

NOTICE  
This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

2011 IL App (4th) 110345-U

Filed 10/25/11

NO. 4-11-0345

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from
Plaintiff-Appellee,	)	Circuit Court of
v.	)	Sangamon County
DALE R. DETMERS,	)	No. 09CF821
Defendant-Appellant.	)	
	)	Honorable
	)	Leo J. Zappa, Jr.,
	)	Judge Presiding.

JUSTICE TURNER delivered the judgment of the court.  
Justices Steigmann and McCullough concurred in the judgment.

**ORDER**

¶ 1 *Held:* Where the trial court's imposition of a 20-year prison sentence for residential burglary was not excessive, we find no abuse of discretion.

¶ 2 In March 2010, defendant, Dale R. Detmers, pleaded guilty to one count of residential burglary. In June 2010, the trial court sentenced him to 20 years in prison.

¶ 3 On appeal, defendant argues the trial court abused its discretion in sentencing him to 20 years in prison. We affirm.

¶ 4 **I. BACKGROUND**

¶ 5 In October 2009, the State charged defendant by information with one count of residential burglary (720 ILCS 5/19-3(a) (West 2008)), alleging he knowingly and without authority entered into the dwelling place of Frances Sharp with the intent to commit a theft therein. The State also charged him with one count of theft (720 ILCS 5/16-1(a)(1) (West

2008)), alleging he knowingly obtained unauthorized control over property of Jessica Howe, being a phone and a camera having a total value in excess of \$300, with the intent to deprive Howe of the use and benefit of the property.

¶ 6 In March 2010, defendant entered an open guilty plea to residential burglary. The State's factual basis provided as follows:

"If this case were to go to trial, the People would present evidence that on or about the 20th day of September 2009, in the early morning hours, the Defendant, who would be identified in open court, knowingly entered the dwelling place of Frances Sharp, specifically through a back window, while she was asleep in bed. \*\*\* That he entered therein to commit a theft and obtained a number of items from her purse, including, I believe, jewelry and other various currency."

In exchange for his guilty plea, the State agreed to dismiss the theft charge. The trial court found the guilty plea to be knowing and voluntary.

¶ 7 The presentence investigation report indicated defendant, as a juvenile offender, had committed residential burglary, battery, and criminal trespass. As an adult, his criminal history included felony convictions for burglary, residential burglary, robbery, and forgery. He was committed to the Department of Corrections on seven occasions. He also had misdemeanor convictions for domestic battery, retail theft, possession of cannabis, and resisting a peace officer.

¶ 8 The report indicated defendant was 34 years old, divorced, and had one biological

child. Defendant admitted having a drug problem and using crack cocaine the night before the offense. He stated he used approximately \$150 worth of heroin daily. He had not obtained his high school diploma and last worked as a roofer in September 2009.

¶ 9 In June 2010, the trial court conducted the sentencing hearing. As evidence in mitigation, Rachel Ramsey testified she was defendant's girlfriend. She stated defendant "didn't really care about anybody" when he was under the influence of narcotics. Sherry Baskett, defendant's mother, testified defendant is not a bad person but "does things he shouldn't do" when he is on drugs.

¶ 10 In noting defendant's "extensive criminal history," the State recommended a sentence between 20 and 25 years. Defense counsel stated defendant is addicted to drugs and he did not harm the victim. Further, his prior robbery convictions involved purse snatches. Counsel asked for a sentence between 12 and 15 years.

¶ 11 In his statement of allocution, defendant apologized to the victim and stated he had no intention of harming her. Defendant admitted having an alcohol and drug problem and stated "[a]most every crime I've ever done was related to trying to get drugs." He realized he needed to make a change in his life for himself and his family.

¶ 12 The trial court indicated it read the presentence investigation and considered the factors in aggravation and mitigation. The court found defendant's record to be "bad," and given the victim's age and his prior criminal history, it sentenced him to 20 years in prison.

¶ 13 Defendant filed a motion to reconsider sentence, arguing the 20-year sentence was excessive. In August 2010, the trial court denied the motion. Defendant filed a notice of appeal, and this court remanded the cause for strict compliance with Illinois Supreme Court Rule

604(d) (eff. July 1, 2006). *People v. Detmers*, 4-10-0608 (January 28, 2011) (unpublished summary order under Supreme Court Rule 23).

