363).

[18] A trial court may, in its discretion, deny a motion requesting hybrid representation. *Id*. (citing *Myers*, 510 N.E.2d at 1363). "[W]here counsel is competent, the trial court may deny the motion for hybrid representation." *Lockhart v. State*, 671 N.E.2d 893, 898 (Ind. Ct. App. 1996) (citing *Wallace v. State*, 553 N.E.2d 456, 460 (Ind. 1990)).

[19] Lewis argues that, due to his experience in prison, he had a unique perspective and would have been better prepared to cross-examine the State's witnesses. Lewis, however, fails to argue that his two appointed trial attorneys were not competent to represent him, and nothing in the record indicates otherwise. To the contrary, by all appearances, Lewis's trial attorneys zealously represented

Lewis. Under these circumstances, the trial court did not abuse its discretion by denying Lewis's request for hybrid representation.

III. Mitigating Factors

[20] Lewis next argues that the trial court abused its discretion by failing to consider certain mitigating factors when determining Lewis's sentence. Sentencing decisions rest within the sound discretion of the trial court and are reviewed on appeal only for an abuse of discretion. *Anglemyer v. State*, 868 N.E.2d 482, 490 (Ind. 2007), *clarified on reh'g*, 875 N.E.2d 218 (Ind. 2007); *Phipps v. State*, 90 N.E.3d 1190, 1197 (Ind. 2018). "An abuse occurs only if the decision is clearly against the logic and effect of the facts and circumstances before the court, or the reasonable, probable, and actual deductions to be drawn therefrom." *Schuler v. State*, 132 N.E.3d 903, 904 (Ind. 2019) (citing *Rice v. State*, 6 N.E.3d 940, 943 (Ind. 2014)).

[21] Among the ways in which a trial court can abuse its sentencing discretion is by entering a sentencing statement that does not include mitigating factors that are clearly supported by the record and advanced for consideration. *Ackerman v. State*, 51 N.E.3d 171, 193 (Ind. 2016) (quoting *Anglemyer*, 868 N.E.2d at 490-91). A trial court, however, "'is not obligated to accept the defendant's contentions as to what constitutes a mitigating circumstance or to give the proffered mitigating circumstances the same weight the defendant does.'" *Weisheit v. State*, 26 N.E.3d 3, 9 (Ind. 2015) (quoting *Wilkes v. State*, 917 N.E.2d 675, 690 (Ind. 2009)). "An allegation that the trial court failed to identify or find a mitigating factor requires the defendant to establish that the mitigating

evidence is both significant and clearly supported by the record." *Anglemyer*, 868 N.E.2d at 493.

A. Mental Illness

[22] Lewis argues that the trial court failed to consider as mitigating Lewis's mental illness. In support of his claim that he suffers from a mental illness, Lewis refers to statements he made at his initial hearing, where he repeatedly spoke over the trial judge and claimed he did not understand the nature of the charges against him. Lewis offered no records reflecting diagnoses of any mental disorder or illness. Although Lewis now claims that his behavior is suggestive of mental health issues, being rude and obstinate is not necessarily a sign of mental illness. Indeed, it appears that Lewis simply wished to argue with the judge that Lewis had a right to possess deadly weapons in jail. The trial court observed Lewis's behavior firsthand, and we are in no position to second guess the trial court's decision not to consider Lewis's behavior as indicative of mental illness.

[23] Lewis also refers to exhibits submitted at the sentencing hearing, in which Lewis quoted several Bible verses and referred to "the unbelieving" and "infidels." Ex. Vol. I p. 15. Lewis also wrote, "So keep living by the ways and laws of human's [sic] and I will be looking down on you while you beg me for a drink of water to quench your unquenchable thirst in the unquenchable fire." *Id*. Lewis further claims that he had suffered from multiple head injuries and had meningitis as an infant. But the only evidence in support of these conditions were Lewis's own statements in the pre-sentence investigation

report, which the trial court was not obligated to believe. Neither the Bible quotes nor the claimed head injuries required the trial court to find evidence of mental illness.

[24] Lewis also refers to his allocution statements as indicative of his mental illness. Lewis's statements during his allocution cannot be considered as evidence. *See Strack v. State*, 186 N.E.3d 99, 102 (Ind. 2022) ("'[A] statement in allocution is not evidence. Rather it is more in the nature of closing argument where the defendant is given the opportunity to speak for himself or herself' to the trial court before the court pronounces the sentence.") (quoting *Biddinger v. State*, 868 N.E.2d 407, 413 (Ind. 2007)).

[25] Moreover, Lewis provided no evidence regarding a nexus between his alleged mental illness and the crime for which he was convicted. *See Denham v. State*, 142 N.E.3d 514, 518 (Ind. Ct. App. 2020) (noting that there must be a "nexus between the mental illness and the crime at issue" for mental illness to be considered a significant mitigating factor) (citing *Steinberg v. State*, 941 N.E.2d 515, 524 (Ind. Ct. App. 2011)), *trans. denied*. And Lewis presented no medical evidence or expert evidence demonstrating that he had a mental illness. Under these circumstances, the trial court did not abuse its discretion by failing to consider Lewis's alleged mental illness as a significant mitigating factor.

