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IN THE
APPELLATE COURT OF ILLINOIS
SECOND DISTRICT

THE PEOPLE OF THE STATE)	Appeal from the Circuit Court
OF ILLINOIS,)	of Carroll County.
)	
Plaintiff-Appellee,)	
)	
v.)	No. 09—CF—0045
)	
SAMILJ IBRAIMI,)	Honorable
)	Val Gunnarsson,
Defendant-Appellant.)	Judge, Presiding.

JUSTICE HUTCHINSON delivered the judgment of the court.
Presiding Justice Jorgensen and Justice Bowman concurred in the judgment.

ORDER

Held: Defendant’s conviction for criminal sexual assault was affirmed because the evidence was sufficient to find him guilty beyond a reasonable doubt, the trial court did not abuse its discretion by concluding a child witness competent to testify, and the trial court’s eight-year sentence was not an abuse of discretion. We affirmed the judgment of the trial court.

¶ 1 Following a bench trial, defendant, Samilj Ibraimi, was convicted of criminal sexual assault pursuant to section 12—13(a)(2) of the Criminal Code of 1961 (the Criminal Code) (720 ILCS 5/12—13(a)(2) (West 2008)) and home invasion pursuant to section 12—11(a)(6) of the Criminal Code (720 ILCS 5/12—11(a)(6) (West 2008)). The State alleged that defendant entered the home

of Jaime C., the victim, without being invited and had intercourse with her while she was sleeping in her bed next to her four-year-old son. Defendant admitted to having intercourse with the victim, but claims it was consensual and that the victim's son was not in the room. Defendant was sentenced to eight years' imprisonment for the criminal sexual assault conviction followed by two years of mandatory supervised release, but was not sentenced for his home invasion conviction after the trial court granted his motion in arrest of judgment. Defendant now appeals, contending that (1) the State failed to prove him guilty beyond a reasonable doubt; (2) the trial court erred in admitting the testimony of the victim's five-year-old son; and (3) the trial court abused its discretion by sentencing defendant to eight years' imprisonment. We affirm.

¶ 2

I. BACKGROUND

¶ 3 On September 9, 2008, defendant and the victim, who were already acquainted, met at a bar. They went to the victim's house later in the evening. The victim claimed that she had asked defendant to leave her house; she then went to bed with her son, who was sleeping in the same bed. According to the victim, defendant reentered her house and sexually assaulted her while she was sleeping next to her son. On September 30, 2009, defendant was charged by indictment with one count of criminal sexual assault and one count of home invasion.

¶ 4 Defendant's bench trial commenced on May 24, 2010. The State first called Deputy Ryan Kloeping, deputy sheriff for Carroll County. Kloeping testified that, after responding to the call, he went to the victim's home and met with the victim and her parents. The victim appeared upset and was crying when Kloeping met with her. On cross-examination, Kloeping admitted that there was a time lapse between the time of the alleged sexual assault and the phone call he received.

¶ 5 The State next called Detective John Rannow, a detective for the Carroll County sheriff's office. Rannow testified that he received a call from Kloepping and went to the victim's house. Rannow described the victim as appearing upset and noticed her face was red. After meeting with the victim, Rannow met the victim at Mercy Medical Center, where she was examined by medical professionals. Rannow testified that the sexual assault kit was not submitted to the crime lab because it was not pertinent for identification purposes and was not an issue. On cross-examination, Rannow acknowledged that the victim told him she had consumed alcohol, and he admitted that no testing of the fluid found on the victim was conducted.

¶ 6 The State next called Beth Hughes, a special agent for the Illinois State Police for crime scene investigation. Hughes testified that she responded to a call in the early morning of September 9, 2009, to assist the Carroll County sheriff's office with an investigation at the victim's residence. Hughes testified that she secured the scene and photographed the residence, including the victim's bedroom. On cross-examination, Hughes admitted that her photographs depicted the victim's bedroom as unkempt but there appeared to be no signs of a struggle between the victim and defendant.

¶ 7 The State next called Clinton Smith, a crime scene investigator with the Illinois State Police. Smith testified that he went to the victim's residence in the early morning on September 9, 2009. Smith testified that he took measurements of the interior of the victim's residence so a computer-generated diagram could be prepared and assisted in packaging evidence.

