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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 Winnebago County.
)	
Plaintiff-Appellee,)	
)	
v.)	No. 08—CF—2113
)	
RODNEY O. BRAMLETT,)	Honorable
)	Joseph G. McGraw,
Defendant-Appellant.)	Judge, Presiding.

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

ORDER

Held: (1) The trial court did not err in warning the jury before trial that transcripts of testimony “may or may not” be available during deliberations, as the warning was not a statement that any request for transcripts during deliberations would be denied; as there was no error, the interests of justice did not require overlooking defendant’s forfeiture of the issue; (2) because defendant was convicted of multiple offenses including predatory criminal sexual assault of a child, his sentences had to run consecutively, and we modified the judgment accordingly.

Following a jury trial, defendant, Rodney O. Bramlett, was convicted of two counts of predatory criminal sexual assault of a child (720 ILCS 5/12—14.1(a)(1) (West 2008)) and one count of aggravated criminal sexual abuse (720 ILCS 5/12—16(c)(1)(i) (West 2008)). The trial court

sentenced defendant to natural life imprisonment on both convictions of predatory criminal sexual assault of a child and seven years' imprisonment on the aggravated criminal sexual abuse conviction, to be served concurrently. Defendant appeals, arguing that the trial court erred in preemptively telling the jury, prior to trial, that transcripts of the trial testimony would be unavailable for the jurors to read during deliberations. The State disagrees and points out that, pursuant to section 5—8—4(a)(ii) of the Unified Code of Corrections (730 ILCS 5/5—8—4(a)(ii) (West 2008)), the trial court should have ordered defendant's sentences to run consecutively. For the reasons that follow, we affirm defendant's convictions, but modify defendant's sentences to run consecutively.

BACKGROUND

Defendant was charged with two counts of predatory criminal sexual assault of a child and one count of aggravated criminal sexual abuse.

After the jury was selected, but before the trial had begun, the trial court informed the jury of the following:

“You should give careful attention to the testimony as it is received and presented. I will repeat myself. You should give careful attention to the testimony as it is received.

You know, I will just speak for myself. In this era of TiVo and instant replay, it is very easy to let your mind wander and think, well, something important, I can watch the replay like a sporting event, or I can run the DVD back or something. It isn't like that in real life. Things happen in realtime.

If you're letting your mind wander thinking about where you're going to go to lunch today or whatever else it might be, you may miss something that might be really important, and again, unlike TV there is not going to be any dramatic music playing in the background

letting you know this is important. Things come out and sometimes in a seemingly uneventful way, and then only in hindsight do you realize the significance of what was said or not said. So be attentive.

* * *

Another thing that's unlike television is if you see TV cases, you know, anything that the jurors want, you know, magically appears for them. You know, they want a transcript; it just falls out of the sky and here's the fellow's testimony or whatever.

I have a court reporter, and you can see she's creating a verbatim record. But she's taking it down in stenographic shorthand, and later on it may or may not be transcribed into a readable format that you or I can read. So it's not like, you know, Hollywood where everything you want or need is available to you."

The evidence presented at trial consisted, among other things, of the testimony of the two alleged victims and DVD recordings of the victims' interviews with an investigator from the Carrie Lynn Children's Center.

While the jury deliberated, it requested the DVD recordings of the victims' interviews. Defendant objected, arguing that the videos were in the nature of testimonial evidence and that sending the DVDs back to the jury would emphasize some evidence over other evidence. Over defendant's objection, the trial court allowed the jury to view the DVDs.

The jury found defendant guilty on all three counts. The trial court sentenced defendant to natural life imprisonment on both counts of predatory criminal sexual assault of a child and seven years' imprisonment on the aggravated criminal sexual abuse count, to be served concurrently. Defendant then filed this timely appeal.

ANALYSIS

On appeal, defendant contends that the trial court erred when it preemptively told the jury that transcripts of the testimony would not be provided to them during deliberations. Defendant did not, however, object to the trial court's statements to the jury, nor did he raise the issue in his written posttrial motion. Accordingly, defendant has forfeited review of this issue. See *People v. Enoch*, 122 Ill. 2d 176, 186 (1988) (“Both a trial objection and a written post-trial motion raising the issue are required for alleged errors that could have been raised during trial” (emphases in original)). Defendant argues that we should overlook his forfeiture of the issue in the interests of justice. Defendant does not explain why the interests of justice require that we overlook forfeiture, instead relying on *People v. Fisher*, 281 Ill. App. 3d 395, 405 (1996), where this court chose to overlook forfeiture to review an error similar to the one alleged here. Defendant also relies on *Fisher* in support of his contention that the trial court erred in preemptively telling the jury that it would not be provided any trial transcripts during deliberations.