B. Substance Abuse

[26] Lewis also claims that the trial court abused its discretion by failing to consider as mitigating Lewis's history of substance abuse. The pre-sentence

investigation report indicates that Lewis reported that he abused alcohol and was convicted for driving while intoxicated. Lewis also claimed to have used several illicit drugs, including cocaine, methamphetamine opioids, PCP, marijuana, and hallucinogenic drugs. There is, however, no indication that Lewis ever sought treatment for his addiction issues. Thus, his abuse of illegal drugs could have been considered as an aggravating factor, not a mitigator. *See Scott v. State*, 162 N.E.3d 578, 582 (Ind. Ct. App. 2021) ("A trial court does not abuse its discretion in considering a history of drug abuse to be an aggravator, rather than a mitigator."); *see also Marley v. State*, 17 N.E.3d 335, 341 (Ind. Ct. App. 2014) (noting that a history of substance abuse may be a mitigating factor but may also be an aggravating factor where the defendant is aware of a substance abuse problem but has not taken appropriate steps to treat it), *trans. denied*. Simply put, the trial court did not abuse its discretion by failing to identify Lewis's substance abuse as a significant mitigating factor.

IV. Proportionality of Sentence

[27] Lastly, Lewis claims that his ten-year sentence is constitutionally disproportionate to his crime. As we summarized in *Lane v. State*:

> Article 1, section 16 of the Indiana Constitution requires that "[a]ll penalties shall be proportioned to the nature of the offense." Our Supreme Court has determined that section 16 applies "'only when a criminal penalty is not graduated'" and proportioned to the nature of an offense. *Conner v. State*, 626 N.E.2d 803, 806 (Ind. 1993) (quoting *Hollars v. State*, 259 Ind. 229, 236, 286 N.E.2d 166, 170 (1972)).

> Indiana courts have consistently maintained that "'[t]he nature and extent of penal sanctions are primarily legislative considerations.'" *Balls v. State*, 725 N.E.2d 450, 453 (Ind. Ct. App. 2000) (quoting *State v. Moss-Dwyer*, 686 N.E.2d 109, 111 (Ind. 1997)), *trans. denied*. Our separation of powers doctrine requires we take a highly restrained approach when reviewing legislative prescriptions of punishments. []*Moss-Dwyer,* 686 N.E.2d [at 111]. Thus, our review of a legislatively sanctioned penalty is very deferential, and we will not disturb the legislature's determination except upon a showing of clear constitutional infirmity. *Balls*[], 725 N.E.2d [at 453].
>
> A court is "not at liberty to set aside the legislative determination as to the appropriate penalty merely because it seems too severe." []*Moss-Dwyer,* 686 N.E.2d at 112. A sentence violates the proportionality clause where it is so severe and entirely out of proportion to the gravity of the offense committed so as to "'shock public sentiment and violate the judgment of a reasonable people.'" *Pritscher v. State,* 675 N.E.2d 727, 731 (Ind. Ct. App. 1996) (quoting *Cox v. State,* 203 Ind. 544, 549, 181 N.E.2d 469, 471 (1932)).

953 N.E.2d 625, 631 (Ind. Ct. App. 2011).

[28] In arguing that his sentence is constitutionally disproportionate to his crime, Lewis again refers to the brutal nature of prison life, his belief that he needed the shanks to protect himself, that no one was harmed, and his alleged mental illness. These facts have little to do with whether a ten-year sentence is disproportionate to the crime of an inmate possessing a deadly weapon while in prison. Our General Assembly chose to make Lewis's crime a Level 4 felony with a maximum sentence of twelve years. This represents a legislative choice to discourage prison inmates from possessing dangerous materials in an effort

to make prison a safer place. By flouting this criminal statute, Lewis—who claims to have possessed the shanks for his own safety—made the prison in which he was incarcerated even less safe. Given the gravity of Lewis's crime, we cannot say that his ten-year sentence is so severe as to "'shock public sentiment and violate the judgment of a reasonable people.'" *Lane*, 953 N.E.2d at 631 (quoting *Pritscher*, 675 N.E.2d at 731).

Conclusion

[29] The trial court did not abuse its discretion by excluding Lewis's witnesses because the testimony they would have provided was both irrelevant and cumulative. The trial court was well within its discretion to deny Lewis's request for hybrid representation. The trial court also did not abuse its discretion by rejecting Lewis's proposed mitigators of his mental illness and substance abuse issues. Lastly, Lewis's ten-year sentence is not constitutionally disproportionate to his crime of being an inmate in possession of a deadly weapon. Accordingly, we affirm the judgment of the trial court.

[30] Affirmed.

Vaidik, J., and Foley, J., concur.