¶ 8 Deb Johnson testified next on behalf of the State. Johnson testified that she received a phone call from the victim on September 8, 2009, at approximately 10 p.m. and then met the victim at a bar. Upon arriving, Johnson saw defendant standing next to the victim, and the victim had a beer

and a shot of alcohol in front of her. Johnson testified that she observed the victim consume a number of beers and a couple of shots of alcohol that defendant bought. Johnson testified she left the bar with the victim shortly after midnight on the morning of September 9, 2009, and drove the victim back to her house. Johnson testified that she did not see anyone else at the victim's residence other than the victim's son. Johnson testified that the victim called her at approximately 2 or 3 a.m. and told her that "he is outside" while sounding frightened.

¶ 9 On cross-examination, Johnson admitted to having three or four beers while she was at the bar from 10:30 p.m. until 12:30 a.m. Johnson admitted that she observed the victim and defendant talking, and they appeared to be friendly with each other even after defendant made physical advances toward the victim. Johnson acknowledged that defendant bought alcoholic drinks for the victim, which she accepted, and the two of them went to a remote part of the bar's parking lot bar together while the victim smoked a cigarette. Johnson further admitted that she was asleep when the victim called her later that morning and she "vaguely" remembered the conversation because she fell asleep again during the conversation.

¶ 10 The State next called Kimberly Stiles, who testified that she received a phone call from the victim at approximately 3 a.m. on the morning of September 9, 2009. Stiles testified that the victim was upset and crying and told Stiles that she was raped, so Stiles told the victim to call the police. On cross-examination, Stiles admitted that she did not keep a record of the phone call that evening.

¶ 11 The State next called Pamela Balk, a registered nurse in the emergency room at Mercy Medical Center. Balk testified that she met the victim at approximately 7:15 a.m. on September 9, 2009 and conducted a sexual assault examination. Balk testified that the victim appeared "very teary

eyed” and soft spoken during the examination. On cross-examination, Balk acknowledged that there appeared to be no indication of physical injury to the victim.

¶ 12 The State next called the victim’s son, W.J., who was four years old at the time of his testimony. Defendant objected to the testimony, claiming W. J. was not competent to testify due to his young age. Before W.J. testified, the trial court questioned him to determine if he understood the difference between telling the truth and lying, and whether he had the capacity to recollect past events. Responding to questions by the trial court, W.J. said that he was four years old; went to preschool and named his teachers; and that he was going to be five on his next birthday and receive a lot of presents. The following colloquy occurred:

“THE COURT: So let’s say that somebody said [W.J.] got a brand new jet and a rocket for his birthday last year. Would that be true or not true?

W.J.: Not True.”

The trial court found W.J. competent to testify, and he testified that he and his mom live with his grandparents. W.J. testified that he slept in a room with his mom and “only once” was another boy there. W.J. testified that he heard the victim say “get out” when the other man was present in the bedroom. W.J. further testified that the man gave him money, but the victim did not let him keep it. On cross-examination, W.J. stated he could read but admitted he could not read the words on a picture defense counsel showed him. Defendant then renewed his objection, which the trial court overruled. W.J. also admitted that he spoke with the victim about what she wanted him to say during his testimony.

¶ 13 The victim testified next. The victim testified that she was experiencing financial difficulties and lived with her parents and her children. The victim testified that she first met defendant on

August 31, 2009, through a mutual friend, and defendant offered her a job managing a restaurant he planned to buy. The victim testified that defendant gave her a ride home so she could quickly check on her son, and then they went to the Executive Inn motel. The victim testified she went into defendant's motel room to use the restroom and then left the motel room. The victim testified that other than defendant touching her arm, there was no physical contact. The victim testified that she and defendant contacted each other multiple times by phone and text messages during the course of the following week.

¶ 14 The victim testified that she next met defendant on September 9, 2009, between 8:30 p.m. and 9 p.m. at a bar, planning to tell him she did not want to work for him. The victim testified that she spoke with defendant briefly and went outside to call Johnson to come meet her. The victim testified that defendant bought her alcoholic drinks and defendant also consumed alcohol. The victim testified that once Johnson arrived, they sat at the bar together drinking alcohol until approximately 12:30 a.m. During that time, defendant attempted to put his arm around her, but she pulled away. The victim testified that defendant offered to take her and Johnson for a ride in a limousine but they declined because defendant was "creeping [her] out." The victim testified defendant offered to give her a ride home but she declined and instead got a ride home from Johnson.