¶ 14 In April 2011, defendant filed a motion to reconsider sentence, arguing the sentence was excessive and disproportionate to the nonviolent property offense committed in this case. The trial court denied the motion, noting defendant's history of criminality. This appeal followed.

¶ 15 II. ANALYSIS

¶ 16 Defendant argues the trial court abused its discretion in sentencing him to 20 years in prison for a nonviolent residential burglary to which he pleaded guilty. We disagree.

¶ 17 The Illinois Constitution mandates "[a]ll penalties shall be determined both according to the seriousness of the offense and with the objective of restoring the offender to useful citizenship." Ill. Const. 1970, art. I, § 11. "In determining an appropriate sentence, a defendant's history, character, and rehabilitative potential, along with the seriousness of the offense, the need to protect society, and the need for deterrence and punishment, must be equally weighed." *People v. Hestand*, 362 Ill. App. 3d 272, 281, 838 N.E.2d 318, 326 (2005) (quoting *People v. Hernandez*, 319 Ill. App. 3d 520, 529, 745 N.E.2d 673, 681 (2001)).

¶ 18 A trial court has broad discretion in imposing a sentence. *People v. Patterson*, 217 Ill. 2d 407, 448, 841 N.E.2d 889, 912 (2005). "A reviewing court gives great deference to the trial court's sentencing decision because the trial judge, having observed the defendant and the proceedings, has a far better opportunity to consider these factors than the reviewing court, which must rely on the cold record." *People v. Evangelista*, 393 Ill. App. 3d 395, 398, 912 N.E.2d 1242, 1245 (2009). Thus, the court's decision as to the appropriate sentence will not be

overturned on appeal "unless the trial court abused its discretion and the sentence was manifestly disproportionate to the nature of the case." *People v. Thrasher*, 383 Ill. App. 3d 363, 371, 890 N.E.2d 715, 722 (2008).

¶ 19 In the case *sub judice*, defendant pleaded guilty to the offense of residential burglary, a Class 1 felony. 720 ILCS 5/19-3(b) (West 2008). Due to defendant's prior criminal record, he was subject to sentencing as a Class X offender. 730 ILCS 5/5-5-3(c)(8) (West 2008). A Class X offender is subject to a sentencing range of 6 to 30 years in prison. 730 ILCS 5/5-4.5-25(a) (West 2008). As the trial court's 20-year sentence was within the relevant sentencing range, we will not disturb the sentence absent an abuse of discretion.

¶ 20 In arguing his sentence was excessive, defendant argues the sentence was disproportionate to the offense. Defendant points out he did not harm the victim and the property was returned to her. Further, he pleaded guilty to the offense and expressed remorse for his actions. He also notes, despite his "extensive prior record," nothing indicated his prior offenses resulted in any physical harm to the victims.

¶ 21 We find no abuse of discretion in the trial court's sentence. As a factor in aggravation, a sentencing court may properly consider defendant's criminal history. 730 ILCS 5/5-5-3.2(a)(3) (West 2008). Defendant's adult criminal record dated back to 1993 and included felony convictions for burglary, residential burglary, robbery, and forgery. He had been committed to the Department of Corrections on seven occasions and committed several violations of his parole. That the court referenced the victim's advanced age was not error since the court may consider as an aggravating factor that defendant committed the offense against a person over the age of 60. 730 ILCS 5/5-5-3.2(a)(8) (West 2008). Moreover, the court cannot

be said to have placed undue emphasis on the victim's age. In fact, the court indicated it was "coming off the high end" of the State's sentence recommendation because defendant accepted responsibility for the crime and spared "this old lady" from a trial.

¶ 22 Even though defendant caused no harm to the victim, returned her property, and pleaded guilty, the presence of these factors does not detract from the seriousness of the offense and defendant's seeming inability to conduct himself within the dictates of the law other than while inside the confines of the penitentiary. Given defendant's lengthy criminal record, which included two prior residential burglaries, we find no abuse of discretion in the court's sentence of 20 years in prison.

¶ 23 **III. CONCLUSION**

¶ 24 For the reasons stated, we affirm the trial court's judgment. As part of our judgment, we award the State its \$50 statutory assessment against defendant as costs of this appeal.

¶ 25 Affirmed.