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2011 IL App (3d) 100031-U

Order filed July 26, 2011

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IN THE  
APPELLATE COURT OF ILLINOIS  
THIRD DISTRICT

A.D., 2011

THE PEOPLE OF THE STATE OF	)	Appeal from the Circuit Court
ILLINOIS,	)	of the 12th Judicial Circuit
	)	Will County, Illinois
Plaintiff-Appellee,	)	
	)	Appeal No. 3--10--0031
v.	)	Circuit No. 08--CF--710
	)	
GLENN W. LAWLOR,	)	Honorable
	)	Carla Policandriotes
Defendant-Appellant.	)	Judge, Presiding

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JUSTICE LYTTON delivered the judgment of the court.  
Justices O'BRIEN and WRIGHT concurred in the judgment.

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**ORDER**

¶ 1 *Held:* Trial court did not abuse its discretion in sentencing defendant to 16 years imprisonment for predatory criminal sexual assault of a child despite the existence of mitigating factors.

¶ 2 Defendant, Glenn Lawlor, was convicted of one count of predatory criminal sexual assault of a child (720 ILCS 5/12--14.1(a)(1) (West 2008)) and four counts of aggravated criminal sexual abuse (720 ILCS 5/12--16(c)(1)(I) (West 2008)). The trial court sentenced defendant to 16 years imprisonment for predatory criminal sexual assault of a child to run consecutively with 4 concurrent

4-year terms of imprisonment for aggravated criminal sexual abuse. On appeal, defendant argues that his 16-year sentence for predatory criminal sexual assault of a child is excessive. We affirm.

¶ 3 Defendant was charged with one count of predatory criminal sexual assault of a child and two counts of aggravated criminal sexual abuse against a minor, A.W., for touching A.W.'s vagina and allowing A.W. to touch his penis. Defendant was also charged with two counts of aggravated criminal sexual abuse against another minor, A.R., for touching her vagina and allowing her to touch his penis. The counts allege that the acts occurred between February 15, 2006, and March 26, 2008.

¶ 4 Defendant's bench trial began in August 2009. Dr. George Filiadis, an emergency room physician, testified that he performed a physical examination of A.W. on March 8, 2008. A.W. was eight years old at the time. Dr. Filiadis did not see evidence of a recent injury but saw that A.W.'s hymen was perforated. He considered that abnormal because he would expect an eight-year-old's hymen to be intact.

¶ 5 A.W. turned nine years old on February 15, 2009. She testified that she lived in a trailer with four brothers, her sister, A.R., her mother, Cynthia W., her stepfather, Onas R., and defendant for two years. Defendant watched her and her siblings when her mother and stepfather were not at home. When he did so, he sometimes took A.W. and A.R. into his bedroom.

¶ 6 A.W. testified that defendant touched her under her clothes in her "private spot \*\*\* [m]ore than one time." Defendant's finger went "inside." Defendant also had A.W. "[r]ub up and down" on his "private area" \*\*\* "more than one time." Sometimes, "clear wet stuff" came out of his penis when she did that.

¶ 7 These acts always took place in defendant's bedroom. A.R. was sometimes in the bedroom with her and defendant. A.W. saw A.R. rub up and down on defendant's penis and saw defendant

touch A.R.'s "private part, too." Defendant called A.W.'s hands "magic hands."

¶ 8 A.R. turned seven years old on February 9, 2009. She testified that defendant touched her "privacy" under her clothes with his hands in his bedroom "more than one time." Defendant also had A.R. touch his "privacy" with her hand "more than once." When she did so, "water" came out of it at least once. A.W. was sometimes in defendant's room with her.

¶ 9 Detective Vernard Reed of the Will County Sheriff's Department testified that he interviewed defendant on March 27, 2008. At that time, defendant denied ever touching A.W. and A.R. in a sexual manner and denied that A.W. and A.R. ever touched him in a sexual manner. Reed interviewed defendant again on March 31, 2008. During that interview, defendant admitted that there was sexual contact between him and A.W. and A.R. Defendant told Reed that A.W. and A.R. "would come into his room and touch his penis, his penis area, testicles, and there were times that [A.W. and A.R.] would \*\*\* grab his hand and have him touch their vagina areas."

¶ 10 Defendant's interview with Reed was videotaped, and the videotape was played for the court. In his videotaped statement, defendant initially stated that A.W. and A.R. touched his penis "10 to 15 times" but later admitted that it happened "50 to 60 times." He said that he ejaculated "a couple times." He said that A.W. and A.R. grabbed his hand and had him touch their vaginas "two to three times." He didn't tell anyone about what was going on in his bedroom because "we didn't want anybody to know."

¶ 11 At trial, defendant testified that he was 70 years old at the time of his trial and was in "real good health" except for a thyroid condition for which he had surgery and takes medication. He worked steadily from 1963 to 1997. In 2001, he began collecting Social Security. That same year, he moved into a trailer with his friend, Onas R., and paid him \$350 a month in rent. In 2006,

Cynthia W. moved into the trailer with her children. Between 2006 and 2008, defendant babysat the children two to three times a week when Cynthia and Onas went out.