¶ 15 The victim testified that, when she arrived back at her parent's house, she noticed W.J. was still awake because he had a bad dream, so she brought him into her bed. Shortly thereafter, W.J. told her that someone was knocking on her door and the victim saw defendant standing outside of her house. The victim testified that she was upset because she did not invite defendant over. The victim testified that she cracked the door slightly to ask defendant why he was at her house, and he "kind of pushed his way in." The victim testified that she told defendant he needed to leave, but

defendant gave W.J. \$20, which the victim did not permit him to keep. The victim testified that she was able to get defendant out of her residence and, although she could not lock the front door, she locked the other doors at the house. The victim testified that she sent a text message to W.J.'s father, telling him she was "creeped out because this guy would not leave the house." The victim testified that she was lying next to W.J. in her bed but got up every couple of minutes to look out the window to see if defendant was still there, and she eventually heard a car drive away. The victim testified that she then went back into bed with her son and fell asleep.

¶ 16 The victim testified that the next thing she recalled was feeling pressure and noticed arms around her chest. The victim next noticed that someone was penetrating her from behind while holding her so she could not move. After realizing the person behind her was not her ex-boyfriend, she attempted to push the person with her leg while squeezing her son, telling the person "[p]lease stop. [p]lease stop." The victim testified that she reached back and pushed defendant off the side of her bed and he said to her, "Why are you doing this? You are going to be sorry" before leaving. The victim testified that she did not invite defendant into her house or consent to having sex with him. The victim called Stiles after the incident but did not immediately call the police because she was confused. The victim's parents eventually woke up at approximately 4:30 a.m. and called the police.

¶ 17 On cross-examination, the victim acknowledged that when she first met defendant on August 31, 2009, she accepted the drinks he bought her, spent a few hours talking to him, and invited him to go outside to smoke a cigarette with her. The victim admitted that she allowed defendant to give her a ride home that evening, but maintained she did so because she was interested in getting a job. The victim admitted that she went into defendant's room at the Executive Inn motel, but denied that

she shared a cigarette with defendant in the room or went into a bed with defendant in the room. The victim denied having sex with defendant that night.

¶ 18 The victim also admitted that she had consumed a large quantity of alcohol when she saw defendant the evening of September 8, 2009. She admitted to sharing a cigarette with defendant outside and that she left the bar with defendant, talking with him privately. The victim denied giving defendant directions to her house that night. The victim denied expecting to meet defendant at her house and maintained that she was only awake when defendant arrived because of her son. The victim was angry that defendant was inside her house but admitted that she did not alert her parents or the police. The victim further admitted that, after defendant had sex with her without her consent, she did not yell, scream, or alert anyone. The victim admitted that she did not complain about any damage to her vaginal area. The victim also admitted that she had been charged with committing retail theft against her employer, but was unaware if she pleaded guilty. Defendant subsequently admitted as evidence a certified copy of the victim's guilty plea to retail theft. The victim admitted that she sent a number texts to defendant early on the morning of September 1, 2009, including a text that she woke up late and that she was sorry she missed defendant's phone call. The State rested after the victim's testimony.

¶ 19 After the trial court denied defendant's motion for a finding of not guilty, defendant called Mary Kiggins. Kiggins testified that she was a waitress at Sunrise Family restaurant. Kiggins testified that on the morning of September 1, 2009, the victim had coffee with defendant. They sat next to each other and appeared to be friendly toward each other and laughing, although Kiggins testified that she did not observe any touching between the victim and defendant.

¶ 20 Defendant also called Uttam Patel, owner of the Executive Inn motel. Patel testified that he removed blood-stained sheets from the room defendant stayed in on the evening of August 31, 2009. On cross-examination, Patel admitted that he did not see who used the room defendant stayed in on August 31, 2009, or the sheet removed from the room.

¶ 21 Defendant next called Greg Mavmut Dzisra. Dzisra testified that he was working at the Sunrise Family restaurant on the morning of September 1, 2009. Dzisra testified that he saw the victim sitting with defendant at a booth drinking coffee and they appeared friendly toward each other. Dzisra further testified that he saw the victim and defendant having a drink at a bar late in the evening on September 8, 2009, and they again appeared friendly toward each other. Dzisra testified that defendant knocked on the door to his house shortly before 3 a.m. on September 9, 2009, and defendant did not appear to be sweating or in a hurry. Dzisra testified that he invited defendant to spend the night at his house, but defendant declined, saying he had to go back to Wisconsin to open a restaurant later that evening.