In *Fisher*, the trial court informed the jury, prior to deliberations, that any requests for transcripts of the trial testimony would not be honored. *Fisher*, 281 Ill. App. 3d at 405. The defendant failed to preserve the issue for review, but this court agreed to review it in the interests of justice. *Fisher*, 281 Ill. App. 3d at 405. We observed that the decision whether to grant a transcript request is to be based on objective factors such as whether the testimony is still fresh in the jurors' minds and the hardship of obtaining the requested material within a reasonable amount of time. *Fisher*, 281 Ill. App. 3d at 406. Because the trial was short, there was no appreciable delay in the proceedings, and the jury did not deliberate for a great length of time such that the testimony may have grown stale, we held that the trial court would not have abused its discretion in denying a

request for transcripts had one been made. Accordingly, the defendant did not suffer prejudice requiring reversal. *Fisher*, 281 Ill. App. 3d at 406. We also stated, however, that preemptive denials of transcripts were improper and could possibly result in prejudice under different circumstances:

“We cannot condone the abdication of the trial court’s duty to consider a request at the time it is made merely because the considerations are the same prior to jury deliberations as during it. While the court’s considerations are identical, the circumstances providing the context in which the court considers the request, such as the length of time since the jury heard the testimony in question, may have changed dramatically. Thus, a trial court must exercise its discretion at the time a request by a jury for transcripts of the witnesses’ testimony is made and may not preempt a future request with a blanket admonition.” *Fisher*, 281 Ill. App. 3d at 407.

We conclude that *Fisher* is readily distinguishable. In *Fisher*, the trial court unequivocally told the jury that it would not honor any requests for trial transcripts. In contrast, the trial court in this case did not tell the jury that it would not honor requests for trial transcripts, nor did it otherwise indicate to the jury that it was precluded from requesting trial transcripts. Rather, the trial court simply told the jury that it should pay close attention to the testimony of the witnesses, because transcripts of the testimony “may or may not” be available later. Certainly, such statements did not preclude the jury from making a request for trial transcripts during its deliberations. Because the trial court in this case did not make a preemptive statement precluding the jury from requesting trial transcripts, the interests of justice do not require overlooking forfeiture the way they did in *Fisher*. In addition, even if we were to overlook forfeiture, the trial court did not err, as it did not abdicate its duty to consider a jury request by preemptively denying the jury transcripts.

Defendant also contends that the error in the trial court's admonition was exacerbated when the trial court allowed the DVDs to go back to the jury. Defendant does not, however, contend that the trial court's decision to allow the DVDs to go back to the jury was an independent error requiring reversal. Accordingly, because we hold that there was no error in the trial court's admonition, we need not address whether it was exacerbated by the trial court's decision to allow the DVDs to go back to the jury.

In its reply brief, the State requests that we modify defendant's sentence for aggravated criminal sexual abuse to run consecutively to the sentences for the predatory criminal sexual assault of a child convictions. Defendant did not respond to this contention.

Section 5—8—4(a)(ii) of the Unified Code of Corrections (730 ILCS 5/5—8—4(a)(ii) (West 2008)) requires that consecutive sentences be imposed where multiple sentences are imposed and the defendant was convicted of predatory criminal sexual assault of a child. Although this issue is raised by the State for the first time on appeal, a sentence that does not conform to a statutory requirement is void, and we may correct a void sentence at any time. *People v. Arna*, 168 Ill. 2d 107, 113 (1995).

Because defendant was convicted of predatory criminal sexual assault of a child, he is subject to consecutive sentences even though he was sentenced to natural life. See *People v. Petrenko*, 237 Ill. 2d 490, 506-07 (2010) (natural life sentences are subject to the consecutive sentencing mandates of section 5—8—4(a)). In *People v. Williams*, 238 Ill. 2d 125, 151 (2010), the supreme court, citing *Petrenko*, held that a sixty year sentence for aggravated kidnaping was properly ordered to be served consecutively to two concurrent natural life sentences for aggravated criminal

sexual assault. Similarly, in the present case, the seven year prison term must be served consecutively to the two natural life sentenced and we modify the sentence accordingly.

CONCLUSION

For the reasons stated, we affirm defendant's convictions but modify his sentences to run consecutively.

Affirmed as modified.