¶ 12 Defendant testified that he was "good friends" with A.W. and A.R. Defendant stated: "They came in my room just about every day to talk to me and to crawl in [my] bed." He testified that on one occasion, the girls came into his bedroom, took off their clothes, and crawled into his bed. A.R. said, "We're going to hump you like you never been humped before," and A.W. said, "Yeah, we're going to take care of you like you've never been taken care of before." The girls then kept trying to grab defendant's penis under the covers. Defendant tried to push them away but became "exasperated." Eventually, he allowed A.W. and A.R. to touch his penis.

¶ 13 Defendant testified that A.W. and A.R. touched his penis for five to ten minutes on two or three occasions "at the most." He denied telling Reed that the girls touched his penis 50 times, saying, "I could never have said that." Defendant said that he never ejaculated but got an erection from the touching. When A.W. and A.R. asked him why his penis got larger, he told them it was because they had "magical hands."

¶ 14 Defendant initially denied touching A.W. or A.R.'s vaginal areas. On cross-examination, he said that he may have done so when A.W. and A.R. pulled his hand to their vaginas. Later, he repeatedly stated that he did not touch A.W. and A.R.'s vaginas because "they don't have a vagina at that age."

¶ 15 The trial court found defendant guilty of all of the charges against him. At defendant's sentencing hearing, the State asked the trial court to impose a sentence of "20 plus years" for predatory criminal sexual assault of a child. In mitigation, the State conceded that defendant's conduct was unlikely to recur and also mentioned defendant's "lack of criminal history."

¶ 16 Defense counsel argued that defendant should receive the minimum sentence of six years imprisonment because of his age and several factors in mitigation, including defendant's "nonexistent" criminal history and his clean work record. Defense counsel also argued that defendant's conduct was not likely to recur.

¶ 17 Defendant gave a statement to the court at the sentencing hearing in which he denied digitally penetrating A.W.'s vagina. He also stated that he "never really touched [A.W. and A.R.'s] private parts." He admitted that he "allowed" the girls to touch his penis two to three times "at the maximum" but said that he did so "to calm them down."

¶ 18 In sentencing defendant, the court noted that defendant was a 70-year-old man with a college degree who remained fully employed during his working years. As an aggravating factor, the court stated that defendant "continues to blame the nature of the criminal conduct on a six-year-old and a four-year-old child." The court also addressed mitigating factors, including defendant's lack of any significant prior criminal history, his respect for the nature of the proceedings, and his cooperation with counsel.

¶ 19 The court sentenced defendant to 16 years in prison for predatory criminal sexual assault of a child after "having considered \*\*\* the presentence investigation report, the factors in aggravation and mitigation as set forth in the statute, arguments made by both the State and defense, and considering Mr. Lawlor's statement \*\*\*." The court also sentenced defendant to prison terms of four years each for the aggravated criminal sexual abuse convictions, to be served concurrent to each other but consecutive to the predatory criminal sexual assault of a child conviction. Defendant filed a motion to reconsider sentence, which the trial court denied.

¶ 20

## ANALYSIS

¶ 21 Defendant argues that his 16-year prison sentence for predatory criminal sexual assault of a child was excessive in light of the mitigating factors in his favor.

¶ 22 Imposition of a sentence is discretionary with the trial court and entitled to great deference and weight. *People v. McDonald*, 322 Ill. App. 3d 244, 250 (2001). A sentence that is within statutory limits will not be disturbed on appeal unless it amounts to an abuse of discretion. *People v. Coleman*, 166 Ill.2d 247, 258, 652 N.E.2d 322, 327 (1995). The sentencing range for predatory criminal sexual assault of a child is 6 to 30 years in prison. 720 ILCS 5/12-14.1(b)(1) (West 2008); 730 ILCS 5/5-4.5-25 (West 2008).

¶ 23 A trial judge is not required to recite every aggravating and mitigating factor when imposing a sentence. See *McDonald*, 322 Ill. App. 3d at 251. "Where mitigating evidence is before the court, it is presumed that the sentencing judge considered it unless there is some indication to the contrary, other than the sentence itself." *Id.*

¶ 24 Here, there is no indication in the record that the court failed to consider any mitigation factors. In sentencing defendant, the court specifically referred to defendant's age, lack of prior convictions, his education and employment history, and his appropriate conduct at trial. Despite these mitigating factors, the court found that 16 years in prison was an appropriate sentence, particularly since defendant refused to accept responsibility for his criminal conduct.

¶ 25 Defendant's 16-year prison sentence was well within the sentencing range for predatory criminal sexual assault of a child. See 720 ILCS 5/12-14.1(b)(1) (West 2008); 730 ILCS 5/5-4.5-25 (West 2008). Reviewing the evidence in accordance with the applicable standard of review, we conclude that the trial court did not abuse its discretion in sentencing defendant.

¶ 26 The order of the circuit court of Will County is affirmed.

¶ 27 Affirmed.