¶ 22 Defendant next called Fatmir Amity. Amity testified that he traveled to Illinois with defendant on August 31, 2009. Amity testified that he and defendant went to a bar upon arriving in Illinois. Amity testified that while he and defendant were at the bar, the victim approached defendant and told him “I want you to dance.” Defendant declined the invitation, so the victim left and went back to the table and began drinking with them. Amity testified that he left the bar at approximately midnight and went to a nearby motel. At approximately 1:30 a.m. on September 1, 2009, defendant came back to the motel with the victim. Amity testified that he observed defendant and the victim get into a bed in the room and heard them talking, although he did not hear them have intercourse. Amity testified that he saw blood the following morning on the sheets of the bed on which defendant

and the victim had slept. On cross-examination, Amiti acknowledged that he only heard defendant and the victim whispering while they were in the bed.

¶ 23 Defendant next called Zendel Zendelli. Zendelli testified that defendant and the victim met on the evening of September 8, 2009, at a bar he owns. Zendelli testified that defendant and the victim had consumed alcoholic beverages and acted friendly toward each other. During the evening, Zendelli and defendant left the bar to go for a ride in Zendelli's limousine, and Zendelli testified that the victim called him during the ride and asked when they were returning to the bar. Zendelli testified that the victim also briefly spoke with defendant during the phone call. Upon returning to the bar, Zendelli testified that he observed defendant leave the bar with the victim a little after midnight on the morning of September 9, 2009, but he did not know if the victim got into defendant's car. On cross-examination, Zendelli testified that he was attending to other customers at his bar throughout the evening, so he was not paying close attention to defendant and the victim. Zendelli also admitted that he did not ask the victim to join them for a ride in the limo with him and defendant nor did he see defendant ask the victim to join them.

¶ 24 Defendant testified on his own behalf. Defendant testified that he first met the victim on August 31, 2009. He arrived in Illinois to see friends and went to Zendelli's bar. While at the bar, the victim approached him asked him to dance while grabbing his hand. Defendant declined to dance; the victim went back to the dance floor but returned several minutes later. Defendant testified that he bought the victim alcoholic beverages and they stayed at the bar until 1 a.m. After leaving the bar, defendant brought the victim back to her house so she could check on her children. After the victim checked on her children, she and defendant went to the Executive Inn motel. Defendant testified that they went into his room, sat on a bed and smoked a cigarette before having intercourse.

¶ 25 Defendant testified that he and the victim sent text messages to each other the following morning. Defendant testified that he was at the Sunrise Family restaurant and the victim met him there at approximately 12 p.m., where they sat at a table together drinking coffee. Defendant testified that he and the victim discussed when they were going to meet next and they communicated with each during the course of the following week via text message and phone calls.

¶ 26 Defendant further testified that he returned to Illinois on September 7, 2009. He went back to the Executive Inn motel and the owner told him the sheets from the room he rented the previous week had blood on them. Defendant testified that he met the victim the next evening at Zendelli's bar. Upon arriving, the victim kissed defendant and he gave her a t-shirt he had won the previous night at a casino and offering her money to help her pay bills. Defendant and the victim shared drinks throughout the night. Defendant testified that he asked the victim and Johnson to go for a limo ride with him, but they declined. Defendant then went for a limo ride and returned approximately 30 minutes later. Defendant spoke with the victim on Zendelli's phone while he was in the limo, telling her he would be back shortly. Upon returning to the bar, defendant offered the victim a drink and they each had a shot of alcohol. Defendant testified that he and the victim went outside to have a cigarette and they began kissing. Defendant testified that the victim told him Johnson was going to take her home but she wanted him to stop by her house before he left town and gave him directions to her house. Defendant testified he then helped the victim load ice into Johnson's car before Johnson and the victim left.

¶ 27 Defendant testified that he remained at the bar for another 30 minutes before going to the victim's house. Defendant testified that the victim invited him into her house. Defendant testified that W.J. was still awake, so he spoke with him briefly and gave him \$20 to buy pancakes the next

morning. Defendant testified that the victim put W.J. to bed, and then he and the victim went outside for a cigarette. After the cigarette, they went into the victim's bedroom and had intercourse. Defendant testified that the victim was awake during intercourse, she consented, and no one else was in the room. Defendant testified that he left the victim's house at approximately 3 a.m. because he had to return to Wisconsin, stopping at Dzisra's house to give him keys.

¶ 28 On cross-examination, defendant acknowledged that he bought the victim drinks on the evening of August 31, 2009. Defendant further admitted that he came back to Illinois from Wisconsin on September 7, 2009, and planned on staying until September 9, 2009, but he had reserved a hotel room for only one night instead of two. Defendant further admitted that he bought the victim alcohol on September 8, 2009 at Zendelli's bar. Defendant denied that he was not invited to go inside the victim's house. Defendant rested.

¶ 29 After closing arguments, the trial court found defendant guilty of sexual assault and home invasion. After rejecting defendant's posttrial motion for a new trial, the trial court sentenced defendant to eight years' imprisonment followed by two years of mandatory supervised release for the sexual assault conviction and granted defendant's motion in arrest of judgment for the home invasion conviction. In sentencing defendant, the trial court noted that defendant supplied the victim with alcoholic drinks on the evening of the assault and assaulted the victim while she was holding her son. Defendant timely appealed.

¶ 30

II. ANALYSIS

¶ 31 Before turning to the merits, we take this opportunity to remind defendant that compliance with supreme court rules is mandatory. *People v. Hamalainen*, 341 Ill. App. 3d 205, 208 (2003). The burden was on defendant as the appellant to produce a complete record on appeal sufficient to

support his claims of error. See *People v. Lopez*, 229 Ill. 2d 322, 344 (2008). Supreme Court Rule 324 mandates that the clerk of the trial court certify the record on appeal. Ill. S. Ct. R. 324 (eff. Feb. 1, 1994). In preparing the record on appeal, defendant’s counsel originally did not have the report of proceedings certified by the clerk of the trial court and paginated. Instead, defendant used an uncertified record. Defendant subsequently complied with the applicable supreme court rules and submitted a certified copy of the report of proceedings pursuant to this Court’s order. Defendant’s counsel is admonished to carefully heed our supreme court rules regarding the record on appeal to avoid unnecessary delays in the administration of justice.

¶ 32 A. Sufficiency of the Evidence

¶ 33 Defendant’s first contention on appeal is that the State failed to prove him guilty beyond a reasonable doubt of committing the offense of criminal sexual assault. Defendant argues that the trial court gave undue weight to the victim’s testimony and maintains that her “story was so improbable and unsatisfactory that it raised a reasonable doubt as to *** defendant’s guilt.” Section 5/12—13(a)(2) of the Criminal Code provides that an accused commits the offense of criminal sexual assault if he or she commits an act of sexual penetration and if he or she knew that the victim was unable to understand the nature of the act or was unable to give knowing consent. 720 ILCS 5/12—13(a)(2) (West 2008).

¶ 34 In assessing whether the evidence against a defendant was sufficient to prove guilt beyond a reasonable doubt, a reviewing court’s function is not to retry the defendant. *People v. Evans*, 209 Ill. 2d 194, 209 (2004). Rather, a reviewing court must determine “ ‘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 in original.) *People*

v. Cooper, 194 Ill. 2d 419, 430-31 (2000) (quoting *Jackson v. Virginia*, 443 U.S. 307, 318-19 (1979)). Accordingly, a conviction will not be reversed unless the evidence is so unreasonable, improbable, or unsatisfactory that a reasonable doubt of defendant's guilt is raised. *Evans*, 209 Ill. 2d at 209. This standard applies whether the defendant received a bench trial or a jury trial. *People v. Herring*, 324 Ill. App. 3d 458, 460 (2001) (citing *People v. Howery*, 178 Ill. 2d 1, 38 (1997)). Illinois law is well settled that when the determination of a defendant's guilt or innocence depends upon the credibility of the witnesses and the weight to be given their testimony, it is for the trier of fact to resolve any conflicts in the evidence. *People v. Rush*, 294 Ill. App. 3d 334, 337 (1998) (citing *People v. White*, 209 Ill. App. 3d 844, 868 (1991)).

¶ 35 In the current matter, a rational trier of fact could have found the essential elements beyond a reasonable doubt. The gravamen of defendant's argument is that the trial court gave undue weight to the victim's testimony and that the victim's testimony was not credible. However, it was for the trial court to weigh the credibility of the witnesses (see *Rush*, 294 Ill. App. 3d at 337) and our supreme court recently stated, "it remains the firm holding of this court that the testimony of a single witness, if positive and credible, is sufficient to convict even though that testimony is contradicted by the defendant." *People v. Siguenza-Brito*, 235 Ill. 2d 213, 228 (2009). Defendant's conviction will not be reversed merely because he presented contradictory evidence or because he challenges the credibility of a witness, and the trial court is not required to accept any possible explanation compatible with defendant's innocence and elevate it to the status of reasonable doubt. See *Siguenza-Brito*, 235 Ill. 2d at 229.

¶ 36 Here, the victim testified that defendant showed up at her house uninvited during the early morning hours of September 9, 2009, and "pushed" his way into her house. After he initially left

the victim's house, he returned, reentered without being invited, and penetrated her while she was sleeping in her bed with her son. The State also presented testimony from other witnesses that the victim was visibly upset in the hours after the assault. Specifically, Stiles testified that the victim called her at approximately 3 a.m. on September 9, 2009, and the victim sounded upset and told Stiles she had been raped. Deputy Ryan and Detective Rannow also testified that the victim appeared upset when they arrived at her house a few hours after the assault, as did Balk, the registered nurse who helped administer the sexual examination kit at the hospital. We recognize that defendant presented conflicting evidence and testimony, including his own testimony that he and the victim acted friendly toward each other, they previously had consensual sex, and the victim consented to have intercourse that evening. However, because the trial court was the trier of fact, it was within its purview to weigh the credibility of the witnesses. *See id.* at 229. Therefore, after reviewing the entire record in a light most favorable to the State, we hold that any rational trier of fact could have found the victim's testimony, as well as the testimony of the other State's witnesses, was sufficient to prove defendant's guilt of sexual assault beyond a reasonable doubt and that the evidence was not so unreasonable, improbable, or unsatisfactory that a reasonable doubt of defendant's guilt was raised.

¶ 37

B. W.J.'s Testimony

¶ 38 The second contention defendant raises on appeal is whether the trial court erred when it determined that W.J. was competent to testify. Defendant maintains that W.J. "clearly manifested an inability to differentiate between truth and falsehood and demonstrated a lack of comprehension of the meaning of his oath" by stating on cross-examination that he could read despite being unable to read the words on a picture defense counsel showed him.

¶ 39 Section 115—14 of the Code of Criminal Procedure of 1963 (the Criminal Procedure Code) provides that, irrespective of age, every person is qualified to testify as a witness unless he or she is incapable of expressing himself or herself as to be understood concerning the matter or incapable of understanding the duty of a witness to tell the truth. 725 ILCS 5/115—14 (West 2008). In determining the competency of a witness, a trial court considers four criteria: (1) the ability of the witness to receive correct impressions from her or his senses; (2) the ability to recollect those impressions; (3) the ability to understand questions and express answers; and (4) the ability to appreciate the moral duty to tell the truth. *People v. DeWeese*, 298 Ill. App. 3d 4, 12 (1998). A child witness need not give perfect answers during the competency determination or at trial, and one imperfect response to a question is not sufficient to invalidate a finding of competency based on the totality of the responses. *People v. Williams*, 383 Ill. App. 3d 596, 632 (2008). A reviewing court will not disturb a trial court’s determination regarding competency of a witness unless the determination constitutes an abuse of discretion. *Id.* “This deference is given because the trial court, unlike the reviewing court, has the opportunity to observe the demeanor, appearance, and conduct of the witness.” *People v. Harris*, 389 Ill. App. 3d 107, 125 (2009).

¶ 40 We reject defendant’s argument that the trial abused its discretion in determining W.J.’s competency to testify. Defendant’s argument is premised primarily on W.J.’s statement during cross-examination that he could read despite being unable to read the words on a picture defense counsel showed him on cross-examination. However, before permitting the testimony, the trial court asked W.J. a series of questions about his age, his preschool teachers, and his upcoming birthday. W.J. answered those questions by saying he was four years old, he attended preschool and named his teachers, and he was going to be five on his next birthday. The trial court could have concluded

that W.J.'s responses demonstrated an ability to receive correct impressions from his senses and to recall those impressions. See *Mitchell*, 215 Ill. App. 3d at 857. Subsequently, the trial court asked W.J. if he understood the difference between telling the truth and not telling the truth. The trial court further asked W.J. whether it would be true if someone said W.J. received a new jet and rocket for his birthday, and W.J. responded "not true." The totality of W.J.'s answers to the trial court's questions indicated to the trial court that W.J. sufficiently knew the threshold difference between telling the truth and lying (see *Williams*, 383 Ill. App. 3d at 633). We conclude that the trial court did not abuse its discretion when it determined W.J. was competent to testify.

¶ 41 Moreover, once the trial court deemed W.J. competent to testify, any contradiction or confusion in later testimony went to W.J.'s credibility as a witness and not his competency. See *Mitchell*, 215 Ill. App. 3d at 857. Thus, the trial court had discretion to conclude that, despite W.J.'s competency to testify, his testimony was not credible as a result of his statement on cross-examination that he could read despite being unable to read the words on a picture shown to him by defense counsel.

¶ 42 C. Defendant's Eight-Year Sentence

¶ 43 Defendant's final contention on appeal is that the trial court abused its discretion when it sentenced him to eight years' imprisonment for his criminal sexual assault conviction. Defendant argues that his sentence was excessive because he had no prior criminal history and because the trial court did not identify any aggravating circumstances to justify a departure from the minimum sentence provided by the Criminal Code. Defendant also argues that the trial court improperly considered evidence outside of the record, including the amount of alcohol defendant provided the victim and that defendant committed the offense out of anger.

¶ 44 Criminal sexual assault is a class 1 felony (720 ILCS 5/12—13(b)(1) (West 2008)) and has a statutory sentencing range of 4 to 15 years' imprisonment (730 ILCS 5/5—4.5—30 (West 2008)). A sentence within statutory limits will not be disturbed unless the trial court abused its discretion, which occurs when the sentence is at great variance with the spirit and the purpose of the law or is manifestly disproportionate to the nature of the offense. *People v. Flores*, 404 Ill. App. 3d 155, 157 (2010). Accordingly, a trial court has wide latitude in sentencing a defendant so long as it does not ignore the relevant factors in aggravation and mitigation. *People v. Roberts*, 338 Ill. App. 3d 245, 251 (2003). In determining the appropriate sentence, relevant considerations include the nature of the crime, the protection of the public, as well as the defendant's rehabilitative potential and youth. *People v. Garibay*, 366 Ill. App. 3d 1103, 1109 (2006). A sentencing judge is presumed to have considered all relevant factors, including the mitigating evidence, unless the record affirmatively shows otherwise (*id.*), and a defendant must point to something beyond the sentence itself to establish that such evidence was not considered. *Roberts*, 338 Ill. App. 3d at 251.

¶ 45 In the current matter, the trial court did not abuse its discretion in sentencing defendant. In rendering the sentence, the trial court noted that defendant did not have any prior convictions or criminal history. However, the trial court also concluded that defendant committed an "ugly" crime by using the prospect of providing the victim with a job to manipulate her, supplying her with alcohol to weaken her by diminishing her ability to protect herself, and assaulting her while she was holding her child. The trial court further noted that defendant did not show remorse. The trial court concluded that, although defendant did not deserve the maximum sentence because he had no prior criminal history, he also deserved more than the minimum sentence to protect the public and "deter others who might ever think they would manipulate a person like [defendant] did." Accordingly,

the record reflects that the trial court properly considered the relevant and proper considerations in imposing defendant's sentence. Therefore, because defendant's sentence fell within the statutory time frame (see 730 ILCS 5/5—4.5—30 (West 2008)) and because the trial court considered the relevant sentencing factors, its imposition of a term of eight years' imprisonment did not constitute an abuse of discretion.

¶ 46 Moreover, defendant's argument that the trial court relied on evidence outside of the record is misplaced. The trial court did not find at sentencing that defendant's purchase of alcoholic beverages rendered the victim incapable of consenting to intercourse. Rather, the trial court said that those beverages were "designed to weaken her and take away her ability to protect herself." Due to the testimony at trial that defendant did purchase alcoholic drinks for the victim on the night of the assault, the trial court's comment was consistent with the record. In addition, the trial court concluded at sentencing that defendant was motivated in part by the victim rejecting his offer for her to work for him. The victim testified that she rejected defendant's job offer, and the trial court could have reasonably inferred that the rejection angered defendant.

¶ 47

III. CONCLUSION

¶ 48 For the foregoing reasons, we affirm the judgment and sentence of the circuit court of Carroll County.

¶ 49 Affirmed.